

ORDINANCE NO. C-11-12

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM SBMHA TO PLANNED UNIT DEVELOPMENT ("PUD"), INCLUDING APPROVAL OF A DEVELOPMENT PLAN KNOWN AS BAHIA MAR PUD AND ESTABLISHING THE DEVELOPMENT STANDARDS FOR THE PROPERTY INCLUDING BUT NOT LIMITED TO USES, HEIGHT, YARD, SETBACK, PARKING, OPEN SPACE AND LANDSCAPING, ALL THAT PART OF "BAHIA MAR" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 35, PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING WEST OF THE WEST RIGHT-OF-WAY OF SEABREEZE BOULEVARD, LESS AND EXCEPT: PARCEL 1; ALSO EXCEPTING THEREFROM THE NORTH 80 FEET OF PARCEL 34, OF SAID "BAHIA MAR", LOCATED BETWEEN SEABREEZE BOULEVARD AND THE INTRACOASTAL WATERWAY, NORTH OF HARBOR DRIVE AND SOUTH OF THE INTERNATIONAL SWIMMING HALL OF FAME, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

WHEREAS, in accordance with Section 47-37 of the Unified Land Development Regulations ("ULDR"), rezoning to a PUD zoning district requires the approval of a development plan which meets the criteria provided in Section 47-37; and

WHEREAS, applicant, BRE/BAHIA MAR DEVELOPMENT L.L.C, has submitted a development plan known as Bahia Mar Park as part of the rezoning application to develop a mixed use development on the property to be rezoned as described in this ordinance; and

WHEREAS, the Planning and Zoning Board at its meeting of September 16, 2009 (PZ Case No. 3-ZPUD-08) did recommend to the City Commission that the rezoning application be approved and that the lands herein described should be rezoned from SBMHA to PUD based on the development plan as reviewed and approved as described herein and that the Official Zoning Map and Schedule "A" attached thereto should be amended to include such lands; and

WHEREAS, the City Clerk notified the public of a public hearing to be held on Tuesday, May 17, 2011 and Tuesday, June 7, 2011 at 6:00 o'clock P.M., in the City

Commission Room, City Hall, Fort Lauderdale, Florida, for the purpose of hearing any objections which might be made to such rezoning; and

WHEREAS, such public hearing was duly held at the time and place designated after notice of same was given by publication as required by law, and the Commission determined that there were no persuasive objections to so amending the zoning regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the Unified Land Development Regulations ("ULDR") of the City of Fort Lauderdale together with the Official Zoning Map of the City of Fort Lauderdale and revised Schedule "A", describing the lands lying within each Zoning District, as approved on June 18, 1997, and described in Section 47-1.6 of the ULDR, be amended by rezoning in the respects mentioned, the following lands, situate in the City of Fort Lauderdale, Broward County, Florida, to wit:

TO REZONE FROM "SBMHA" TO "PUD":

PARCELS 2 THROUGH 34, INCLUSIVE, "BAHIA MAR" ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; LESS AND EXCEPT THE NORTH 80 FEET OF SAID PARCEL 34 AND LESS ANY PORTIONS TAKEN FOR SEABREEZE BOULEVARD RIGHT-OF-WAY; ALSO DESCRIBED AS THAT PORTION OF SAID "BAHIA MAR", LYING WEST OF SEABREEZE BOULEVARD, LESS PARCEL 1 AND LESS THE NORTH 80 FEET OF PARCEL 34 OF SAID "BAHIA MAR" AND SHOWN ON THAT SURVEY BY GERALD MCLAUGHLIN, LAST DATED SEPTEMBER 30, 2010, A COPY OF SAID SURVEY BEING ON FILE IN THE OFFICE OF CITY ENGINEER AT FILE NUMBER 4-134-94; SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Location: Between Seabreeze Boulevard and the Intracoastal Waterway, north of Harbor Drive and south of the International Swimming Hall of Fame,

subject to the Approved Development Plan, as hereinafter defined, which is approved as part of this rezoning and subject to the regulations and conditions of Section 3 of this Ordinance.

SECTION 2. For the purpose of this Ordinance the following words, terms and phrases shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Approved Development Plan. The Approved Development Plan consists of the following:

- (a) The Site Development Plan for Bahia Mar Park, located at 843 801 Seabreeze Boulevard, Fort Lauderdale, Florida executed by the department director evidencing that the executed Site Development Plan is the most recently revised and includes the conditions as provided herein as approved by the City's Development Review Committee, such Site Development Plan consisting of ____ pages ("Site Plan"), a copy of which is attached hereto as Exhibit "A", and the narrative for Bahia Mar Park, attached hereto as Exhibit "B"; and
- (b) This ordinance and the conditions established by this ordinance as approved by the City Commission; and
- (c) The conditions of development of the Property attached hereto as Exhibit "C" approved by the City Commission and as contained in this Ordinance and the Development Agreement to be approved by the City Commission.

Department and Director shall have the same meanings as provided in Section 47-35 of the ULDR.

Developer shall mean BRE/Bahia Mar Development L.L.C., its successors or assigns. As used herein Developer shall also include and be referred to as Applicant, Owner or any combination of same.

Property shall mean the land described in SECTION 1. of this Ordinance.

Project shall mean the plan of development depicted on and described by the Approved Development Plan.

SECTION 3. The Planned Unit Development District ("PUD") as applicable to the Property is a zoning district with regulations regarding the development of the Property within the PUD District described as follows:

A. Uses.

1. Residential, and office/retail, hotel, restaurant and marina uses as more particularly shown and described on Exhibit "C" attached hereto.
2. Amenities as depicted and described on the Approved Development Plan.

No other uses, principal or accessory, shall be permitted except as approved as an amendment to this ordinance and the Approved Development Plan.

- B. Buildings and Structures. Only those buildings and structures depicted or described on the Approved Development Plan shall be permitted and are only permitted if constructed in accordance with the Approved Development Plan.
- C. Development Regulations. The lot size, density, height, yards, setbacks, bulk, shadow, mass, landscaping, parking, open space, design, bufferyards and all other development requirements for the PUD District described herein are and shall be as described in and depicted on the approved Development Plan.
- D. The Developer, its contractors and subcontractors and all laborers working on the Property shall adhere to the construction practices provided in Exhibit "C". The name and telephone number of the person designated to be contacted during construction of the project shall be posted at the entrance to the Property and shall be provided to the owners of property adjacent to the Property.

- E. The PUD District created by this ordinance shall not be subject to variance or special exception as provided by the ULDR and may only be modified as provided in Section 47-37 of the ULDR. In particular, as provided in Section 47-37.13 of the ULDR:

"If the applicant wishes to change to a use that was not approved as part of the PUD zoning district, a new application for rezoning must be approved in accordance with the provisions of this section. If the applicant wishes to amend a site plan or design narrative or any other aspect of the PUD previously approved as part of a rezoning to PUD, such amendment shall be done in accordance with the provisions for amending a site plan level IV as provided in Section 47-24.2.A.5, Development permits and procedures."

- F. This Ordinance shall be recorded in the Public Records of Broward County, Florida at Applicant's expense.

SECTION 4. That subject to the provisions in Section 5 of the Ordinance, the Approved Development Plan is hereby approved and made a part of this Ordinance as if fully set out herein.

SECTION 5. That this rezoning is conditioned upon applicant and City entering into certain agreements and applicant taking certain actions as provided in the conditions attached hereto as Exhibit "C".

SECTION 6. All provisions of Section 47-37 of the ULDR shall apply to this PUD District, including but not limited to, regulations regarding amendments of the PUD District and Expiration and Extension of the Site Plan as more particularly described in the conditions provided in Exhibit C.

SECTION 7. If there is a conflict between any of the documents comprising the Approved Development Plan, the more restrictive interpretation by the City's Zoning Administrator shall govern the development of the Property.

SECTION 8. That the appropriate City officials of the City of Fort Lauderdale shall indicate such zoning upon a copy of the Official Zoning Map, and shall indicate an amendment of Schedule "A" accordingly, upon the records with proper reference to this ordinance and date of passage.

SECTION 9. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 10. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 11. That this Ordinance shall be in full force and effect on the date it is recorded in the Public Records of Broward County, Florida.

PASSED FIRST READING this the 17th day of May, 2011.

PASSED SECOND READING this the _____ day of _____, 2011.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

**Exhibits "A" and "B" are provided as part of
Commission Agenda Report 11-0661**

Ordinance No. C-11

Larger copies of the Exhibits to Ordinance No. C-11-__ adopted on _____, 2011 are on file and may be viewed at the City of Fort Lauderdale. Please see the City Clerk for location of development plans.

EXHIBIT "C"

BAHIA MAR PLANNED UNIT DEVELOPMENT

Conditions of Approval

Should the City Commission approve the proposed development, the following conditions shall apply:

1. The PUD rezoning shall be contingent upon and subject to the execution of a Development Agreement between the Applicant and the City of Fort Lauderdale and shall specify the development standards applicable to the property and any conditions imposed as part of the approval, and shall reference the approved development plan, prior to Final DRC. The PUD rezoning is further conditioned upon the execution of:
 - (1) An Amended Current Lease (2011-2062); and
 - (2) A New Lease (2062-2111) entered into between the Applicant and the City; and
 - (3) Development Agreement between the Applicant and the City to include Maintenance Agreement and Valet Parking Agreement; and
 - (4) A duly authorized confirmation letter from the Marine Industries Association of South Florida, Inc. ("MIASF") as owner of the Boat Show and Yachting Promotions, Inc. d/b/a Show Management, as operator of the Boat Show, expressing their satisfaction with the location of the Boat Show during the construction of the development as shown on the development plan and the Boat Show's final location, consistent with the layout and phasing proposed by the Applicant as shown on sheet SI-0.20 of the development plan; and
 - (5) A new or modified Boat Show Agreement securing the development site as a viable long-term home for the Boat Show until the year 2020. Applicant is required to extend the Boat Show Agreement and continue the event known as the Boat Show for the duration of the amended current Lease and the new lease and any extensions thereof.
 - (6) The City shall execute a Declaration of Restrictions adopting and incorporating Condition 27, and record same in the Public Records of Broward County against the property.
 - (7) These "Conditions of Approval" shall be incorporated by reference into items (1), (2) and (3) as stated above.

Each of the agreements described in this Paragraph 1 must be executed and final DRC approval issued in order for the ordinance rezoning the property to a PUD district to take effect, which will be evidenced by and the ordinance will take effect on the date of recordation of the ordinance rezoning the property to the PUD zoning district, which ordinance must bear the signature of the Director of the City's Planning and Zoning Department evidencing that all conditions provided herein have been met. For purposes of establishing the expiration date, the date the development plan shall be considered to have commenced shall be as provided in

Condition No.13 herein.

Failure of the Applicant to host the Boat Show for a one year period, without the approval of the City Commission, except for reasons such as acts of god and or other reasons not due in any way to the act or failure to act on the part of the Applicant, will constitute a failure of the criteria for approval of the PUD zoning district specifically, Section 47-37.7 A. as it is the unique aspect of the PUD that achieves the intent and purpose of the PUD as described in Paragraph 47-37.1 of the ULDR and the clear reason why the Development could not be developed under a traditional zoning district. In the event of such failure, the City Commission shall have the right to rezone the property to the zoning district which existed prior to the PUD, which was the SBMHA district, without right of the Applicant or any successor or assign to object to the rezoning to SBMHA or the right to raise any claim of vested rights or undue burden.

2. Public access areas to the property, as identified on Site Plan Sheet SI-0.24 including public plaza areas, Bahia Mar open space areas and landscape areas (hereinafter, "Park"), shall be open to the general public from 6 a.m. to 2 a.m., or as modified and approved by the City Commission. Limitations on access or restrictions on use by the public may be subject to Outdoor Event permits issued by the City of Fort Lauderdale pursuant to Code Sec. 15-181, et seq. for Outdoor Events including the Fort Lauderdale International Boat Show and Winterfest Boat Parade. Applicant shall provide the public 24-hour access to the Beachwalk Promenade along the entire project frontage along A1A/Seabreeze Boulevard; subject, however, to temporary closures for maintenance and/or repairs. Any required easements shall be provided to appropriate government entities prior to obtaining a certificate of occupancy or certificate of completion as applicable from the City.

A portion of the Development Plan shown on Site Plan Sheets L-2.08 and SI-0.06 show the "Park" (which is the open grass area located between the waterfront gardens to the south and the waterfront wedding pavilion/restaurant to the north). Notwithstanding the use of the Park to host the Boat Show and to be used as a viewing area for the Winterfest Boat Parade, the public's access to and use of the Park may be limited by the Applicant for City approved Outdoor Events. In addition to City approved Outdoor Events, the public's access to and use of the Park may also be limited during Private Events. For the purpose of this condition #2, a Private Event shall mean an event not more than 350 people to which the general public is not invited. Applicant may limit the public's access to and use of the Park for no more than 25 calendar days per calendar year for both Outdoor Events and Private Events; provided however, that the Boat Show and the Winterfest Boat Parade shall no be counted toward the limit of 25 calendar days per calendar year. Application for and approval of Outdoor Events shall be in compliance with Code Sec. 15-181, et seq. For Private Events, Applicant shall notify the City's Parks and Recreation Department at least 15 days prior to the Private Event and shall provide evidence of compliance with the requirements of Section 15-183 of the City's Code, as applicable. Notwithstanding the foregoing, and in addition to the noise restrictions contained in Condition of Approval No. 5, outdoor sound amplification within the park, adjacent parking and promenade areas (excluding the Wedding Pavilion) shall be limited to twelve (12) events per calendar year. An event for this purpose shall

be defined as one that does not exceed twenty-four (24) hours. The City (for events subject to an Outdoor Event permit) and the Applicant (for Private Events) shall provide written notice to Idlewyld Improvement Association (and any other condominium or neighborhood association within 500' of the Property that request such notice) of any application for an event that will count towards the twelve (12) events.

On Site Plan Sheet L-2.08 and SI-0.06 a "Wedding Pavilion / Function Terrace" is identified. This area shall be reserved for Private Events and shall not be open to the public except at such times as Private Events are not scheduled. The use of the Wedding Pavilion / Function Terrace for Private Events shall not be counted toward the 25 calendar day maximum limitation of the public's access to and use of the Park. During an Outdoor Event or Private Event parking shall not be displaced, except to the extent approved by the City Commission as an Outdoor Event. Further, under no circumstances are the private multi-family residential parking spaces to be displaced by any Outdoor Event or Private Event. Except for the Boat Show, no Outdoor Event or Private Event which limits the use of public access areas shall be permitted to exceed seven (7) consecutive days, including set up and break down time. The duration of the Boat Show shall be in accordance with the Conceptual Boat Show Plan shown on page SI-0.20 and as approved by the City Commission.

The "NW Restaurant" as shown on Site Plan Sheet L-2.08 and SI-0.06 shall remain open to the public at all times, during normal business hours, except as hereinafter set forth. The "NW Restaurant" may be closed to the general public for Private Events not exceeding 25 calendar days per calendar year. No such Private Event during which the "NW Restaurant" is closed to the general public may be of a duration in excess of seven (7) consecutive days; provided, however, the NW Restaurant may close for more than seven (7) consecutive days for maintenance and/or repairs.

3. Applicant shall make the Beach Community Center available to established community neighborhood associations within the greater Beach and/or Intracoastal area for their monthly neighborhood meetings. Such neighborhood associations may reserve the facilities in advance on an individual association basis for up to three (3) hours a month on the same evening on a re-occurring basis up to 13 months in advance (e.g., the third Thursday of every month from 6:30 p.m. to 9:30 p.m. for the next 12 months for ABC Intracoastal Association and the second Tuesday of every month from 5:00 p.m. to 8:00 p.m. for XYZ Beach Association). Applicant shall make the facilities available to such established neighborhood associations on an advanced reservation only basis only during the week nights (and not on the weekends) during the hours of 5:00 p.m. to 10:00 p.m. only, with only one neighborhood association using the facilities each week night. There shall be no fee for the use of the facilities (but a security deposit to off-set potential damage to the facilities may be required by Applicant from time to time as the case may be). In addition, Applicant shall make the Beach Community Center available to City for general municipal, CRA, BRAB, Commissioners' and other special meetings and workshops that the City holds regarding the beach area from time to time. Applicant shall make the facilities available to the City for such meetings and/or events up to

five (5) hours a day during the weekdays (and not during the weekends) on an advanced reservation only basis between 9:00 a.m. and 10:00 p.m. Said five (5) hours a day is in addition to the three (3) hours that certain neighborhood associations may also reserve the facilities from time to time each weekday. There shall be no fee for the City to use the facilities. Since Applicant reserves the right to use such facilities when not being used by established neighborhood associations and/or the City as set forth above, the Applicant shall be responsible for all costs of developing, maintaining, operating and repairing the Beach Community Center including, but not limited to, electrical, water, cleaning, etc. Notwithstanding the joint use of the Beach Community Center by established neighborhood associations, the City and the Applicant, it is the intention of the parties that the Beach Community Center is primarily a facility for the use and enjoyment of the "public" as set forth herein although the facilities will also be used by the Applicant through its hotel operations. The General Manager of the hotel controlled by Applicant shall maintain the monthly schedule for use of the facilities and shall provide a copy to such neighborhood associations and the City (Attn: Office of Mayor and City Commission; City Manager; Director of Parks and Recreation; and Director of Public Communications). Finally, the Beach Community Center will not be available for use by any neighborhood association and/or by the City five (5) days before the Boat Show, during the Boat Show and five (5) days after the Boat Show; and during any emergency at the Property which causes the facilities and hotel, or partial thereof, to be closed. Once the Beach Community Center is developed as part of Phase 2 of the PUD Site Plan, the terms of this condition shall continue during the term of the Existing Lease, New Lease and any amendment or extension thereto as set forth above. This condition shall be stated in the revised lease amendment between City and Applicant.

4. Existing A-1-A pedestrian bridge shall remain open to the public, providing access to the site in general, with hours of operation as defined above in Condition 2.
5. The Bahia Mar Park PUD shall comply with the City's Noise Ordinance contained in Chapter 17 of the City's Code and shall not use any means of outdoor sound amplification directed towards the west in the direction of the single-family neighborhoods on the west side of the Intracoastal Waterway. All outdoor sound amplification within the Park and Wedding Pavilion/Function Terrace shall cease at 10:00 p.m. Further, between the hours of 8:00 p.m. to 10:00 p.m. the sound level shall not exceed eighty percent (80%) of the maximum sound level permitted under the City's current Noise Ordinance or 56 decibels whichever is less, as measured at the intersection of Idlewyld Drive and Clematis Place. The Applicant shall maintain on-site a fully certified device that measures sound levels, and shall make such device available to the City of Fort Lauderdale Police Department on a case-by-case basis in response to any noise complaint in order to measure sound levels and compliance with the terms hereunder. Notwithstanding the foregoing, the above-stated noise restrictions shall not be applicable during the Fort Lauderdale International Boat Show and during the Winterfest Boat Parade.
6. All hotel units within the development as shown on the site plan are restricted to a hotel use, as defined in the City's Unified Land Development Regulations. Applicant shall record a restrictive covenant in Broward County public records evidencing this

restriction as approved by the City Attorney and shall provide a copy of the recorded document to City.

7. All proposed and future uses shall be limited to those as provided in "Exhibit 1: Bahia Mar PUD - Permitted Uses" attached hereto and made a part hereof. All outdoor entertainment shall be limited to those areas as shown on the Exhibit entitled "Entertainment Plan" attached hereto as Exhibit 1. For purposes of this condition, outdoor entertainment is defined as a use consisting of music, singing, performance, or other forms of entertainment, whether amplified or not, which emanates outside of a fully enclosed structure, whether physically originating inside or outside of an enclosed structure on the development site, conducted for the entertainment, attraction or both of persons outside of the totally enclosed structure.
8. The existing dockage area of the marina, at the southern most portion abutting A-1-A, as shown on sheets L-1.05, L-2.02 and L-2.03, shall be preserved in perpetuity for the continued use of fishing charter operations, pleasure boat rentals, dive operations and scenic tour boats such as the *Jungle Queen*.
9. A limited number of boat slips per restaurant to accommodate berthing of smaller boats for a minimum of 4 vessels per restaurant for a total of 12 of a length no more than 35 feet (located as market demands and as close to restaurant as possible) shall be preserved and reserved for waterborne access by the general public to waterfront dining within the marina as determined by the marina operator (with signage provided) for the local or visiting boating community. The slips to accommodate berthing of smaller vessels shall be reasonably accessible to smaller vessels by use of such devices as floating docks.
10. Per the Marine Advisory Board's recommendation, all boat slips shall remain available for rent by the public and not sold.
11. Per the Planning and Zoning Board recommendation:
 - A. An agreement should be reached between the City of Fort Lauderdale and the Applicant as to financial assurances for the completion of each Phase of the project.
 - B. The City of Fort Lauderdale and the Applicant should reach an agreement as to a construction schedule, with appropriate penalties, if construction deadlines are not met.
12. Phasing of the construction for Bahia Mar PUD will be in accordance with the general progression below and as specifically set forth on Sheets L-1.07, SI-0.19 and SI 0.19.A of the Site Plan; provided however, Applicant may develop any phase prior to another phase. Nothing herein shall require Applicant to provide any public improvements, or portion thereof, before the completion of each phase which sets forth what public improvements, if any, are to be constructed as set forth on the Sheets referenced above. During such phasing of construction, and assuming Applicant is required hereunder to construct a portion of the public improvements, Applicant shall allow the general public to have access to the portions of the

Property actually improved and constructed (after a certificate of completion has been issued by the City) and generally described below:

Phase I- Beach Walk at Bahia Mar - Public Improvements:

- A. Those portions of the Beachwalk Promenade and Marina Promenade adjacent to the Phase I buildings, including north trolley/bus stop and east water taxi;
- B. Police/Emergency Command Center.

Phase IB- Restaurant and Wedding Pavillion - Public Improvements:

- A. Phase IB restaurant (during normal operating hours), including West water taxi stop (Applicant may relocate from East stop if two locations are not needed as determined by the City's Marine Facilities Manager after consultation with the operator of the water taxi);
- B. The Marina promenade around the northern perimeter of the property, except adjacent to Phase I "Beachwalk Restaurants and Offices";
- C. Improvements to the Boat Show expansion area as identified on Sheet SI-0.19A.

Phase II: Bahia Mar Retail Garage - Public Improvements:

- A. The Beachwalk Promenade in front of the Phase II building and connection of the Beachwalk Promenade to the Marina Promenade;
- B. The Marina Promenade around the perimeter of the entire property;
- C. North trolley stop if Phase II is built before Phase I;
- D. East and West water taxi stops (Applicant may relocate from East stop if two locations are not needed as determined by the City's Marine Facilities Manager after consultation with the operator of the water taxi);
- E. Beach Community Center (together with a \$25,000 contribution for historical artwork or artifacts to be on display as determined by the City).

Phase III: Luxury Hotel/Interior Roads - Public Improvements:

- A. Completion of the Beachwalk Promenade along Seabreeze Boulevard;
- B. Entire Marina Promenade around perimeter of the site;
- C. Complete build out of Park located on the western upland border together with a \$100,000 contribution for public art to be on display within the Park or Promenade as determined by the City;
- D. South trolley/bus stop;
- E. North trolley stop shall be required as part of Phase III if Phase III is constructed prior to Phase I or Phase II;
- F. West water taxi will be required as part of Phase III if Phase III constructed prior to Phase II (Applicant may relocate from East stop if two locations are not needed);
- G. Entire Beachwalk Promenade will be required to be constructed as part of Phase III if Phase III is built prior to Phase I or Phase II;
- H. Public parking spaces to be metered.

13. Applicant must comply with the provisions for Site Plan expiration as provided in Section 47-24.1. M. of the City's ULDR. For purposes of establishing the expiration date, the date the development plan shall be considered to have commenced shall be the later of the date that all requirements in Condition No.1 herein have been fulfilled or final DRC Approval has been granted; and the City's Planning and Zoning Director has verified in writing the date that either or both conditions have been met (hereinafter referred to as "Date of Development Plan Permit Approval"). In the event neither of these conditions has occurred within nine (9) months of the date the City Commission adopts the PUD zoning district ordinance then the PUD zoning district ordinance shall be null and void and of no further force and effect and the SBMHA zoning district shall remain in effect for the development site. The nine (9) month time period may be extended by the City Commission if good cause is shown why the events described herein have not occurred. In accordance with Section 47-24.1 M. 2.f., the approved Development Plan shall expire eight (8) years after the Date of Development Plan Permit Approval established as provided above, unless all final certificates of occupancy for all principal structures shown on the development plan have been issued prior to the 8-year period.
14. No temporary, partial or final certificate of occupancy for a principal building in any of the Phases described in Paragraph 12 herein shall be issued until all of the public improvements required to be constructed as a part of that phase as described herein have been issued a certificate of completion or c/o as applicable by the City department or official as required by law; provided, however, if Applicant provides City with a surety performance bond, acceptable to the City's Risk Manager for such public improvements to be completed within six (6) months of the proposed date of issuance of a partial or temporary c/o or certificate of completion, the City shall issue a temporary or partial certificate of occupancy for a principal building in the normal course of business notwithstanding the fact that certain public improvements are not fully completed.
15. Each phase of construction shall stand on its own and meet all ULDR requirements including but not limited to parking and landscaping. Required parking for each phase shall be provided consistent with approved parking reduction as identified on site plan sheet L-1.07, SI-0.19. and SI-0.19.A.
16. Applicant shall design and construct future trolley pull-outs, bus stops and water taxi stops at those locations on the Property, identified on Sheets L-2.01, L-2.03 and L-2.08 of the Site Plan prior to Phase II and Phase III (subject, however, to the performance bond criteria in Condition No. 13 hereto). The trolley stops shall include seats and have a covered shelter in accordance with similar shelters in the City of Fort Lauderdale as approved by the City Engineer. The improvements shall be reviewed and approved by all pertinent review agencies prior to Final DRC.
17. Per the City's Engineering Representative:
 - A. Beachwalk at Bahia Mar (Phase I) which was previously approved by the City Commission included a Florida Department of Transportation ("FDOT") 12'-6" Setback/reservation (see Sheets L-1.05, L-2.01, L-2.02 and L-2.03.) In the event City determines that due to FDOT or City public purposes, the area is needed for

right-of-way purposes, Applicant shall convey a right of way easement for this area at no cost to the FDOT or the City.

- B. Sheets L-1.05, L-2.01, L-2.02 and L-2.03 provide a FDOT 21' Setback/reservation. In the event City determines that due to FDOT or city public purposes, the area is needed for right-of-way purposes, Applicant shall convey a right of way easement for this area at no cost to the FDOT or the City.
- C. Applicant shall obtain a separate Construction Staging Permit from the Engineering Division prior to issuance of the first Master Building Permit for each of the phases identified on sheets L-1.07, SI-0.19 and SI-0.19A to mitigate and minimize construction impacts to public health and safety, traffic, parking, public infrastructure, businesses and residential neighborhoods. Permit submittals shall include but not be limited to on-site construction staging and material storage locations, crane locations, measures to control noise, dust, glare, sediment, debris, pollution of waterways, construction traffic routes, delivery time restrictions, construction personnel parking and temporary measures for the annual Boat Show and other major events. Construction operations shall comply with all applicable provisions of the City Code and State law and reasonable permit approval conditions established by the City Engineer to mitigate construction impacts. The construction contract(s) between the developer and prime construction contractor(s) shall include the forgoing provision.
- D. Applicant shall provide on-site guide signs directing vehicles to northbound/southbound State Road A-1-A prior to construction permit issuance for each building in the PUD subject to City Engineer approval.
- E. Off-site roadway, traffic control and traffic signal improvements shall be constructed in accordance with Sheet SI-0.32 – "Conceptual Off-Site Improvements". The existing traffic signal at the main entrance to the project shall be removed and a new trombone or mast-arm style traffic signal shall be designed and constructed. The new traffic signal appearance, color and materials shall consistent with other traffic signals on S.R. A1A in the vicinity of the site. The traffic signal shall be permitted and approved by FDOT and Broward County and be installed prior to the completion of Phase III. Should the traffic signal not be operational prior the completion of Phase III, Applicant shall prepare a plan for alternative ingress/egress provisions to protect public safety and minimize impacts to the traffic operation on S.R. A1A. Said plan shall be approved by the City Engineer and, if required, other agencies having jurisdiction.
- F. Applicant shall make good faith efforts to coordinate with the Florida Department of Transportation, the Broward County Traffic Engineering Division and the City Engineer to implement Traffic System Management (TSM) improvements, including access control measures, traffic signal timing and coordination and installation of way-finding signs on site to direct motorist and visitors to driveways and routes that minimize project traffic impacts to intersections during times of peak traffic demand.

G. Applicant shall make good faith efforts to encourage creative and practical Transportation Demand Management (TDM) measures to minimize the number of project trips on the road during times of peak traffic demand on weekdays and weekends. Prior to the completion of each phase, Applicant shall prepare a draft plan and coordinate with the City Engineer to identify appropriate Transportation Demand Management (TDM) practices to be implemented in the PUD. Some examples of measures to be considered in the development of the TDM plan are as follows:

- Provide a TDM coordinator for the PUD site that will facilitate and encourage seamless participation by all uses and businesses within the PUD;
- Inform new employees of available alternative transportation modes and company incentives during orientation;
- Provide preferential parking and financial incentives that encourage employees to utilize car pools and alternative modes of travel;
- Subsidize transit and rail passes;
- Provide convenient and secure on-site bicycle storage facilities, lockers and shower facilities for employees;
- Offer flexible working schedules so that arrivals and departures of employee shifts do not coincide with times of peak traffic demand;
- Incorporate commercial services on-site, such as convenience shopping, exercise facilities, etc;
- Require employees to utilize routes that avoid left turns into and out of the site during times of peak traffic demand;
- Coordinate deliveries to coincide with off-peak traffic hours;
- Kiosks, informational pamphlets, maps, etc. to inform patrons of locally available alternative travel modes, such as Water Taxi, tri-rail, public and private bus and shuttle routes, on-site and off-site bicycle stations and rental facilities, local bicycle routes and rickshaws;
- Provide free or rented bicycles for visitors;
- Expand multi-modal terminals (Water taxi, shuttle stop, etc.) in the PUD;
- Implement shuttle services to off-site parking lots, main destinations/attractions, transit stations and tri-rail.

The TDM plan shall include measures of effectiveness (MOE) for each measure implemented and Applicant shall track each MOE and provide results within a reasonable time upon request for same by the City Engineer.

18. Applicant shall enter into a valet parking agreement as required by ULDR Sec. 47-20 and as approved by the City Attorney prior to final DRC sign-off.

19. Parking as required for the multi-family residential uses is reserved exclusively for the residential uses and shall not be used or displaced by any parking for Outdoor Events or Private Events including the Fort Lauderdale International Boat Show. Vehicular use of the Marina Promenade shown on the Site Plan will be restricted to emergency vehicles on the western portion of the Property except during set up for Outdoor Events, such as the Boat Show and Winterfest Boat Parade. The surface metered parking spaces located on the Property and shown on Sheet SI-0.15, shall

be licensed to the City and set at rates and time limits determined by the City. The spaces shall be maintained by the Applicant. The parking meter system shall be maintained by the City. The Parking Director may approve the removal of the metered public parking spaces and return the parking spaces to Applicant as required parking if it is found by the Parking Director that the parking spaces are not being used by the public in connection with the use of the limited public access areas of the Development.

20. Per the School Consistency Review Report, prepared by the School Board of Broward County, if approved the residential units are subject to public school concurrency review. As applicable, Applicant shall provide a student mitigation satisfaction letter from the Broward County School Board prior to Final DRC.
21. In the event that unanticipated archeological features or artifacts are discovered as part of development disturbances, the Broward County Historical Commission shall be notified within twenty-four (24) hours of discovery as requested by the Broward County Archeologist, Matthew De Felice in a letter to the Applicant dated January 13, 2009.
22. Applicant shall provide maintenance of the property pursuant to the Development Agreement between the Applicant and the City of Fort Lauderdale.
23. Applicant will be required to pay a Park Impact Fee for the proposed 28 multifamily residential units and 290 hotel rooms in the amount of \$433,950.00.
24. The Fort Lauderdale International Boat Show (the "Boat Show") shall be provided with a permanent home to use a portion of the Property to host the Boat Show every year during the Current Lease (2011-2062) and every year during the New Lease (2062-2111), on a year by year basis, and for a total of 100 years if the New Lease is approved. The portions of the Property to be used for the Boat Show will change from time to time during the redevelopment of the Property. During the construction of each phase of the Property pursuant to the Site Plan, Applicant shall make available those portions of the Property shown on Sheet SI-0.20 hereto (the "Boat Show Use Parcels"). Applicant shall provide the Boat Show Use Parcels to the operator of the Boat Show from time to time, as the case may be each year, based on the construction status of the Property, free of any construction equipment, construction trailers, or other construction related items or activities of any nature whatsoever that will interference with the full use of the Boat Show Use Parcels for the Boat Show. Applicant and the City acknowledge that the inclusion of the Property for the Boat Show is part of the "public purpose" justification for the approval of the PUD and Site Plan.
25. Lighting for the Property shall be limited to the lighting set forth on the Site Plan. At the time of any Outdoor Events or Private Events, any additional temporary lighting shall be directed away from the Intracoastal Waterway.
26. No more than twenty-one (21) building signs in total shall be permitted for the development site, with no more than two (2) identification signs per building including hotels and restaurants. No more than twelve (12) free standing ground

level signs, shall be located throughout the property, with no more than two (2) principle ground oriented monument signs and four secondary access signs (4) located along Seabreeze Boulevard. Sign placement shall not interfere with pedestrian traffic flow or sight triangles of drive aisles and lanes. The signage including way finding shall be designed as an overall package to be similar in character and theme for the entire project. All final sign configurations including sign locations, size, lighting and graphics shall be subject to meeting ULDR and Florida Building Code requirements and final administrative review and approval prior to final DRC.

27. The revised PUD Site Plan removes two residential towers on the western portion of the Property. In exchange for clustering the hotel and residential development in a single taller building located on the southeast portion of the Property, no building or permanent structure shall be built on the western portion of the Property as identified on the Master Site Plan with the exception of: 1) the existing Dock Master's Building; 2) the planned two story restaurant and Captain's Lounge; 3) the "Park"; and 4) the surface valet and self parking lot. The City shall execute a Declaration of Restrictions including this restriction and record same in the public records of Broward County against the Property.

28. Except those sections of the ULDR that are modified as a result of the adoption of the PUD rezoning ordinance, which sections are specifically listed on Table 2 as follows, or provided in the conditions, then the provisions of the SBMHA and general regulations of the ULDR in effect on the date the PUD rezoning district takes effect shall apply to the development site.

TABLE 2

ULDR Section:	Requirement:	Proposed PUD Standard:
47-12.5.F.1, SBMHA District Dimensional Requirements - Setbacks	20 feet Min from Seabreeze Boulevard / SR A1A	<i>Beachwalk at Bahia Mar</i> : 12' - 6" **
47-12.5.F.2, SBMHA District Dimensional Requirements - Height	120 feet Max	New "Luxury" Hotel: 294'-2" Mechanical Enclosure: 330' (302'-8" NGVD) Existing <i>Bahia Mar</i> Hotel Tower: 151' (159'-6" NGVD)
47-12.5.F.6, SBMHA District Dimensional Requirements - Length	200 feet Max	New "Luxury" Hotel: 354' - 8" <i>Bahia Mar</i> Hotel/Parking Garage/Retail Building: 351' <i>Beachwalk at Bahia Mar</i> : 375'-1/2" ***
47-20.2 Parking and Loading Requirements	1,753 Parking spaces	1,273 (27.4% reduction)
47-20.14 Lighting of Parking Facilities	Parking lot lighting: Min average 2 footcandle illumination with Min 1 footcandle illumination 12 to 1 Max to Min uniformity ratio	5.4 average (meets) with Min 0.2 111.5/1 ratio
47-21.9 Landscaping Requirements for Vehicular Use Areas	Landscaping in a square footage area equal to a minimum of 20% of the gross VUA = 58,196 SF	44,885 SF (15%)

47-22.4 Maximum Number of Signs at One Location	Three (3) signs, no more than one (1) being a freestanding sign	21 building signs 12 freestanding signs (Subject to conditions of approval, specifically Condition 26 as provided herein)
47-24.1.M.2.f. Expiration of Site Plan	Site plan that includes more than one principal structure shall expire if certificates of occupancy for all principal structures have not been issued within seven (7) years of site plan approval	8 years (Subject to conditions of approval, specifically Conditions 12 thru 16 as provided herein)

** Previously approved pursuant to Ordinance No. C-08-64 on December 16, 2008 (PZ Case 29-R-08).

29. In construing the development regulations applicable to the development site, in the event of conflict, the terms and conditions in subparagraph "A" below shall prevail and be given effect over any conflicting terms and conditions in "B" through "F" below, and subparagraph "B" over "C" through "F" and continuing through the remaining tiers set forth below:

- A. Conditions of Approval as provided in this document. Any change to conditions of approval requires a super majority vote of the City Commission;
- B. PUD Ordinance for dimensional and general development requirements and uses;
- C. Drawings in the development plan (less notes) providing dimensional requirements;
- D. Development Agreement;
- E. ULDR;
- F. PUD Narrative.

30. On the date the PUD ordinance rezoning the property to a PUD, with final DRC approval is recorded in the public records of Broward County, any prior variances, or development plan approvals for any part of the development site that is a part of the property rezoned to the PUD zoned district shall be void and of no effect.

EXHIBIT 1 TO EXHIBIT "C"

BAHIA MAR PUD – PERMITTED USES

If not listed as a permitted or conditional use on this "Exhibit 1: Bahia Mar PUD - Permitted Uses" use is otherwise prohibited

1. BOATS, WATERCRAFT & MARINAS

- a. Marina
- b. Marine Parts and Supplies Store

2. COMMERCIAL RECREATION

- a. Indoor Motion Picture Theater (Less than Five Screens)
- b. Performing Arts Theater (Less than 300 Seats)

3. FOOD & BEVERAGE SERVICE (Less than 2,000 square feet, unless otherwise approved as a Conditional Use – See Sec. 47-24.3. No limitation for restaurants.)

- a. Bakery Store
- b. Bar, Cocktail Lounge, Nightclub
- c. Candy, Nuts Store
- d. Coffee Shop
- e. Delicatessen
- f. Food and Beverage Carry-Out, No Drive-Thru
- g. Fruit and Produce Store
- h. Grocery/Food Store/Gourmet Market (less than 5000 square feet)
- i. Ice Cream/Yogurt Store
- j. Liquor Store
- k. Meat and Poultry Store
- l. Restaurant
- m. Seafood Store

4. LODGING

- a. Bed and Breakfast Dwelling (See Sec. 47-18.6)
- b. Hotel (See Sec. 47-18.16)

5. PUBLIC PURPOSE FACILITIES

- a. Civic and Private Club Facility
- b. Government Administration
- c. Library Branch
- d. Museum
- e. Parking Facility, see Section 47-20
- f. Public/Private Recreation
- g. Police and Fire Substation
- h. Post Office Substation

6. RETAIL SALES (Less than 2,000 square feet, unless otherwise approved as a Conditional Use – See Sec. 47-24.3)

- a. Antiques Store
- b. Apparel/Clothing, Accessories Store
- c. Arts & Crafts Supplies Store
- d. Art Gallery, Art Studio
- e. Bait and Tackle Store
- f. Bicycle Shop
- g. Book Store
- h. Camera, Photographic Supplies Store
- i. Card & Stationery Store
- j. Cigar, Tobacco Store
- k. Computer/Software Store
- l. Cosmetic, Sundries Store
- m. Drug Store
- n. Fabric, Needlework, Yarn Shop
- o. Florist Shop
- p. Furniture Store
- q. Gifts, Novelties, Souvenirs Store
- r. Glassware, China, Pottery Store
- s. Hardware Store
- t. Hobby Items, Toys, Games Store
- u. Holiday Merchandise
- v. Jewelry Store

- w. Lawn and Garden Center
- x. Linen, Bath, Bedding Store
- y. Luggage, Handbags, Leather Goods Store
- z. Music, Musical Instruments Store
- aa. Newspapers, Magazines Store
- bb. Office Supplies, Equipment Store
- cc. Optical Store
- dd. Party Supply Store
- ee. Pet Store/Pet Grooming
- ff. Shoe Store
- gg. Sporting Goods Store

7. SERVICES / OFFICE FACILITIES (Less than 2,000 square feet, unless otherwise approved as a Conditional Use – See Sec. 47-24.3. No limitation for Marina Offices.)

- a. Copy Center
- b. Financial Institution, No Drive-Thru Banks
- c. Film Processing Store
- d. Formal Wear, Rental
- e. Hair Salon
- f. Health and Fitness Center / Spa
- g. Instruction: Fine Arts, Sports and Recreation, Dance, Music, Theater
- h. Interior Decorator
- i. Laundromat (See Sec. 47-18.19)
- j. Mail, Postage, Fax Service
- k. Massage Therapist, when accessory to Health and Fitness Center / Spa
- l. Medical/Dental Office
- m. Nail Salon
- n. Photographic Studio
- o. Professional Office
- p. Shoe Repair, Shoe Shine
- q. Tailor, Dressmaking Store, Direct to the Customer
- r. Tanning Salon, when accessory to Health and Fitness Center / Spa
- s. Trade/Business School
- t. Travel Agency

- u. Veterinary Clinic, (See Sec. 47-18.35)
- v. Watch and Jewelry Repair

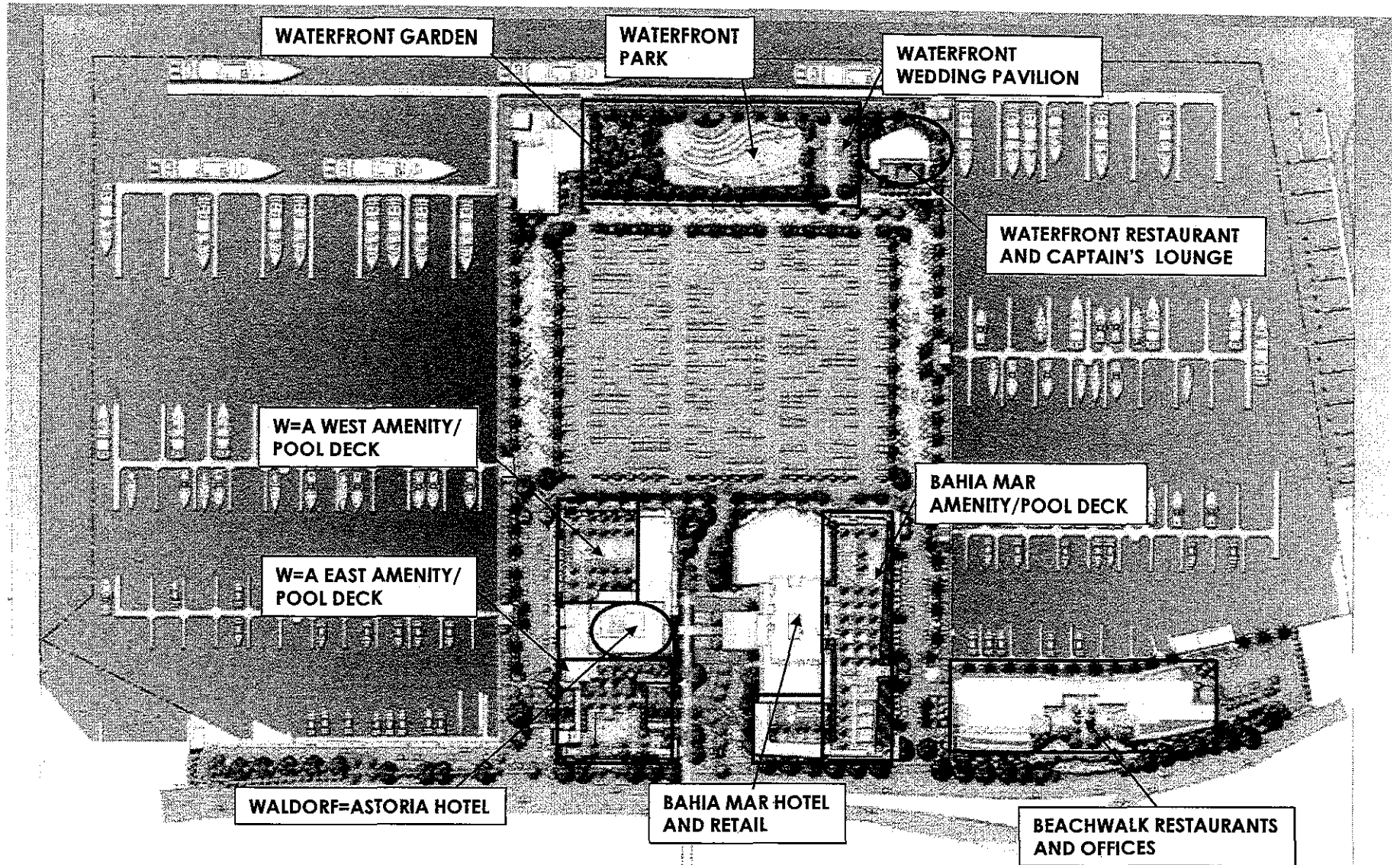
8. RESIDENTIAL USES

- a. Multifamily Dwelling (Limited to 28 units as provided for in the PUD Development Plans)

9. ACCESSORY USES (See also Sec. 47-19)

- a. Accessory uses to Hotels, (See Sec. 47-19.8)
- b. Catering Services
- c. Child Day Care - when accessory to public purpose and/or services/office facilities (See Sec. 47-18.8)
- d. Outdoor Dining and Sidewalk Cafes (See Sec. 47-19.9)
- e. Outdoor Entertainment as shown on the Exhibit entitled "Entertainment Plan" attached hereto

L:\COMM2011\Ords\May17\Bahia Mar Exhibit 1 to Ex C.doc



All terraces, pool decks, patios, plazas, roof top areas and park areas may have outdoor entertainment subject to any specific limitations in the PUD Conditions of Approval.

ENTERTAINMENT PLAN

bahiaMar
park