



LSN PARTNERS
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To: Mike Stamm, Director of Planning and Economic Development,
City of Pembroke Pines;
Samuel Goren, City Attorney, Pembroke Pines

Re: Commissioner Tom Good Appeal of SO2020-08/LaDim Aviation, LLC
Agenda Item #13 for September 16, 2020 City Commission Meeting

Dear Messrs. Stamm and Goren:

Our firm represents LaDim Aviation, LLC (LaDim), the Applicant whose project site plan was approved by the City Planning and Zoning Board ("P&Z") on August 13, 2020. Commissioner Tom Good who attended the P&Z Board meeting and did not speak has filed an appeal of the P&Z decision pursuant to Section 32.083(c) of the City Code of Ordinances.

For the reasons set forth herein, the appeal is without merit and must be rejected.

In response to a desire for enhanced safety and more secure facilities to store small planes at North Perry Airport, Broward County Aviation Department ("BCAD") advertised a Request for Letters of Interest ("RLI") in November 2018.

BCAD received three (3) responses in this publicly noted process and selected LaDim as best meeting the needs of North Perry Airport. LaDim's 30-year lease was approved by the Broward County Commission on December 3, 2019.

With the architectural design services of Carlos Gonzalez, and his firm, Barranco Gonzalez, and the planning and engineering services of Joseph Roles and Assoc., Inc., LaDim commenced the design review process by submitting a Site Plan Package to the City on April 9, 2020, as reflected in the P&Z record that is before the City Commission on this appeal.

When asked by P&Z Chair, Henry Rose, petitioner LaDim accepted all of the staff recommendations. These recommendations include the entirety of the application, as well as all staff and code requirements.

As a part of his presentation, Mr. Milota Srkal, Jr., spoke of his years of work at North Perry Airport and how getting aircraft properly housed out of the rain and heat elements would protect the aircraft and make them and the airport safer.

The record of the P&Z meeting reflects that Director Mike Stamm confirmed that all City Codes had been met. Mr. Stamm stated that under the LaDim lease with Broward County, BCAD and FAA also review safety issues in approval of this development. All of this was part of the record before the P&Z Board and none of it was rebutted with any evidence or testimony at the Hearing.

The Standard of Review in this Appeal

This Appeal was filed by Commissioner Good pursuant to Sec. 32.083 (C) of the City Code of Ordinances. As the Code states in Sec. 32.083 (F) and as the City Attorney will advise the City Commission is strictly limited to the written record of the P&Z Board Hearing. Sec. 32.083 (F) states in pertinent part as follows:

"Hearings before the City Commission are not trials de novo but rather appellate in nature. **Appeals shall be limited to the written record and new additional evidence shall not be presented....**"

In other words, the Code states that to reverse the approval of the P&Z Board, the Appellant, Commissioner Good, must show that the written record, including testimony on the record, presents COMPETENT AND SUBSTANTIAL EVIDENCE sufficient to overturn the P&Z approval.

So, let's look at the record presented to P&Z. That record contained the following:

1. The LaDim , April 29, 2020 Application including a Fire Protection Plan, Site Plan, Dumpster details, Architectural Plans and Elevations, Landscape Plan, Photometric Plan, surveys, and Preliminary Engineering Plans.
2. A letter authorizing the Application executed by Ms. Nina Macpherson, Airport Manager at North Perry Airport.
3. Staff reports and comments from City staff as the various Departments undertook their thorough reviews.
4. The Staff Report and Recommendations of Approval, prepared by Director Mike Stamm.
5. A verbal PowerPoint presentation by LaDim.
6. Staff comments.
7. Comments by one member of the public.

At the P&Z meeting on August 13, 2020 an initial PowerPoint presentation was made by Milota Srkal, Jr. That presentation reflected an aerial photograph, a site plan, color architectural renderings and landscaping. On five (5) separate occasions during his presentation, Mr. Srkal focused on why these small covered hangars would enhance safety at North Perry Airport; he said they will properly house planes which may otherwise be simply tied down on the tarmac subject to the elements of sun, rain, wind and hurricanes.

Director Mike Stamm confirmed among other things that this project was consistent with the current Master Plan for North Perry Airport as well as all applicable City Codes.

Mr. Srkal testified that he had received a great deal of interest for these hangars from current plane owners at North Perry. He also spoke about the extensive landscaping plan and the agreement to include LED lights.

Mr. George Koren was the only member of the public to speak at the advertised P&Z Hearing. Mr. Koren provided no evidence whatsoever on the record to address any legal or factual reason why LaDim's site plan should not be approved. Mr. Koren provided no evidence to rebut LaDim's statements that these new hangars would enhance safety at North Perry Airport.

Mr. Koren's chief comment was that this project should have been reviewed by the proposed North Perry Airport Community Advisory Committee ("Advisory Committee"). This issue is also raised by Commissioner Good in his Appeal which is before you today.

The Advisory Committee was authorized by Broward County on 12-10-2019. As stated at P&Z by Mike Stamm only four (4) members of the nine (9) Advisory Committee have been appointed so far. Thus, the Advisory Committee has not been legally constituted, does not have a quorum of members and has never met. Moreover, the Advisory Committee has no adopted rules of procedure. This was also confirmed by Director Stamm at the P&Z meeting.

As a matter of law, the Advisory Committee, when it someday becomes operational, is "advisory" only and will not replace the City's site plan approval process for future development at North Perry Airport.

Commissioner Good's Appeal focuses on two issues, neither of which has merit and neither of which points to competent and substantial evidence in the record to support the Appeal.

1. Commissioner Good states that the LaDim site plan application should not be approved without review by the Advisory Committee. As noted above, the Advisory Committee does not yet exist and there is no City Code requirement for such a review even if the Advisory Committee were constituted. Moreover, LaDim has followed 100% of the City Procedures and expended significant sums to file and process its Site Plan Application with the City. Commissioner Good's request to overturn a P&Z approval for this reason does not, under Sec. 32.083 (F) of your Code constitute competent and substantial evidence.
2. In the second point raised by Commissioner Good's appeal, he states that "P&Z failed to consider critical information related to the health, safety and welfare of the community specifically as it relates to fire rescue services and requisite airport review approvals."

Commissioner Good either overlooked or failed to review the extensive documents and staff reports which formed the Site Plan Application that was presented to P&Z at its Hearing.

As expressly reflected in the record, the City of Pembroke Pines staff undertook an extensive site plan review process including highly professional and thorough review by the City Fire Department who posed questions and mandated plan changes to ensure that the project met all of the City requirements and fire/safety standards. The approved Fire Protection Plan and the Fire Truck Maneuverability/Auto-turn Plan were part of the approval and are in the record. As noted in the record and on the first page of the attachments hereto on July 20, 2020 the Pembroke Pines Fire Rescue /Fire Prevention Bureau stated:

“Conforms to the City of Pembroke Pines Fire Department Standards. You have satisfied the Fire Department’s concern regarding the site plan review.”

No evidence whatsoever was introduced at the P&Z Hearing that would either question or rebut the findings of the Fire Department.

At the P&Z Hearing on August 13, 2020 Director Mike Stamm made a presentation and made the following statement:

“Staff Recommendation”

Staff has reviewed the proposed changes and finds that the proposal meets code requirements. Staff therefore recommends approval of this application subject to the applicant providing LED lighting fixtures that do not exceed 3000k correlated Color Temperature (CCT) in compliance with City of Pembroke Pines lighting Code.”

Thus, Commissioner Good’s Appeal fails to cite one shred of evidence in the record to support his claim that there was not an adequate review of fire rescue services.

In fact, as noted above the Fire Department’s review and approval confirmed both the Applicant’s compliance with Code as well as the capacity of the City’s fire rescue service and its ability to serve the Property.

As reflected in the record, this small project will be developed on 6 acres of the 530-acre North Perry Airport. It meets all requirements of the City Code. There was no documentary evidence, testimony or P&Z discussion which raises any legally sound basis in the record as to why the P&Z should be overturned by the City Commission.

As an operational airport, North Perry Airport is regulated under the Federal Aviation Administration (FAA) and Broward County. As a matter of law,

concerns about airspace are under the exclusive sovereignty of the FAA and are not within the purview of the P&Z Board or a part of the City site plan review process. Individual construction projects also must go through a site plan approval process in the City. If the project meets all of the City Code requirements, as this LaDim project does, then it must be (and was) approved.

On the basis of the forgoing, we ask that this City Commission deny this appeal because it has failed to point to any competent and substantial evidence in the record under Sec. 32.83 of the Code which could constitute a legal basis for this overturning the P&Z Board approval.

We will make a presentation at your September 16, 2020 meeting and will be pleased to respond to any concerns which, as the City Attorney will confirm, must relate to issues contained with the limited record before the Commission on this Appeal.

Kindly share this letter and attachments with the Mayor, Commissioners and the City Manager.

Respectfully Submitted,

George I. Platt, Esq.

Cc: Milota Srkal, Jr.
Carlos Gonzales, AIA
Joseph Roles, P.E.

