



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES
Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
Tuesday, August 8, 2017**

I. CALL TO ORDER

Meeting was called to order at 9:00 a.m. by Chair Zuba. Members present: Dan Hendrickson, Suzanne Katt, Jane Plummer, Scott Safford, Lorrie Wolf and Hank Zuba.

Excused: Megan Heil

Town Attorney: Town Attorney Peterson

Staff: Matt Noble

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - June 13, 2017

MOTION: Mr. Hendrickson moved to approve the minutes, second by Ms. Plummer.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

V. REVIEW OF CAPITAL IMPROVEMENT PROGRAM (CIP)

Town Manager Hernstadt discussed proposing a plan to place all the Town's assets on a replacement program.

Maureen Rischitelli, Director of Administrative Services, introduced new Finance Director Robert Lange. She explained components of Resolution 17-06.

Ms. Katt questioned whether funds were included to maintain outfalls and water lines. Ms. Rischitelli replied in the affirmative.

MOTION: Mr. Hendrickson moved that Resolution 17-06 was found to be consistent with the Comprehensive Plan; second by Ms. Katt.

VOTE: Motion approved 6-0 with Ms. Heil excused.

VI. SEZ17-0003 - FISH TALE MARINA RESTAURANT EXPANSION OF COP AND OUTDOOR SEATING

Mr. Noble swore in those providing testimony. Chair Zuba requested ex parte communication. Ms. Plummer - site visit, conversations with the owner and familiar with people representing the owner; Ms. Wolf - site visit and met with owner; Mr. Safford - site visit; Ms. Katt - site visit; Chair Zuba - site visit and Mr. Hendrickson - site visit.

Steve Hartsell, attorney with Pavese Law Firm, represented Al Durrett and the Fish Tale Marina Restaurant, LLC. He requested a special exception in the Santini District to expand the Consumption on Premises (COP) to an outdoor seating area. Mr. Hartsell presented an aerial photograph of the location. He requested that the application and staff report be entered into the record. He described the history of the marina. He indicated that the existing restaurant had a liquor license. He stated that consumption on premises could be done administratively unless there was outside seating involved. Outdoor seating was already permitted as part of the restaurant use. He displayed the overall site plan, inset of overall site plan and seat plan, which were included in the application. Mr. Hartsell reviewed the Pedestrian Commercial district area around the Villa Santini Plaza and redevelopment/update of Fish Tale Marina. He discussed protecting the residential neighborhood, Palm Harbor Club and commercial intensity.

He stated that the Palm Harbor residential use came after the Fish Tale Marina and the restaurant. He noted that the restaurant did not intrude into the residential district. He stated that the roof of the Chikee hut served to help reduce the sight and sound associated with open-air seating and a six foot wall was approved and would be under construction shortly. He noted that vegetation would be put into place. He mentioned that staff reviewed parking requirements. There were 227 total parking spaces available, which were more than required.

He stated the request was consistent and appropriate with the goals, objectives and policies of the Comprehensive Plan and was in compliance with the Land Development Code (LDC). He distributed a list of conditions, which were compatible with the planned uses. He noted that the Palm Harbor Condominium President provided a letter (included with the application) that stated the restaurant would be an asset to the area. Mr. Hartsell reviewed his conditions and those in the staff report.

Mr. Noble distributed an errata sheet; hours of operation were discussed.

Public comment:

- Ben Cavanaugh, owner from Palm Harbor, questioned whether there would be a bar in the Chikee hut. Mr. Hartsell replied in the negative. Mr. Durrett stated that food and beverage served in the restaurant would not be taken out to the Chikee hut. He indicated that he had not received one complaint regarding noise in 20 years and he stated that music would be shut off by 9:00 p.m. No food or beverage would be served after 10:00 p.m. in the Chikee hut. Mr. Hartsell clarified that the restaurant would not discontinue food service at a particular hour. Mr. Noble clarified that the COP was tied to the land, not the owner.

- Jean Wahl, Palm Harbor resident, spoke in favor of the request. She described a letter she sent to Mr. Durrett.

- Pam (*last name no audible*), Palm Harbor secretary, expressed concern regarding noise from the music. She would like the Chikee hut to stop serving by 9-9:30 p.m.

- Steve Kildow, Palm Harbor resident, noted that his property was under contract for sale and the marina did not negatively affect the value of his property.

- Scott Atwood, Palm Harbor resident and lawyer, named several property owners he represented. He stated they were led to believe that there would not be outdoor seating with alcohol and there would not be an increase in volume or size. He stated that the issue was not mentioned in any of the board meetings

at Palm Harbor. He received an email from Mr. Cohen, manager, that stated there would not be alcohol served in the Chikey hut. Mr. Atwood noted that the Town sent out a notice, but their understanding was that the Chikey hut would be a waiting area with no alcohol or outdoor seating. He stated that it would have an adverse affect on the adjoining properties because it was a substantial change to the structure. He was told by a realtor that the expansion would have an adverse affect on the value of his property. He distributed pictures of his property in regard to the proximity of the Chikey hut.

Mr. Noble commented that the use was consistent with the pedestrian commercial land use district. He acknowledged there was a concern with the location, which is why they focused on the hours of operation. Mr. Hendrickson questioned whether there was a change in use without proper notice. Mr. Noble replied that proper notice was given.

Mr. Hartsell stated that the concerns were related predominately to outdoor seating. He made it clear that outdoor seating was not part of the request because it was already permissible. He explained that the redevelopment plan was within the confines of the LDC.

Public comment closed.

Ms. Plummer confirmed that public notice was mailed to property owners. She discussed the conditions and she supported the request.

Ms. Katt questioned the difference with the hours of operation between the staff's errata sheet and the applicant's conditions. She expressed concern that the COP was tied to the land.

Mr. Safford thought that more kids would be in the area. He questioned what would happen if they decided not to approve the COP. Mr. Durrett stated that he would continue to serve dinner at the Chikey hut. He concluded by commenting that the restaurant and Chikey hut would stop serving food and alcohol at 10:00 p.m. and the music in the Chikey hut would stop at 9:00 p.m.

Discussion was held concerning the music.

Ms. Katt requested that the conditions be revised to reflect the change in #4. Mr. Noble summarized the conditions.

MOTION: Ms. Plummer moved to approve the special exception in Santini for the Consumption on Premise, expanding the outdoor seating area of 2,811 square feet in the courtyard, 1,293 square feet in the Chikey hut with the conditions of approval of one and two, three to be deleted, four to be sales of all food and beverage would end at 10:00 p.m. for the entire restaurant and five back to the attorney for additions to amplified music and six to be added for the six foot wall; second by Ms. Wolf.

Discussion was held concerning revising the language in condition four. Ms. Plummer changed her motion to clarify that the entire restaurant would stop selling food and alcohol at 10:00 p.m.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

VII. LDC AMENDMENT DOCKS LDS SECTION 26-71

Rae Blake, Environmental & Stormwater Technician, reviewed changes that included restrictions to artificial bodies of water. Mr. Hendrickson clarified that artificial bodies of water included canals and man-made channels. Chair Zuba questioned enforcement. Ms. Blake replied that she reviewed all dock permits for compliance.

Ms. Plummer questioned whether the Mooring Field was considered navigable. Mr. Noble replied in the affirmative. She clarified the use of terminal platforms.

Mr. Hendrickson clarified the definition of a slip.

Town of Fort Myers Beach - Local Planning Agency

August 8, 2017

Page 3 of 5

MOTION: Chair Zuba moved to approve Resolution 2017-0005 and that it was consistent with the Comprehensive Plan; second by Mr. Safford.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

VIII. REVIEW LPA POLICIES AND PROCEDURES MANUAL

Chair Zuba reviewed changes to the manual. Ms. Katt suggested that every new member receive a copy. Chair Zuba suggested reviewing changes, suggestions and comments at the next meeting.

IX. LPA BUDGET DISCUSSION - PROJECT BUDGET REQUESTS

Not addressed.

X. HISTORIC PRESERVATION BOARD MEETING

MOTION: Chair Zuba moved to adjourn as LPA and convene as Historic Preservation Board; second by Mr. Hendrickson.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

Chair Katt indicated that 51 letters had been sent to people who may be willing to participate in the plaque program. Recipients will be called and invited to participate in the program. Informational sessions will be scheduled at Newton House. Ms. Katt clarified that recipients could pick up their plaque and skip the formal ceremony by Town Council. She discussed Mr. Noble's participation in the program. She stated that if the Historic Preservation Board expected to meet their goals, they had to spend money in order to give people the support they needed to accomplish those goals. Mr. Zuba thanked Chair Katt for energizing the plaque program. Mr. Noble indicated that they had a tremendous response from the letters. Mr. Hendrickson thanked the local papers for publicizing the program.

Ms. Plummer questioned whether a report regarding the historic home would be available from the Historic Society. Mr. Noble replied that he did not have an update yet. Discussion was held concerning the storage site for the home.

MOTION: Mr. Zuba moved to approve attaching the information as a supplement to LPA activities; second by Ms. Plummer.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

MOTION: Ms. Plummer moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Ms. Wolf.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

XI. LDC AMENDMENT MOBILE TOURIST INFORMATION CENTER LDC SECTION 34-0351

Mr. Noble indicated that staff contacted George Freeland from Moss Marine regarding the mobile tourist center. Council direction was needed to move forward.

XII. LPA MEMBER ITEMS AND REPORTS

Mr. Hendrickson expressed concern regarding complaint-driven code enforcement. He felt they needed to be more proactive.

Ms. Plummer questioned changes to rental regulations. Town Attorney Peterson stated that any changes would come before the LPA. She questioned the water quality from the tap because her water tasted different. She revealed that a company offered free water testing and she wondered if there were problems. No one was aware of any issues.

Ms. Katt thought they should have better guidelines for future development. She discussed code enforcement issues and making changes to the LDC.

Ms. Plummer commented that they should not be designing homes. It was up to the homeowner to decide what they wanted to put in their box, but trade-offs could be an option.

Ms. Safford suggested creating an outline of the process to address issues.

XIII. LPA ATTORNEY ITEMS

Town Attorney Peterson confirmed that all members submitted their financial disclosure forms.

XIV. COMMUNITY DEVELOPMENT ITEMS

Mr. Noble indicated that FishTale will go before Council at the end of the month. Mr. Hendrickson noted that he would not be available to attend the meeting. Ms. Katt will try to attend.

Mr. Noble presented a worksheet of variances.

XV. ITEMS FOR NEXT MONTH'S AGENDA

XVI. PUBLIC COMMENT - no public comment.

XVII. ADJOURNMENT

MOTION: Ms. Wolf moved to adjourn the meeting; second by Ms. Katt.

VOTE: Motion approved; 6-0 with Ms. Heil excused.

Meeting adjourned at 11:27 a.m. ?

Adopted _____ With/Without changes. Motion by Jane Plummer

Vote: 6-0

- End of document

an zlr
10/10/17