



**FORT MYERS BEACH  
LOCAL PLANNING AGENCY (LPA)  
MINUTES  
Town Hall  
2525 Estero Boulevard  
Fort Myers Beach, Florida 33931  
Tuesday, October 10, 2017**

**I. CALL TO ORDER**

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

Excused: Dan Hughes

Town Attorney: Town Attorney Peterson

Staff: Matt Noble

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

**IV. REORGANIZATION**

**MOTION:** Ms. Plummer nominated Hank Zuba as Chair; second by Mr. Hendrickson.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

**MOTION:** Chair Zuba nominated Dan Hendrickson as Vice Chair; no second.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

**V. MINUTES - August 8, 2017**

Correction: Ms. Safford should be Mr. Safford under XII.

**MOTION:** Ms. Plummer moved to approve the minutes, second by Ms. Heil.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

**VI. DCI17-0005 - Old Seaport Restaurant Planned Development Amendment**

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Principle Planner Matt Noble reviewed the history of the request. He indicated that the applicant agreed to cease renting parking upon completion of the new restaurant. He suggested modifying a condition to include no shared parking of any kind shall be permitted on the subject's properties. He noted that the applicant provided revised parking calculations and a parking plan.

Chair Zuba requested ex parte communications. Ms. Wolf - none; Mr. Safford - none; Ms. Plummer - site visit; Mr. Hendrickson - site visit; Ms. Heil - site visit and Chair Zuba - site visit.

Town Attorney Peterson swore in those providing testimony.

Rob Fowler represented James Figuerado with Olde Seaport Place, Inc. The first issue was that the DEP approved shifting seating 32 feet to the right. The request shifted the COP with the seating. The second issue was the previously approved alternate scheduled uses for the San Carlos Blvd. restaurant and COP. Mr. Fowler stated that when they tried to get it administratively approved it was denied. He was told that it was denied because the restaurant was not discussed at the LPA meeting or Council meeting. Mr. Fowler stated it was not mentioned because the restaurant was not questioned. He reiterated that the restaurant would go in the exact footprint on the Master Concept Plan (MCP). He indicated that Town Manager Hernstadt previously stated that it should go to a public hearing for clarification. Mr. Fowler expressed his frustration with the entire process.

Mr. Figuerado reviewed his history in the Town. He discussed the two issues. He noted that they decided not to move forward with the open air shops and decided to open a restaurant instead. He explained the previous deal with Mr. Freeland.

Mr. Fowler addressed the letter regarding parking and stated that the challenges were from Marina Village. He noted that calculations for the outdoor seating had been provided. Mr. Figuerado was taking advantage of using the public parking as a permitted use but that use would stop once the restaurant was open. Mr. Fowler noted that the restaurant would be on grade with dry flood proofing.

Mr. Noble stated that it was on the schedule of uses but not depicted on the MCP.

Ms. Plummer noted that there was a reduction in square footage on both parcels and since it was on the schedule it should be a simple clarification of cleaning up the paperwork.

Ms. Wolf noticed that there was a dead end on the parking plan. Mr. Noble replied that the parking lot was altered to add a turnaround.

Chair Zuba questioned the language in conditions 4 and 8, and closing at 11:00 p.m. instead of 10:00 p.m..

Mr. Noble explained that conditions 4 & 8 were standard language and part of the 2015 approval, and that by closing the rollup doors the restaurant would be allowed to operate until 11:00 p.m. It did not apply to music or live entertainment. Mr. Fowler stated that the Butler Act had been authorized and all issues had been resolved by the settlement with the State of Florida. He explained that non-structural roof covering was an awning with poles.

**MOTION:** Ms. Plummer moved to approve the applicant's request to amend the already approved Master Concept Plan in parcels 1, 2, and 4 as requested, findings and conclusions that there exists a change in condition which makes approval of the request appropriate, the request is consistent with the goals and policies and intent of Fort Myers Beach Comprehensive Plan, that it meets or exceeds all performance and location standards set forth, that the request will protect and conserve critical areas on Fort Myers Beach, the request will be compatible with existing and planned uses, the request will be in compliance with applicable general zoning and with this approval will be conditions 1-16; second by Chair Zuba.

Mr. Noble suggested that the conditions be expanded to include the parking condition as discussed earlier. He read the condition from the handout into the record.

Ms. Plummer amended her motion to include condition 16 as stated. Chair Zuba amended his second.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

## **VII. SEZ17-0001 & VAR17-0005 - Mango Street Parking Lot**

Mr. Noble indicated the parking lot had been utilized as a seasonal parking lot for years but the Town eliminated seasonal parking lots. The application was a result of the Town eliminating those parking lots and it included a series of variances.

Chair Zuba requested ex parte communications. All LPA members conducted a site visit.

Greg Stuart represented owner Ronald Yanke. Mr. Stuart utilized a PowerPoint presentation to review the request. Slides included Land Use and Zoning, The Request, The Special Exception bullets and The Variances Request. He stated that they met all the criteria.

Mr. Stuart indicated that they clarified what the Limited Development Order (LDO) had to include. He addressed the urgency with opening the lot.

Ms. Plummer recommended that the buffer be one foot high on the Estero Blvd. side for the visibility triangle. Mr. Noble stated that the project would have to meet the visibility standard.

Chair Zuba inquired whether they would consider adding bike racks. Mr. Stuart had not discussed bike racks.

Town Manager Hernstadt recommended setting 180 days for them to meet the conditions instead of leaving it open ended. If conditions are not met, then a \$500.00 per day penalty would be imposed.

David Walton ran the parking lot for years and the previous owner had the parking lot since the 1980s. He stated that he managed, cleaned, supervised and provided security for the parking lot. He noted that bicycles were parked next to him. He did not think that the 180 days would be a major problem, but it might be a minor problem with the trees along Mango St. If he could eliminate one tree, he could add a bicycle rack. He thanked everyone for considering his request.

Mr. Stuart added the 180 day requirement and he requested that the minutes requirement be waived to expedite opening the lot. Mr. Noble suggested rewriting condition 2 to reflect the 180 day requirement. No public comment.

**MOTION:** Ms. Plummer moved to approve the applicant's request for special exception associated with the variance to construct a permanent parking lot consistent with section 34-2011 of the LDC to allow 29 parking spaces as depicted on the site plan and to include variances 1-5 and the recommendation findings and conclusions are consistent, it meets or exceeds and it will protect and will compatible and will be in compliance, approval of conditions 1-8 with the change to 2, 7 and 8 added on the letter presented today. The property is allowed to operate a commercial shared parking lot following Town Council approval based upon the condition that the property must submit an LDO within 180 days must have approval of the special exception or if not completed a \$500.00 fine. The LDO must address the parking plan, stormwater retention, access to the site, parking surface of the lot, buffer and ADA issues. Number 7 addressed hours of operation, added the ability to have six special exceptions for parking to accommodate events such as July 4 and New Year's Eve. Add 8 to state if the parking lot lighting is desired by the owner the lighting

plan would be submitted to the Town Council, no light poles may be installed, other ground mounted lighting may be used, a lighting plan must be administratively approved to install; second by Chair Zuba.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

### **VIII. HISTORIC PRESERVATION BOARD MEETING**

**MOTION:** Chair Zuba moved to adjourn as LPA and reconvene as Historic Preservation Board; second by Mr. Safford.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

Mr. Hendrickson stated that he was appointed as Chair of the Historic Preservation Board. He recommended that Mr. Safford join the committee. Mr. Safford accepted.

### **HISTORIC PLAQUE APPLICATIONS:**

HDD17-0001- 2563 Cottage Ave. - First Beach School

HDD17-0002 - 110 Mango St. - Heavenly Biscuit

**MOTION:** Ms. Heil moved to approve the applications for the First Beach School at 2563 Cottage Ave. and Heavenly Biscuit at 110 Mango St. for historic plaques; second by Ms. Wolf.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

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

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

### **IX. REVIEW LPA POLICIES AND PROCEDURES MANUAL**

Chair Zuba stated that the manual needed a complete rewrite. He tabled the review until staff could edit the document.

### **X. LPA MEMBER ITEMS AND REPORTS**

Ms. Heil - questioned installing restroom facilities in parking lots for the public. Mr. Safford concurred with providing public services. LPA Member Plummer questioned why the Town did not support restrooms on beach accesses. Mr. Noble stated that it was a Council issue. Ms. Heil noted that hotels were issuing wrist bands to their guests to keep the public from using their facilities. Mr. Safford stated that allowing people to use restrooms at businesses was a liability issue.

Mr. Hendrickson asked whether anything can be done concerning bigger homes on properties? He questioned forming an ad hoc committee to explore the issue. Ms. Plummer discussed the cost to build and taking advantage of the setbacks. Chair Zuba suggested analyzing the scope of the issue and he offered to participate in an ad hoc committee. Ms. Plummer and Mr. Safford agreed to participate. Mr. Hendrickson suggested opening the committee to members of the public. Chair Zuba and Ms. Plummer agreed. Mr. Hendrickson will follow up.

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Ms. Plummer questioned the whereabouts of Ms. Katt's plaque. Chair Zuba replied that he would have the letter signed next week. Mr. Safford thanked everyone involved with the Pirate Fest.

**XI. LPA ATTORNEY ITEMS - no items**

**XII. COMMUNITY DEVELOPMENT ITEMS - no items**

**XIII. ITEMS FOR NEXT MONTH'S AGENDA**

**XIV. PUBLIC COMMENT**

John Gucciardo spoke on behalf of TPI and Tom Torgerson. They were going back and forth with staff concerning the sufficiency letter. He offered to meet with LPA members individually to answer questions.

**XV. ADJOURNMENT**

**MOTION:** Mr. Hendrickson moved to adjourn the meeting; second by Ms. Wolf.

**VOTE:** Motion approved; 6-0 with Mr. Hughes excused.

Meeting adjourned at 11:06 a.m.

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*H. Zuba*  
*11/14/17*