



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES**

Town Hall - 2525 Estero Boulevard
Fort Myers Beach, Florida 33931
Tuesday, November 14, 2017

I. CALL TO ORDER

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

Town Attorney: Town Attorney Peterson

Staff: Matt Noble

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - October 10, 2017

Ms. Plummer clarified that she was uncomfortable with the \$500.00 fine included in her motion on Page 3.

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

VOTE: Motion approved; 7-0.

V. Ordinance No. 17-17 - LDC Amendment to Ch. 34, Sec. 34-3051 Mobile Tourist Information Center

Jason Green, Community Development, reviewed the background of the amendment. Mr. Hendrickson commented on contradictory sections regarding providing information. Mr. Green commented that the goal was to provide information for local businesses on Fort Myers Beach. He stated that the kiosk made money from the placement of promotions. Ms. Heil suggested changing the language to specify that local meant the Town of Fort Myers Beach only. Chair Zuba and Mr. Safford agreed with the change. Discussion was held concerning administrative approval and the variance process. Mr. Hughes questioned why the first public hearing was held before the LPA reviewed the issue. Mr. Green responded that it was

Town of Fort Myers Beach - Local Planning Agency

November, 14, 2017

Page 1 of 5

time sensitive due to the RFP and it was suggested that Town Council provide guidance. Ms. Plummer suggested that all Fort Myers Beach addresses be included in the definition of local. Chair Zuba agreed that was appropriate.

MOTION: Chair Zuba moved to recommend changes to the language to include addresses within designated properties of the Town of Fort Myers Beach and clarifying the language for the explicit clarification of the variations; second by Mr. Hendrickson.

VOTE: Motion approved; 7-0.

VI. Ordinance No. 17-15 - Medical Marijuana Treatment Center Dispensing Facilities

Town Attorney Peterson noted the first reading was last month and Town Council requested that the LPA review and make a recommendation. He stated that Council recommended that there be no dispensaries within the boundaries of the Town. Matt Noble, Community Development, commented that people had inquired about dispensaries. Mr. Safford did not agree with prohibiting medical marijuana dispensaries, suggesting setting a limit of one. Town Attorney Peterson indicated a decision had to be made by the end of the year. Ms. Heil felt like it was being pushed through too quickly. Chair Zuba questioned how other communities approached the issue and whether limiting licenses was appropriate. Mr. Hughes questioned whether limiting licenses created a legal problem regarding a monopoly. Town Attorney Peterson thought it was permissible under the legislation.

MOTION: Mr. Safford moved to table the issue; second by Ms. Heil.

VOTE: Motion approved; 7-0.

VII. VAR17-0003 - Requesting Side Yard Variance From Required 20'-13' - 4360 Estero Blvd.

Chair Zuba requested ex parte communication: Ms. Heil - site visit; Mr. Hendrickson - site visit; Ms. Plummer - site visit; Chair Zuba - site visit; Mr. Safford - site visit; Ms. Wolf - site visit and Mr. Hughes - no communication. Town Attorney Peterson swore in those providing testimony.

Sarah Propst, Community Development, reviewed the request. She noted that two support letters and one letter of objection were provided to the LPA.

Greg Stuart represented the applicant. He displayed and discussed slides, which included: The Tiki Beach Hotel Side Yard Enclosed Deck Variance, The Variance Request, The Variance - Neighborhood Context, The Tiki Hotel Property, Detail of the Water Body Side Yard, Approval Recommendation, Side Yard Setback Objection Letter and Conclusion.

No public comment.

Mr. Stuart noted that access to the deck was internal and he thought the building plans might be on record. He indicated that the deck was independently supported. Chair Zuba questioned whether the laundry shed was legal. Mr. Stuart was not sure. Ms. Propst could not find any records on the structure. Mr. Green noted that he will follow up with the property owner. Mr. Stuart's opinion was that the structure was a legal, non-conforming use. Ms. Propst clarified that the shed was constructed within the required setback and it encroached on that setback. Ms. Plummer commented that if it was built in 1982, it was a legal, non-conforming structure. Mr. Stuart stated that they had not applied for a DEP permit. Ms. Propst stated that Lee County did not have permits for the structure. Ms. Plummer questioned why the setbacks were

so large on the property. Ms. Propst replied that in that zoning district, a 20' side yard setback for waterfront lots was required.

Ms. Propst felt that the request met the typical conditions that might exist with balconies at other hotels. Mr. Hughes commented that the request did not have a significant effect on visibility and he felt it was a unique situation.

MOTION: Chair Zuba moved to approve Resolution 2017-0012, VAR17-0003 with the conditions stated on the staff report with an additional condition that if the adjacent 6 foot fence and trees buffering between the subject property are removed or come into disrepair, then the owner of the property will provide an in-kind replacement of that fence within 30 days; second by Ms. Plummer.

VOTE: Motion approved; 7-0.

VIII. VAR17-0004 - Requesting Rear Setbacks from 25'-20' - 272 Miramar

Ms. Propst noted that the setback request was for the front. Mr. Stuart utilized a slide presentation. Slides included the Front Yard Setback Variance, The Variance Request, Geographic Context, Shoreline Geographic Context, Neighborhood Context, Application Background, Approval Recommendation, Front Setback Variance Approval, View Impact Assessment, 251 Miramar View Impact Assessment and Conclusion.

Public Comment:

•Terry Wysong, 270 Miramar, stated that they spent a lot of time on the porch and the variance would cut into his view. He requested that they deny the request. He provided a history of the property.

Public Comment Closed.

Chair Zuba requested ex parte communication. Chair Zuba noted that he spoke to Mr. Stuart regarding the ground level unit. No other LPA member had ex parte communications.

Ms. Plummer pointed out that if the property were on a land-locked road with three roads around it instead of water, the builder would be able to choose their front, back and sides. She cited examples. She discussed whether there was a legal right to a view if a property was not on the water.

Mr. Safford clarified whether the applicant could add more structures with another variance. Ms. Propst replied that it would be in the remainder of the 10 feet towards the road. Ms. Plummer discussed code and the rights of neighbors in relation to view corridors. Mr. Noble stated that it was determined that the request needed to come to public hearing because of residential impacts.

Mr. Stuart summarized the request and submitted that they met the legal criteria. Mr. Hughes commented that conditions B, C and D were questionable. Mr. Stuart explained why they needed the additional five feet. Mr. Hendrickson had a hard time justifying how it could be de minimus when there was already a structure on the property.

MOTION: Ms. Plummer moved to approve VAR17-0004 with the conditions stated in the staff report; second by Mr. Safford.

VOTE: Motion approved; 4-3, with Dan Hughes, Dan Hendrickson and Megan Heil dissenting.

IX. SEZ17-0002 & VAR17-0002 - Shared Parking in the Downtown Zoning - Paine Parking

Mr. Noble reviewed the history of the parking lot. He modified condition 2 to state that the property must have a limited development order (LDO) and completion of construction within 180 days of the approval of the special exception.

Max Forgey represented Mr. and Mrs. Paine. Slides from the PowerPoint included: Variances Requested, Estero to Lagoon Aerial, Site Drawing, Justifications for Special Exception, Pedestrian Commercial Definition, Beach Access, Overbuilding, Parking Lot Won't Promote Overbuilding, Comprehensive Plan Consistency, Shared Parking in Land Development Code, Downtown Zoning District, Park Once District, View of Rear of Property from Lagoon St., Justification, View of Existing Vegetative Buffer, Justification, Existing Visual Screening at 828 Estero, Justifications for Variances (4) and (5) and Conclusions.

Public Comment:

•Carolyn Etchison, 754 Estero, stated that she was fine with the parking lot as long as it was not paved.
Public Comment Closed.

Mr. Noble indicated the parking lot was gravel.

Ms. Heil questioned whether bike racks could be added. Mr. Paine stated that he would look into it.

Ms. Plummer indicated that additional vegetation on Estero Blvd. was not needed. She felt that the parking lot was of value to the community.

Chair Zuba was bothered by the \$500.00 fine and Ms. Plummer concurred.

Ms. Wolf questioned the lack of lighting. Mr. Forgey replied that staff recommended the hours of operation. Mr. Noble stated that he picked 10:00 p.m. because it was light until 9:30 p.m. in the summer. He clarified that vehicles were to be out of the lot by 10:00 p.m. Ms. Plummer questioned why. Mr. Noble stated they were trying to balance its use as a shared parking lot and the location was within a residential neighborhood. Mr. Hughes discussed recommending to Council that they consider amending the Ordinance to adopt buffering requirements that were more reasonable to the size of the lot.

Discussion was held concerning the \$500.00 fine. Mr. Safford suggested a fine of \$100.00.

MOTION: Mr. Hughes moved to approve the request with a change to condition 2 to reflect a fine of \$100.00; second by Ms. Plummer.

VOTE: Motion approved; 6-1, with Dan Hendrickson dissenting.

X. DCI17-0002 - Residential Multifamily - 1-SFR and 1-3 Unit Bldg. - Dullard Residence

Continued to a date and time uncertain.

XI. HISTORIC PRESERVATION BOARD MEETING

Adjourn as LPA and reconvene as Historic Preservation Board

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

VOTE: Motion approved; 7-0.

HISTORIC PLAQUE APPLICATIONS:

HDD17-0003 - 163 Miramar St.

HDD17-0004 - 255 Albatross

MOTION: Mr. Zuba moved to recognize 163 Miramar St. and 255 Albatross for the plaque program; second by Mr. Safford.
VOTE: Motion approved; 7-0.

Adjourn as Historic Preservation Board and reconvene as LPA.

MOTION: Chair Hendrickson moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Ms. Plummer.
VOTE: Motion approved; 7-0.

XII. REVIEW LPA POLICIES AND PROCEDURES MANUAL

Tabled. Mr. Hughes requested a copy of the manual.

XIII. LPA MEMBER ITEMS AND REPORTS

Mr. Hughes looked forward to working with the LPA.
Mr. Safford noted they needed volunteers for the sand sculpting event.
Mr. Hendrickson indicated that they had to receive permission from Town Council to create an Ad Hoc Committee. Chair Zuba agreed that Mr. Hendrickson should go before Council to seek permission.
Ms. Heil thanked Chair Zuba for clarifying her comments to Council regarding restrooms at parking lots.
Chair Zuba read a proclamation on behalf of the LPA in honor of Suzanne Katt. All members voted in favor of the proclamation.

XIV. LPA ATTORNEY ITEMS - no items

XV. COMMUNITY DEVELOPMENT ITEMS - no items

XVI. ITEMS FOR NEXT MONTH'S AGENDA

XVII. PUBLIC COMMENT - no public comment

XVIII. ADJOURNMENT

MOTION: Mr. Hendrickson moved to adjourn the meeting; second by Mr. Safford.
VOTE: Motion approved; 7-0.

Meeting adjourned at 11:35 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

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