

**FORT MYERS BEACH
TOWN COUNCIL MEETING
DECEMBER 9, 2002
LAND USE HEARING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The Land Use Hearing of December 9, 2002 was opened by Mayor Daniel Hughes on Monday, December 9, 2002, at 9:00 a.m..

Council members present at the meeting: Mayor Daniel Hughes, Vice Mayor Terry Cain, Howard Rynearson - Council member, Bill Van Duzer - Council member and Council member Bill Thomas.

Excused absence from meeting: None.

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Damon Grant, Attorney Dick Roosa, Dan Folke, Bill Spikowski and Jerry Murphy.

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. PUBLIC COMMENT ON AGENDA ITEMS

None.

IV. PUBLIC HEARING: John Richard, in reference to Shipwreck. Case Number ADM2002-00017.

Appeal of staff's denial of an administrative amendment to the Master Concept Plan. Subject properties are located at 237, 239, 245 and 309 Old San Carlos Blvd.

Beverly Grady from Roetzel and Andress came forward to represent the applicant. Two letters of correspondence are before Council with regard to a continuance. John Richard is out of town and will not be available until Wednesday. Also, an alternative is being considered. The date can be continued until January 13, 2003 or a date later, if the Land Development Code is still in process.

Dan Folke expressed that the Land Development Code is going before the LPA in December and will be introduced before the Town Council in January. The two public hearings will be held in February and March 2003.

Beverly Grady suggested a hearing date in February 2003.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to continue Case Number ADM2002-00017 until March 10, 2003.

VOTE: Motion passes unanimously.

V. PUBLIC HEARING: Fort Myers Beach Hooters. Case Number COP2002-00084. Request for a special exception for on premises consumption of alcoholic beverages and outdoor seating on deck enclosure expansion. The subject property is located at 1600 Estero Blvd.

Mayor Hughes began by asking for ex parte communications. None were heard from any Council members.

Dave McKey with Consultect Engineering in Bonita Springs came forward. He began by giving a brief overview of the project being proposed by Hooters. He provided a proposed site plan. The improvements include a front enclosed roof/deck, a new side deck adjacent to the shops (not for consumption on premises, but will be a small area for retail sales), new walk in cooler and new bathrooms (handicap accessible). The adjacent property (old Twisty Treat) is being included and a new parking lot with landscaping and landscaped wall is being proposed. The road in the rear will be stabilized. He pointed out the demolition plan. All work does comply with the overlay district. Hooters presently has an open deck on the front with four tables and standing room where beer and wine are currently served. This does not

have a roof or walls and has been operating in this condition for almost 10 years. Hooters is proposing to make this deck larger and enclose it with a complete roof and structural wall system. The reason this must come before the Town for a COP request is due to the bifold and sliding glass doors on the structure. These doors will provide for open area seating when doors and windows are open. During the summer time this area will remain closed up and the area will be air conditioned. This request provides for a better facility with a better level of control. No changes to the operating hours are being proposed. Hooters is not requesting a change in their liquor license. Adequate parking is being provided by using the old Twisty Treat site. No additional impacts will be felt in the neighborhood and all work complies with the overlay district. Hooters is asking for approval of this COP request.

Mayor Hughes questioned the adjacent property and the sidewalk being proposed. This sidewalk is only 5 feet and does not cover the entire frontage of the property. In front of the Hooters property the sidewalk is being proposed at 10 feet. Dave McKey replied that this is the result of conversations with the Town and County staff. The intent by these groups would be to have the sidewalk extended and larger on the Hooters site itself to bring the sidewalk under the overhang. This will more generally comply with the overlay district.

Dave Folke replied that the north parcel on the Development Order shows a note the sidewalk, wall and landscaping would continue all the way to the property line.

Mayor Hughes feels both sides should be consistent.

Council member Van Duzer commented a fire hydrant is present and would be in the middle of the sidewalk should the sidewalk be extended further.

Dave McKey added that Hooters does have the D.O., coastal construction control line permit and the building plans. Most has been permitted, but changes can be discussed.

Jerry Murphy from staff came forward. Staff is recommending approval of this request. The special exception has been conditioned. This has been a relatively non-controversial case. Staff did receive one letter from a concerned resident. This concern has been addressed in a condition.

Mayor Hughes added that staff has nine conditions. The LPA has eliminated three of the conditions in their resolution. Jerry Murphy replied that after the staff report was issued the staff in conjunction with the Town Manager did agree to modify those conditions, which were deemed unnecessary or could be incorporated in the six conditions.

Mayor Hughes asked if anyone wished to address the Council on this matter. None were heard. Mayor Hughes closed the public hearing.

MOTION: Made by Council member Howard Ryneason and seconded by Council member Bill Van Duzer to approve the resolution as presented with the conditions provided by Staff.

VOTE: Motion passes unanimously.

VI. PUBLIC HEARING: Don & Gail Peterson, in reference to Reese's Restaurant. Case Number COP 2002-00106. Request special exception for on premises consumption of alcoholic beverages with outdoor seating area. The subject property is located at 1661 Estero Blvd.

Gail Peterson who is one of the owners from Reese's Restaurant came forward. She is requesting a special exception to serve beer and wine on their outdoor patio. By popular demand the customers would also like them to start opening for dinner three nights per week. This is just a small restaurant without a bar. No intentions to stay open late are planned. She mentioned the recommendations of the LPA and pointed out condition #6. Outdoor seating will be used between the hours of 11:00 a.m. and 9:30 p.m., Sunday thru Saturday. She would like to change from 11:00 a.m. to 7:30 a.m..

Mayor Hughes has confusion with the ownership. He pointed out the Corporation who owns the property. Gail Peterson replied that this is the owner of the property. The Peterson's just lease from the owners.

Jerry Murphy from staff came forward. Staff is in agreement with the conditions of the resolution. Staff has no objections with a change from 11:00 a.m. to 7:30 a.m.. He would be happy to answer any questions.

Mayor Hughes questioned if there are any overriding state liquor laws that deal with the sale of alcoholic beverages in the morning? Jerry Murphy replied there may be and the owners of the restaurant would have to comply with the regulations.

Mayor Hughes opened this matter to the public.

Pam Thomas who lives on 245 Carolina near the Reese's Restaurant came forward. She indicated a red light should go off regarding the passage of this special exception. When driving down Carolina Ave. very little consideration has been given for improving the look of the street. She gave an example of creating an exit from only Estero instead of using Carolina Ave, which would keep the area more contained and have less speed coming down the street. Her husband goes to Reese's Restaurant frequently and this is a fine little restaurant. She has concerns with the alcoholic license in this plaza. She discussed this with the owner and she did indicate they would probably be open until 11:00 p.m. and have some possible music piped outside. She believes this is the only restaurant on a residential street on the beach.

Council member Bill Thomas questioned the piped music for the plaza? Mayor Hughes replied that this is addressed within a condition. This was part of the original request, but was not approved by the LPA.

Gail Peterson reassured Pat Thomas the hours of operation will be until 8:30 p.m.. The owners have no room or intention for expansion. She feels the landscaping is moving along nicely.

Jerry Murphy mentioned the piped in music. He explained that this plaza is wired for music under the eaves. He expressed if the plaza itself played music the applicant would have no control over this matter. If this became a problem, it would be addressed through Code Enforcement.

Mayor Hughes closed the public hearing.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to adopt the Resolution for Case Number COP2002-00106 with the conditions as listed to include the change to 7:30 a.m..

Discussion: Council member Van Duzer commented that the owners presently have a beer and wine license. This request is too only include the outside deck area. He noted that the resolution states the restaurant will be open between 7:30 a.m. and 9:30 p.m. Sunday thru Saturday. The application indicated Thursday, Friday and Saturday evenings for the above hours.

Jerry Murphy replied that if the business expands and the owners wish to expand from the three days the only way to modify is to bring them back through the public hearing process again. Staff did not see much difference between three days and the entire week, so the approval was granted. Staff has no objection to place a limit on the days per week, if the Council deems it necessary.

Council member Rynearson is in agreement and sees no reason the owner should have to come back through the hearing process in the future.

Council member Van Duzer responded to Pam Thomas. He does not believe this is an intrusion into a residential neighborhood. He does feel the Town Council must be considerate to any residents who come forward.

VOTE: Motion passes unanimously.

VII. PUBLIC COMMENT

None.

**Prior to adjournment Mayor Hughes discussed a letter received from Terry Cain with regard to "Estero 60". He questioned if the Council should make a motion to authorize him to write a letter to get information to the Governor in support of this matter.

Vice Mayor Cain replied that this would be wonderful, if it is the desire of the Town Council. She explained that there is a portion of property going before the Governor to be acquired through the Florida Forever Project - Estero 60. She explained that this is in the boundary area created by the state in Estero (end of Broadway). This is a tiny parcel, but is very expensive because it is highlands. The Estero 60 is buildable and will be developed, unless the state purchases it. The Governor is having difficulty with the price. The County did come in with an extra \$200,000.00 to put toward the purchase. She explained they are fighting very hard for this little strip of land.

Mayor Hughes expressed that Terry Cain and Heather Stafford have worked hard on this project. He feels this is consistent with the intent of the Town to help preserve the integrity of the aquatic preserve and buffer zone.

MOTION: Made by Council member Bill Thomas and seconded by Council member Howard Ryneerson to authorize Mayor Hughes to write a letter in support of the purchase of the land for the Estero 60. **(Motion amended)** Motion amended by Council member Bill Thomas and seconded by Council member Howard Ryneerson to include authorization for the Mayor to write a letter with regard to the Babcock property.

Discussion: Council member Bill Van Duzer commented that he sent a memo to Council with regard to the Babcock property. He would like the Mayor to also draft a letter with regard to this property.

VOTE: **Motion passes unanimously.**

Council member Bill Van Duzer discussed a car pool to Sanibel. Seating arrangements were discussed and Julia will coordinate the details.

Town Manager Segal-George noted that the Old San Carlos block party will be held at 6:00 p.m. on Friday. She added the Town is in the middle of the Twelve Days of Christmas. The Car Show went very well. Incredible events are planned. The Square looks beautiful. She commended the Town Council for their support of the improvements for Old San Carlos.

VIII. ADJOURNMENT

The meeting was adjourned at 10:00 a.m..

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.

Respectfully Submitted,

Shannon Miller
Transcribing Secretary