

**FORT MYERS BEACH
TOWN COUNCIL MEETING
MAY 14, 2001
LAND USE HEARING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The Land Use Hearing of May 14, 2001 was opened by Mayor Daniel Hughes on Monday, May 14, 2001, at 9:00 a.m.

Council members present at the meeting: Mayor Daniel Hughes, Vice Mayor Ray Murphy, Howard Rynearson - Council, Garr Reynolds - Council, Terry Cain - Councilwoman

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Janeen Paulauskis, Pam Houck, Dick Roosa (Town Attorney), Dan Folke (Lee County Planner) and Bill Spikowski (Planning Consultant for Town of Fort Myers Beach)

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. PUBLIC COMMENT ON AGENDA ITEMS

None.

IV. PUBLIC HEARING: CASE NUMBER: VAR2001-00014. Beasley Variance. A variance in the Residential Single Family (RS-1) district from Land Development Code Section 34-2192 which requires a 25-foot setback from the street right-of-way to permit a street setback of 15 feet for an addition to a single-family residence. The subject property is located at 390 Palermo Circle.

Mayor Hughes began by asking for any ex parte communications in this matter. Councilman Howard Rynearson has spoken with Mr. Beasley. Councilwoman Terry Cain, Councilman Garr Reynolds, Vice Mayor Murphy and Mayor Daniel Hughes all responded that they had not.

Beverly Grady came forward representing Mr. & Mrs. Bob Beasley. A request is before the Council today for a variance for the street setback from 25 feet to 15 feet, so they can add an addition of a living room and porch to their existing home. They believe that they have extraordinary conditions that qualify this case to the variance. She has provided a copy of the plat from plat book 6, page 70 in October 1925. The home was built in 1958. She indicated that she has outlined, in pink, the homes surrounding the property. These homes were built after the zoning regulations. This establishes something unique about the property. They had reviewed the survey for the structure next door, and it has been established that it has a street setback of 17.8 feet and they are requesting setbacks equivalent to the neighboring house next door.

She indicated that the property line curves. They have requested a variance to 15 feet. The site plan contained in the Council's packet is actually 17 feet. If they would like to tighten this up they could reduce the variance request to 17 feet. She asked for a little extra room in case something should get a few inches the wrong way. It would be 16 feet from the centerline

of the curve to the corner of the house. The corner creates unusual circumstances with the curve. The lot is an unusual shape.

She pointed out that something else unique is that Palermo Circle itself functions as a private street. The street setback for private streets in their code is 20 feet in lieu of 25 feet. This is based upon the type of functioning. The regulations have recognized that a 15-foot setback on a corner lot, on one side, is permitted. The regulations themselves permit for one side and they are just asking for the other side also. There is nothing adverse to the granting of this variance. The traffic volume is extremely low. Redevelopment in neighborhoods is a positive. It should be supported and encouraged. They currently have a flat roof, which is currently causing issues, and they will be replacing this with something containing an angle, which will cause this design to require the additional 17 feet from the setback.

Bob Beasley came forward and indicated that he lives at 390 Palermo Circle. The main reason and largest issue they have is the older flat roof. They had a reputable company come in and replace the entire roof. They could not stop the leaks and this has been going on for approximately 1-½ years. They removed the roof again and replaced it with a second roof, and it still is leaking. The only way to relieve it is to pitch the roof. The architect who looked at the plans of the house suggested that they put some angles to the home in order to not create a box on box look. The only way to do this properly would be to go into the setback line a little. This would create a more livable situation and make it more eye pleasing for the neighbors. His family and a few others own most of the homes at that end of the street. He has brought letters, and a few neighbors present who would like to voice their opinion for approval.

Beverly Grady would like to reiterate that they had a recommendation of approval from the LPA. She feels that they have established the exceptional circumstances, as this is one of the oldest subdivisions on the beach in Town created in 1925. The home itself was built, pre-zoning regulations, in the 1950's. There was no way to know what the future regulations would be. The lot itself is unique. It is twice as long as it is wide. The structure placed on the lot is placed at a unique angle. This predated the zoning regulations. The street setback variance would bring it in line with the adjacent home that was also built in the 1950's. A very low traffic problem exists with no adverse consequences. They have neighborhood support. The neighbors see this as an improvement and asset. They would hope that the Town would grant this and actually encourage this.

Dan Folke, Planner with Lee County Department of Community Development, came forward and has reviewed the case before the Council today. The staff recommended denial of the request. The LPA did recommend approval and staff recommended one condition. Based on the evidence presented at the LPA and also the additional evidence presented this morning staff has no objection to the recommendation that LPA has made. He recommends that the one condition that the variance be limited to the addition as shown on the site plan, which is attached to the staff report.

The staff report indicated that the primary basis for recommendation of denial was that they were struggling to find an exceptional or extraordinary condition to the property. The additional evidence that was brought on the record at the LPA and here this morning, which staff considers to be the extraordinary condition, is primarily the orientation of the house on the property. Staff found no objection to the impacts on the variance. It is consistent with the adjacent house. Staff has no objection to the LPA recommendation.

Public Comment

Harold McKey came forward and indicated that he and his brother live at 424 Palermo. This is adjacent to this property. They have lived there since 1987. The flat roof has made it very difficult for them to live. All the neighbors he has spoken with are in favor of this project. It enhances the property and neighborhood. The traffic is very limited. They would like to see this happen, if possible.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Ryneason to grant this variance by way of approving the resolution before them, but striking in paragraph A the word “not”, striking in paragraph C the word “not”, striking in the therefore paragraph the word “disapprove” and also incorporating the condition that was incorporated in the LPA resolution, which recommends that the variance is limited to Exhibit B of the staff report dated March 28, 2001. Motion passes unanimously.

V. PUBLIC HEARING: CASE NUMBER: DCI2000-00047. Seafarer’s Plaza. Rezone from Commercial Planned Development (CPD) and Commercial (C-1) to Commercial Planned Development (CPD) to permit a maximum of 30,225 square feet of retail, 29,987 square feet of restaurant, 24,514 square feet of office, 14 multiple family dwelling units, 66 hotel/motel units, bar and cocktail lounge and consumption on premises, not to exceed 52 feet in height above base flood elevation, on 3.26± total acres of land. NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., in Ft. Myers) may deviate from certain Land Development Code (LDC) standards. The subject properties are located at 1133-1155 Estero Blvd., 1190 Fifth Street, 1150-1180 Fifth Street and 1113 Estero Blvd.

Mayor Hughes asked for any ex parte communications from the Council. Councilman Ryneason, Councilman Reynolds and Mayor Hughes responded that they had none. Vice Mayor Murphy had met with Mr. Wiebe, once or twice to look at plans in progress. Councilwoman Cain indicated that she had just a phone call for this hearing.

Beverly Grady came forward as the representative. She indicated that this is a rezoning of a 3.26± acre parcel from a zoning designation of CPD and C-1 to CPD. This is unifying two separate shopping center parcels into one shopping center parcel. The Council has a letter before them and it is also referenced in the staff report that there have been some changes made to the intensity.

They have requested the uses, which are already permitted in both zoning districts, but with the requirement to rezone to CPD they have a site plan before the Council that reflects retail, restaurant, cocktail lounge, office plus 66 hotel units. This will replace the existing structures that are on the site with exclusion of the Seafarer’s Plaza. The parcel has the land use designation of pedestrian -commercial in the Comprehensive Plan. This is where the most intense use is permitted. The property has always been part of the core and downtown overlay. For new development the maximum density is 6 units to the acre, except where there is a platted overlay, which permits 10 units to the acre. The commercial activity must contribute to the pedestrian oriented public realm as described in this plan, and meet the design concepts of this plan. They feel through the application they have implemented both design concepts and have met the criteria for the Comprehensive Plan.

The site is surrounded by right-of-way commercial zoning and the following uses. To the north is Fifth Street, which has a CPD for hotel, resort, and retail and has been approved at a higher density. To the east is Crescent with zoning of C-1, CC, RM2 and is a combination of retail, residential and resort on this side of Crescent. Adjacent, but not part of this request, is the McDonald’s restaurant. To the south is Estero Blvd. with C-1 zoning and is mixed commercial. To the west Ocean Jewels is C-1 and is retail. Across to the west is Times Square with retail, restaurant and lounges. The parcel is located at the foot of the Matanzas Bridge in the heart of downtown.

The principle uses being requested in this CPD are a 66-unit hotel, restaurants, retail, office and other services that would be found in a shopping center. All are consistent with the

Comprehensive Plan and they believe consistent with the Old San Carlos/Crescent Street Master Plan Study. They believe that there are no objections to these particular uses that have been sited. Without a Comprehensive Plan Amendment the current density would permit 58 hotel units. They have requested a deviation, which the Council has the authority to grant without an amendment to the plan, of 3 hotel units being the equivalent of one dwelling unit. They would request that the Council approve the hotel density as requested by the deviation. The 14 dwelling units have been eliminated and the third floor on phase IV has been eliminated. The phase IV building will be only two stories.

Three issues need to be discussed. The first issue is the height of the parking garage. It has been reduced to 40 feet above base flood elevation and no deviation is required. This is in compliance with the Town regulations. The parking garage contains six floors for parking and is a five-story building. The first floor will be slightly lowered, so they can achieve the height and provide the same amount of parking. Another issue that has been raised is phasing. They have not received from staff any list of conditions. Staff has indicated that they do not have a commitment that the parking garage will be built at the same time the phases are built. The building that would trigger this is the hotel. Without the hotel there is sufficient parking, but as Phase II is built this would trigger the need for additional parking. The Phase I Plan, included in the packet, is similar to the Administrative Amendment already approved. She showed a picture to the Council of a PVC pipe attached to the wall at Seafarer's indicating the height of the proposed parking garage. She also showed the Master Concept Plan and pointed out the new building in the center of property. They have provided another access way to promote pedestrian orientation.

Joe **McHarris** began by stating that while looking at the existing conditions, as stated in the Master Plan, it is a traditional auto oriented concept. It is located in the wrong location. They wanted to correct the previous planning exercise with a plan that would meet the Town's Master Plan. The Master Plan stated that it wanted an interconnection of road in a more natural routing around the site, minimize conflicts at Estero Blvd., provide interconnection of pedestrian movement around the site, provide canopy trees, affordable start-up commercial space, improved appearance and move the building to the edge of the street. He feels that they have accomplished all of these.

Pulling the building to the edge of the street was the first priority. Pedestrian interconnection was a major concern while looking at this. Moving around the whole block is a long walk. By providing a thoroughfare between Fifth and Estero they were able to provide sidewalks on both sides of the street. The plan indicates quite a bit of shade trees along the pedestrian avenues to provide shade. The appearance existing is a detriment to the community. He pointed out the architecture they are proposing along Crescent Street. It has little village type atmosphere that appears more residential than commercial. The architecture of the parking garage has caused it to appear more like a building than a parking garage. Along Estero Blvd. they are providing a highly defined architectural elevation with overhangs and balconies. Phase III would be one story lower.

Councilman Reynolds asked what complications would arise in the future by having the first floor 5 feet down into the water line? Joe replied that he is not an engineer and is not qualified to answer this question. Councilman Reynolds expressed his future concerns for the garage floor that will be submerged. He would rather see it up five feet than at the lower level. He feels that while coming over the bridge you will be up and looking down, so it will not appear that massive by having an additional five feet.

Joe responded that they had looked at the parking garage on Third Street. It is not as close to the beach, but generally the same. They have a sunken garage. It has been there for 10 years and is working fine. They do not seem to have any problems.

Vice Mayor Murphy asked about the location of the Third Street parking garage? Joe indicated that it is located in Naples.

Beverly Grady wanted to take time to review the provisions in the study of the Old San Carlos/Crescent Street Master Plan. They would like to pass along page 25, which deals with proposed designs for Crescent Street. They have been very complimented on the design of the structures and they follow along with the Towns desired architecture. With the lowering of the garage and Phase IV there is a difference in height. The study states that Crescent Street should be a variety and a mixture of two and three stories. They have accomplished this. They do object to using recommendations of regulations that have been recently released of changing the height perimeters with a limitation of the 30 feet. They feel that this is not fair and it has not been heard by the Town Council. This application was filed long before this and is consistent with the Old San Carlos Study. The recommendation was with perhaps redesign consistent with the study that it would provide a significant opportunity for redevelopment.

A comment in the staff report indicates that the Town is not obligated to limiting the development to two stories. The study that was adopted promoted a combination of two and three stories. It would be incorrect to make the three story building an issue in this case. The staff report has stated that there is no commitment to build the parking garage. It is up to the staff to have conditions that tie in to assure that the parking is constructed in a timely fashion with the phases as they are constructed. They felt that it was necessary to come to the Town Council because these are the types of issues that are up to the Town Council to decide. She referred to a sheet titled "Parking Requirement for Seafarer's Plaza". It calculates the parking requirement for both Seafarer's Village Mall, which is the existing and Seafarer's Plaza a/k/a Helmerich Plaza with the new construction, recognizing if it is treated as a shopping center the required parking is 4 ½ spaces per 1000 square feet. Seafarer's Village Mall's parking has already been reviewed under its existing zoning. The total required parking is 299 spaces. They are providing with this plan a parking garage with 344 spaces, 20 leased spaces and 18 spaces located on the property across the street for a total of 382 spaces. This would provide a surplus of 83 spaces, which can be made available for public parking. If the deviation were granted it would increase the surplus from 83 to 161 spaces.

Beverly Grady went on to comment that they wanted to review with the Town Council how they feel this plan implements the San Carlos/Crescent Street Study and the Comprehensive Plan. It has a density that is consistent with this area. They feel the uses of hotel, shopping, retail, restaurant and other listed uses are consistent with the downtown overlay. They believe that the architect has designed and planned for something that would be implementing the plan that has been adopted.

Joerg Wiebe came forward and indicated that he had come to Fort Myers Beach almost 4 years ago and purchased this property. He knew that it was a wonderful location. Times Square had just begun at this time and slowly his tenants were dying off. He tried many different approaches to try and make the property more pleasing. The larger companies on the opposite side of the street were taking away more and more traffic. He realized that if something big is not done he would have major problems within a few years. This is why he came up with the design that is being presented today. He hopes that it will be granted. He is trying to create a feasible design, which will upgrade the Town. The parking garage location is the best for the Town. People will be coming off the bridge and into the parking area. This will eliminate many miles of traveling that people presently do in the area. He feels that a bank will save the merchants in Times Square one trip per day. This will create less traffic on the island and allow for more people to come onto the island.

He went on to discuss the two piercing stores. He does not like them and he knows that the Town does not like them. They do not have a long-term lease, but they do have a lease. He wants to get them out as fast as possible and he will do so. He has to make a living and collect rent. If he has empty spaces, cannot rent them and those who want to rent them cannot go in there because the public does not like them he will go broke and nothing will happen.

His last point is paid parking. He would like to have a computerized smart card

equipped parking system on this property. This would allow everyone to park for the first one hour for free. He would like to have money from people who park and spend all day at the beach. If they would come and have dinner at one of the restaurants or buy something from one of the stores they would gladly refund their money. This would be possible with the intelligent parking system that he is proposing. He will be providing 83 parking spaces and if granted could receive up to 161 spaces. Every parking space will be for everyone and whoever parks will have to pay. Anyone who conducts business in the mall or on the property will receive a refund. He feels that this is a fair way of doing this.

Mayor Hughes has a concern with the phasing. The garage itself is the final phase. If this does not turn out to be a successful venture, but the retail gets in how do they guarantee the parking garage will be built? If this would be approved he asked Mr. Wiebe if he would be willing to have this memorialized in a formal development agreement? Mr. Wiebe responded that he would.

Councilman Reynolds commented that he is building a very dense and intense project. There is only one exit and entrance gateway. He feels the square footage is 3 or 4 times more than what would qualify under existing codes. He has enough property to build only 58 motel units. The additional density that is being requested bothers him. He indicated that if he had an additional 6-foot sidewalk to connect with the present sidewalk, rather than bringing everything to the sidewalk, he would have a place for the density and pedestrians to stroll and walk. Mr. Wiebe indicated that he understood where Councilman Reynolds was coming from. He had come before the Council last year proposing the widening of the sidewalks. He is willing to cover the expense while under construction.

Mayor Hughes asked for clarification on the pieces of property he had for 40 and 99 years. Mr. Wiebe pointed them out to Mayor Hughes.

Beverly Grady feels that it is important to clarify that in core and downtown the regulations promote and recognize the ability for commercial and hotel/motel or residential. The cases that they have approved have all provided for the pedestrian/commercial. Buildings that contain more than one story have a first level containing restaurant/retail or pedestrian type uses. The upper floors, either 2 or 3, have been approved for either residential density or hotel units. They are not just limited to the calculation of the acreage of the hotel/motel units under the regulations. This is consistent with how other projects have been treated on Crescent Street and Old San Carlos. Some important decisions are to be made. Direction is needed from the Town. A lot of time and effort has been spent to provide something that will implement the plan.

Mayor Hughes clarified with Beverly Grady that they could not grant 66 units in this concept plan. The Comprehensive Plan would have to be amended. They can go to the 58 today. Beverly Grady agreed and stated they could state it never to exceed 66 and this would be dependant upon the Comprehensive Plan Amendment, if anything higher than 58 was approved.

Councilman Reynolds indicated that they have set a precedent by temporarily approving 86 units and then more on a half-acre lot down by the bay at Dockside IV. They have allowed addition to this. This does not mean that they are obligated to keep going beyond these. Beverly Grady replied that they have been promoting this. Some resort uses will be promoted in conjunction with commercial and Old San Carlos.

Dan Folke, Planner for Lee County Department of Community Development, came forward and has reviewed the request before the Council. He has prepared the staff report and the memorandum dated May 7, 2001 to supplement the staff report, which the LPA has reviewed. Staff has recommended denial. He has not prepared conditions of approval due to staff providing a denial. If the staff report is read carefully it is stated that if this is to be approved conditions will need to be added. He has been asked not to present conditions of approval when the recommendation is for denial.

The LPA hearing and the staff report prepared for the LPA contains a large portion of

discussion regarding the parking garage, and what has come out of the Old San Carlos Master Plan Study. The staff report contains the specific language that deals with parking garages. Any parking garage must be placed on the interior of a block or be built with a liner building that faces all streets and visible public spaces. Garage heights must be limited, so that garages do not replace the Gulf as the first impression of those crossing the bridge. His findings made, as requested of this project, are inconsistent with the guidelines for parking garage. He stated that the applicant has done an excellent job to try to meet the intent of this as best as can be done. The height has been reduced and staff still has concerns that it is a parking garage and contains a different visual impact.

It is important to note that more parking spaces does not mean that it is better parking. The Town does desire and need more parking, but it is important how this parking is achieved. He believes this is why there is a specific recommendation in the Old San Carlos Master Plan as to the design of a garage.

In terms of the location of the garage at the foot of the bridge they have had some discussion regarding the traffic flow. If a garage were to be built here the ideal situation would be to have the roundabout, which would allow people to come down the bridge, go around and go right on to Fifth Ave. If this improvement were made this would greatly improve the traffic flow.

The LPA did unanimously recommend denial. The project has changed since it was heard at the LPA. Dan Folke went on to comment on a few other items contained in his memorandum. There would need to be something to prevent people from turning left into the property, and he feels the way to achieve this would be some type of raised median in the middle. The prior zoning to the CPD did have a condition that they not be allowed to make left hand turns. This was discussed at the LPA hearing, but on his way off the island that day he saw someone make a left turn into there. He referred to page 9 and 10 of the staff report regarding the uses that be withdrawn and removed from the schedule of uses. The use that staff has the most concern with would be the drive-thru. Staff agrees with the applicant that a bank would provide a good service to the merchants in Times Square, however, a drive-thru is really inconsistent with the concept the Town is trying to implement. Discussion has been made regarding the phasing of the project and he discussed this in the staff report. He made a recommendation that any approval would have to require Phase III to be constructed prior to Phases II or Phase IV. The parking needs to be there when the other uses are to be opened. One of the deviations that is a direct result of the location of the garage is the request for a stacking deviation for entry into the parking garage. This is a result of it being located on the street and the difficulty of having enough space to stack the vehicles to come into the garage. Staff does not believe that a deviation from the required stacking is a good idea. This will result in cars backing up onto Fifth Ave. An area where staff felt the applicant could make some real improvements would be with the sign package. Staff recommends that they be limited to what is allowed by the sign ordinance that the Town has adopted. The final issue that needs to be addressed through conditions would be the consumption on premises. There are some existing COP's in Seafarer's Mall. Any consideration of approval will need to have the coordination of existing COP with what has been requested.

In summary, the parking garage itself is still inconsistent with the recommendations in the Master Plan. The applicant has done everything they can to try and meet this intent. They are still recommending denial. If it is the Town's wishes to approve this project some conditions of approval will need to be looked at and brought back to the next Council meeting.

Councilman Rynearson commented that he was in agreement with Councilman Reynolds regarding the issue of the 5-foot height. He would rather see it higher than lower into the ground and would not oppose this. This is his opinion.

Councilman Reynolds has not heard anything regarding the traffic flow and realizes that this will be studied later. He likes to know what he is voting on. Dan Folke responded that he

would have to look at the traffic impact statement. When he reviews cases within Fort Myers Beach they are looked at differently.

**** Mayor Hughes announced a five-minute recess****

Bill Spikowski, Planning Consultant for the Town of Fort Myers Beach, came forward and provided the Council with a memo dated May 8, 2001. This is an expansion to comments that were previously presented to the LPA hearing. He quoted a number of portions from the Old San Carlos Plan. Items that have been heard today and at the LPA are that the proposed CPD is contained within the Old San Carlos/Crescent Street Master Plan. This is not the case. He provided extensive quotes directly from the plan. The Land Development Code he is bringing will suggest a two-story building, not over parking. If they decide that this is too restrictive the change can be made. The regulations are designed to implement the plans the Town has been working on. The burden is the applicant's to show they are bringing something different, but just as good from the Town's point of view, and also complying with the Town's Plans in general. They have not shown this.

He commented that this is a mixed-use project and is what they are encouraging in this general area. The difference and reason that it is causing the applicant such difficulty is that the complex is very heavy on restaurants. Restaurants are very parking intensive. In addition the parking standards are 14 spaces per 1000 square feet. In the overlay district they have been allowing a 1/3 reduction in this number. This would normally require 762 parking spaces. He provided a simple table, for their review, to show and explain how they went from 762 down to the applicant's statement that they need only 290 parking spaces. He indicated that the key is deviation #7.

He went on to comment that if this is approved conditions need to be made. Along with this a Development Agreement would need to be added to make this work properly. A Development Agreement is a two party agreement between the Town and applicant. It is a contract and both sides have rights and responsibilities. He assured them if they are not very clear of the precedent they are trying to establish it would come back to them in many different ways. He does not feel that this is a project that they should approve, but if they do the zoning conditions should be dealt with and a Development Agreement.

Councilman Reynolds commented that his suggestion regarding coming down the bridge and circling down and around would really create a better flow of traffic. He likes this suggestion.

Councilman Reynolds went on to comment that he felt the worst nightmare would be to put a roundabout. They would be sharing traffic coming on and turning left with all the people trying to come off of the island going north.

Mayor Hughes commented that they have not had a case where the applicant, staff and their own consultant have spent as much time trying to work a project out. He agrees with the remarks of the staff that they have done their best effort to make this work with the plan. It is an area of the Town that he has felt is one of the lesser attractive areas. He would like to see something done. He asked Bill Spikowski if he saw any other alternative that could make this project work? Bill Spikowski responded the combination of the amount of restaurant space and the problems of the leases makes it unsolvable in his view. If there was a way to work it out he feels that they would have.

Vice Mayor Murphy asked Bill Spikowski to explain the differences between what is happening and what has occurred in Naples? Bill responded that the Streetscape and mix of uses on Fifth Ave. and Third St. in Naples are very similar to what is being discussed here. The primary difference is the market, which is very upscale. The other difference would be the street network. Collier County can handle concentrations of development much better than Fort Myers Beach.

Councilman Rynearson feels that there are a lot of questions still out there. The concept is great, but he feels that it is too dense. He would like to see Bill Spikowski and Dan Folke get with the applicant and talk this out. Only so much can be done. This can then be brought up back through the LPA and then back through the Council.

Beverly Grady came forward and indicated that the LPA, staff and applicant need some clear direction from the Town Council regarding the location of the parking garage and the location of the Phase IV building.

MOTION: Made by Councilman Howard Rynearson and seconded by to have Bill Spikowski and Dan Folke get together with the applicant to further discuss the project. Bring this back through the LPA and then to the Town Council. **Motion withdrawn by Councilman Howard Rynearson.**

Councilwoman Terry Cain would like to see the height of the garage go underground. She has a problem with the density. She feels that there will not be the openness or space. She thinks that the architecture is excellent and they have done a good job with the project. She feels that it would be more inviting to the public if it were a little more open. She also has issues with the square footage of restaurant space there. She feels that it is very important that they have a Development Agreement.

Vice Mayor Murphy is thrilled that someone is coming forward with redeveloping this property. He is concerned that they could be working against themselves. This is a very complicated piece of property. Some more discussion needs to get going between the consultants, staff and applicants. He agrees with Councilwoman Cain to open this up and make it more pedestrian friendly to attract more people. He does agree that the parking garage is in the ideal place. He does not want to discourage anyone, but he feels that it needs more research.

Mr. Wiebe came forward and indicated that he is needing some guidelines as to what can or cannot be done. He would like to see a general "yes" consensus, but other matters are still needing to be discussed. The location of the parking garage cannot be discussed. There is no other way and if the location is not acceptable to the Council he needs to know. The footprint of the new building is by far smaller than the footprint of the existing buildings.

Councilman Rynearson is trying to keep this alive and put everyone together to get some answers. Mr. Wiebe replied that he would like to see this happen, but would like direction from Council.

Councilman Reynolds thinks highly of the plans that were done. It looks like a workable plan in some areas. He has one thing against the project and this would be the density and intensity. This is the gateway of the community and it is now overloaded. He is not sure what can be done with it.

Mayor Hughes feels that they have a lot of positive things. There are presently too many problems and questions at this point. He could live with the parking lot where it is. In terms of the height, he is in agreement with Councilwoman Cain and he would like to see if lowered. He has a concern regarding the stacking of the parking lot. He would need to be convinced that this would not occur. The Development Agreement would be essential. Left hand turns on Estero would have to be prohibited. He shares Dan Folke's concern about the drive-in facility for the bank. He feels that it would be an excellent location for a bank, but he does not feel it would be a good location for a drive-in facility. He would like to incorporate in to this plan the things that Mr. Wiebe has indicated he would be willing to do with the sidewalk on Estero Blvd. The only other major objection is the footprint. He would like to see it rotated and see it extended across and parallel to Estero Blvd.

Mr. Wiebe came forward and commented on the upscale type restaurants he is putting

in and proposing to put in. They are looking to create more traffic during the off-season on Fort Myers Beach. He addressed the parking issue. He referred to combined uses and indicated that they have calculated enough parking spaces. He is flexible with the drive-thru. The phasing he is in agreement with. Some signage is necessary.

Attorney Dick Roosa commented that some modifications need to be made and some work needs to be done between the staff and applicant. He suggested continuing this public hearing, so they would not need to create a new application. The new product could be sent to the LPA and then come back to the Council. He suggested continuing it to an uncertain date, but not to take any action and direct it to go to the Local Planning Agency at the applicant's request. The applicant will not request it until they have worked out the orders.

Beverly Grady indicated that it would be very helpful to Mr. Wiebe if the CPD could be granted for Phase I, while the remainder would be continued.

Attorney Dick Roosa is reluctant to approve the site plan. He understands the concern that they would like to have the authority to operate the facility. He suggested that the Council approve on an interim basis the parking facility, so as to not enforce any violations. He feels that the whole process needs to be sent back to review for the LPA. He recommends that the Council direct the Town Manager that there is an interim approval during this period of time in processing until they bring back the application to the Town Council, and they can then consider the final approval.

Dan Folke came forward and indicated that there was an Administrative Amendment to the existing CPD, which has allowed the removal of building and the creation of the parking lot that is now there. He pointed out the differences between Phase I and what has already been approved administratively. The basic differences are that the parking layout is essentially the same, and what has changed is some of the access points. The main intention is to make it a controlled access lot. He is accomplishing this by creating isles off of Fifth Ave and Crescent. These would be approved through Phase I. Phase I contains some differences to the openings and control gates are added. The layout would not change from what is seen today.

Mr. Wiebe came forward and pointed out the differences between the existing approval he has and the Phase I of the CPD is the paid parking lot with proper stacking lanes installed. He could not do this through the administrative procedures. It would not change anything else.

Town Manager Segal-George indicated that Mr. Wiebe has a temporary parking lot that must close in July and stay closed until November. He is trying to have a permanent lot. The Council would have to approve some part of the CPD to give him this.

Pam Houck commented regarding the approval of Phase I and what permitted uses go with it along with deviations. These are huge questions that have not been answered. It is very confusing and she does not feel that it is good idea.

Bill Spikowski does not encourage them to go forward with this. The two routes they could go with would be to bring back the parking lot portion before the summer break, and approve a partial CPD on this alone. This would give the staff a chance to make sure they are not inadvertently approving something they did not intend to. The other would be to allow the lot to operate this summer. They could explain that this is the direction to the Town staff to not enforce this over the summer while the other issues are pending.

MOTION: Made by Councilman Howard Rynearson and seconded by Vice Mayor Ray Murphy to direct staff not to enforce the temporary parking lot restrictions that would preclude them from allowing parking on the premises during the prescribed summer months. Motion passes unanimously.

MOTION: Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to continue this entire matter with no given

date, so that the applicant, staff and the Town's consultant can have an opportunity to establish a modification to the CPD, which would then be referred to the LPA and then come back to the Town Council in due course. Motion passes unanimously.

Discussion: Vice Mayor Murphy was concerned that Beverly Grady had her direction and questions answered.

VI. PUBLIC COMMENT

Doris Grant came forward to ask a question regarding the time frame of building the four phases? Mr. Wiebe responded as soon as possible. Mayor Hughes indicated that it would be over several years.

Doris Grant feels that the restaurant space is an excellent idea. She does not have a problem with this. She indicated that there would be no problems with the parking spaces. She lives on Crescent Street and they would be affected by this. She commented that the traffic can also come down to Crescent Street. Another possibility would be moving the stoplight from Seafarer's Mall on down to the Crescent Street area.

VII. ADJOURNMENT

The meeting was adjourned. No time was given.

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