

**FORT MYERS BEACH
TOWN COUNCIL MEETING
FEBRUARY 14, 2000
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

Mayor John Mulholland opened the meeting on Monday, February 14, 2000, at 9:00 a.m.

Council members present at the meeting: Daniel Hughes, John Mulholland, Ray Murphy and Garr Reynolds.

Excused absence: Anita Cereceda.

Town Staff present: Attorney Richard Roosa and Pam Houck

II. PLEDGE OF ALLEGIANCE

Everyone recited the pledge of allegiance.

III. PUBLIC COMMENT

None.

IV. PUBLIC HEARING: 99-09-352.02Z.01.01. LIGHTHOUSE ISLAND RESORT.

A request to rezone from Commercial District (C-1) to Commercial Planned Development (CPD) to permit a hotel/motel development with additional commercial uses consisting of a maximum of 72 hotel/motel units, 5,306 square feet of retail space and 2,478 square feet of office space with buildings not to exceed 37 feet in height above minimum flood elevation. The property is located at 1051 5th Avenue.

Mayor Mulholland asked Council if there had been any ex parte communications. Councilman Murphy advised he had had a brief conversation with Mr. Kohler and also a brief one with Mr. Van Duzer.

Beverly Grady gave input. She displayed the master plan of the property and described what was being requested by the applicants, including the recreational amenities. They would request our approval for rezoning to commercial planned development.

Questions by Council members:

Councilman Reynolds asked how close a building would be to the bridge right-of-way. Tom Kohler, after being sworn in to give testimony, advised it was about 20 feet from the bridge right-of-way.

Regarding the cafe, Mr. Reynolds asked if that would be a one-story building. Mr. Kohler advised that they wanted the cafe to be very user friendly to the resort and it would be one story. They may make it flood-proof. Regarding the other buildings, they would be three stories above parking.

Beverly Grady noted that a deviation had been asked for from the setback on the bridge side. From the right-of-way line south, it's set back at 5 ft.

County Input:

Chip Block with Lee County Department of Community Development was sworn in. He advised that the County staff has reviewed this request and they believe in this instance that this rezoning request is consistent with the comprehensive plan for the Town and recommend approval with a series of conditions, beginning on page 2 of the staff report.

Questions from Council members:

Councilman Reynolds asked Mr. Block if he saw this as an increase in density or intensity. Mr. Block noted that the comprehensive plan has two specific areas: It has the area of density that is allowed under the plan, and the staff report goes into very specific detail regarding this on page 7. This particular parcel could be allowed up to 10 dwelling units, or in this case, hotel/motel units because of the density of the comprehensive plan. Also, under Policy 4E1 of the Town's comprehensive plan there is a pre-disaster build back for projects that already exist within the Town. In this instance applicants do have 72 units and county staff does not see this as an increase in density or intensity. This is all the applicants are asking for.

Councilman Reynolds said he didn't remember seeing the projected size of these units. Mr. Block said he believes that Mr. Kohler has correctly pointed out that they were looking at trying to be a little bit more specific throughout the project, but he doesn't recall that number offhand and would refer Mr. Reynolds to the applicant for the correct size.

Councilman Reynolds also wished to know how many units per acre this figures out to. He would guess it would be about 46 units per acre. And he's not clear on one part in the comprehensive plan where it says if you zone from one zoning to another zoning, then you have to reapply under the new zoning. And the new zoning in that area is 10 units per acre. Mr. Block said that if the applicants were building today, it would be a maximum of 10 units. Staff's interpretation of that policy and he also believes the LPA's interpretation of it is that it can either apply to existing projects that are within zoning that are allowed today or could be applied to rezoning in which they are also attempting to build back the existing project. Staff's opinion is that this is a positive response in that, as the applicants correctly pointed out, there is C-1 zoning there today. You have a large number of different retail and professional office types of uses that go in there and cause more impacts than just what a hotel/motel would provide on the site. They see this as a positive, because the applicants are taking scheduled uses and have provided a very specific intensity of the project within the site. That's all they can do without coming back before this Town Council or back before the LPA seeking amendments to it as part of the zoning process. Mr. Block ascertained that they were relying on Policy 4E1 that does provide for pre-disaster build back. He believes we have an existing condition here on the site that is being accommodated as part of this new project.

Referring to the master concept plan, Vice Mayor Hughes stated he had some general questions about it. The phases are blocked in there, but then there are other areas that aren't included within one of the phases as outlined by Beverly Grady, like the cafe, the pool, etc. Mr. Block advised that as he understands it, the two pools that already exist on the site are not going to be changed. The cafe itself is a portion of the project that is not phased as part of this. It could be built at any time during the project. It is interior to the site, not exterior. Staff sees this as a subordinate use to the hotel/motel use which is contemplated and anticipated as part of the LDC.

Questioned by Vice Mayor Hughes was with the cafe and the tiki bar not being in any phase, how much time would applicants have to construct that? Mr. Block said he couldn't speak to the applicants' intent on the tiki bar, but they would have any time period within the phase of the project to redevelop it. It is possible that the tiki bar is the existing tiki bar on the site. His inspection of the site shows that there is an existing tiki bar there and it's in this same very general area and it could be possible that it would remain. They could also redevelop it during any phase of this project. In his 14-1/2 years of working in the Lee County area, they have had a number of projects that have come with phases. They have also had many others that have had no phases associated with them. As pointed out by Ms. Grady, you have a zoning time period of a minimum of five years by which they have to get a development order under today's standards. So even if under certain phases, certain projects, a person gets zoning today, they can wait five years to apply for a development order, and then they have another six years beyond that point to actually start development if the development order is granted. That project can be ongoing for many years under the same development order by maintaining development activities in

accordance with the land development code. It could be a minimum of 11 years before somebody starts development. This applicant has actually provided a time frame that's actually less than that. If an applicant makes a commitment on the master concept plan that is more restricted than the land development code, then that is the commitment of the master concept plan.

Vice Mayor Hughes asked about the seven exhibits attached to the master concept plan. Mr. Block explained that those exhibits are not actually attachments. They are required exhibits under the land development code that this master concept plan actually represents. In this instance it represents where streets exist, as to the rights-of-way, where the deviations are proposed within the process. The master concept plan represents all of those different exhibits that are required by the land development code. Vice Mayor Hughes asked if this Council chooses to approve this and we incorporate the master concept plan by reference, would we be incorporating those exhibits? He was told absolutely.

Mayor Mulholland asked Mr. Block if he had prepared the narrative exhibit IIE2. Mr. Block advised that IIE2, which is attachment B to the staff report, is a narrative actually supplied by the applicants.

Tom Kohler addressed a question by Councilman Reynolds regarding room size. He advised that they are going to be increasing the size of some of the units, but they do have some very large suites that might actually be too large for the area. What they have designed are very common units on the island. They are smaller than some, and some of the one bedrooms might be a tad larger than some one bedrooms on the island now. The majority are just motel units with two beds or a king bed and not all that large. They will have some nice patios. There will not be 2 or 3 bedroom condo units. However, they do have some units that are a lot larger that they are currently building. It's not quite a wash, but it's close. They do have the size of the units that they are building and are very close to permitting right now. Some rooms are approximately 425 square feet, but the patios are quite large. Some rooms will be 426 to 725 square feet.

Referring to the units that he has now, Councilman Murphy asked Mr. Kohler if he planned on putting the same amount of people in the new units as he has in the existing ones and was told yes.

Referring to the four separate parcels and sidewalk easement that Lighthouse Island Resort has conveyed to the Town, Mayor Mulholland asked for the locations to be pointed out to him on the site plan.

Mayor Mulholland also asked about environmental impacts and storm water drains.

Vice Mayor Murphy wished to know at what point 4th Street would be eliminated. Mr. Kohler advised there had been talk of someone doing some retail just across from 5th Street. If that happens, he would be more inclined to put retail on either side of 5th Street and, therefore, at least a part of 4th Street would still exist. If nothing happens with Helmrich Plaza during the next three years, they will remove existing cottages. Beverly Grady added that at the point at which the cottages are removed, the demolition permit issued by this Town would be pulled. Mr. Kohler would no longer have an easement over that property. It would be solely in the Town's name to provide for the parking. Those documents are being held in escrow by the Town and are ready to be recorded when Mr. Kohler and Lighthouse pull that demolition permit for those existing cottages.

Mr. Kohler advised that they do plan on moving very quickly in May. The removal company is all lined up and they want to start construction in May if possible.

Councilman Reynolds asked if all the units were going to be four stories, three above parking. He was told that the one with the retail adjacent to 5th Street would just be two stories above the retail. There is no parking. When the retail goes in, it will really light the whole area up.

Vice Mayor Hughes asked Town Attorney Dick Roosa if he saw anything in what's being presented to us today that conflicts with or is inconsistent with the resolutions, etc., that we adopted at the time of the vacation of the road. The reply was no.

MOTION: Moved by Ray Murphy and seconded by Dan Hughes to approve the resolution before us, striking the word "denied" and the "Therefore" clause and also attaching the conditions that are referenced.

Discussion:

Vice Mayor Hughes said he assumes that by conditions Councilman Murphy is referring to the staff conditions, the same as are referred to in the LPA resolution and the deviations. He was told yes.

Town Attorney Roosa stated that the conditions are on page 2 of 8 and the deviations are on page 3 of 8. And then, of course, the plat also needs to be included. These two documents would be attached.

Councilman Murphy amended his motion as follows:

MOTION: Moved by Ray Murphy and seconded by Dan Hughes to approve the resolution before us, striking the word "denied" and the "Therefore" clause and also attaching the conditions and the deviations that are referenced and the master concept plan and the exhibits thereto.

Discussion:

Councilman Reynolds said he had no particular problem with the number of units because they're there. He does have a problem with the interpretation of Policy 4E1 of the comprehensive plan, because he was under the impression that we were supposed to get the building back in perspective to the space that we have here on the island and the density that we were concerned about. He's a little concerned about not only maintaining those many units, but also the density that's being added to those units. There will be approximately 42 units where we just finally approved 10 units and he has real concerns about this situation. He knows that the Kohlers will do a good job, probably better than anyone else who would be in this situation. He's just having a real hard time going from 10 units which we approved for that area and allowing continued excessive numbers of units per acre. And everyone knows the problems we're having in that immediate area. He is having a real struggle with this situation.

Mayor Mulholland stated that we started with 72 units and we're continuing with 72 units. Some of the larger units are being downsized and some are being upsized, but he doesn't deem the increase in size of some units as an increase in density. He thinks the concept is very good. It's carrying out our comprehensive plan, particularly the sidewalks and the parking in the rear. He thinks it's going to help with our parking down there. It is something good for the town.

The motion was passed 3-1 with Councilman Reynolds dissenting.

Mayor Mulholland complimented Chip Block for his professional presentation which made it easier for us to come to a decision.

Councilman Reynolds advised Council that the Southwest League of Cities is having a meeting from 1:00 p.m. - 3:00 p.m. on Friday at the Fort Myers Council. We are especially invited along with any member of the staff who would like to come down.

V. PUBLIC COMMENT

None.

VI. ADJOURNMENT

The meeting was adjourned at 9:54 a.m.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary