

**JOINT MEETING
FORT MYERS BEACH TOWN COUNCIL
AND
LOCAL PLANNING AGENCY
MARCH 19, 1998
NationsBank Building, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I CALL TO ORDER

Betty Simpson, Co-Chair of the LPA, opened the meeting on Thursday, March 19, 1998 at 6:35 P.M.

Present at the meeting from the Town Council: Mayor Cereceda; Vice-Mayor Ted FitzSimons; Council Members Ray Murphy, Garr Reynolds, and John Mulholland

Present at the meeting from the LPA: Ms. Simpson; Co-Chair Roxie Smith; Lena Heyman; Ron Kidder; Johanna Campbell; Dan Hughes; Dave Smith. Excused from the meeting: Linda Beasley and Bill Van Duzer.

Also present at the meeting: Marsha Segal-George, Town Manager and Attorney for the LPA; and Richard Roosa, Town Attorney.

II INVOCATION

Ms. Simpson led the Council and LPA in prayer.

III PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

IV PUBLIC COMMENT ON AGENDA ITEMS

There were no public comments.

V DISCUSSION ON THE LAND USE ELEMENT

Bill Spikowski explained that on the map, property that is called a hotel and rents by the day is considered commercial, and property that is rented by the week (such as interval ownership) is residential, although he admitted the distinctions were somewhat artificial. The future land use map will be adopted as part of the plan and is divided into eight categories. The development categories are: mixed residential (allows single family, duplex, multi-family, and motels); low density (strictly single family); pedestrian commercial (Time Square area and Villa Santini - primarily commercial but residential is not forbidden); boulevard (includes area near Town Hall along Estero - designed to be permanently mixed use -if someone wants to use commercial in this area, they will have to come to the council for approval). The Plan doesn't try to answer all the questions about land use, but this way the Council has discretion as long as they are consistent with the Plan. (If something is put in the Comp Plan, property cannot be given a variance except by changing the Plan itself.) Mr. Spikowski asked the council if they are comfortable with the number of categories, which can still be changed. Changes can still be made at the public hearings, but the later you make the changes, the harder it becomes. Toward the end, the changes should be more minor, such as changing a boundary. This meeting is designed to address the big issues. What the Council has before them is the LPA's recommendation.

Mr. Reynolds asked about the mixed residential area near Big Carlos Pass and wondered if it is necessary to change it to CPD. He said the problem of blending CPD into residential neighborhoods is where do you stop. Mr. Spikowski said the Town will not go through and rezone any of that area to CPD. It would only become CPD if the landowner wanted it, usually for motel or office use. They would then be required to rezone to CPD. Mr. Reynolds asked if someone could modernize a hotel without going CPD. Mr. Spikowski said that if they are over the density already and want to rebuild over the density, they will have to go CPD. The Council can forbid it altogether if they want to, or they can consider each request case by case, which is what the LPA is recommending.

Mr. Spikowski said that the policies are an explanation to the community about what to expect. Some will not translate directly into land development regulations. The state reviewers will say that some of the objectives are not absolutely measurable, and we will have to do some rewording to satisfy them.

He explained that the term public realm involves streets, sidewalks, and public areas such as Times Square. It is different from the public area that may be behind your fence where the public is not allowed. The public realm is part of our plan because we care how it looks from the street, how close the walls are, etc. Some cities don't care about it, but we do. He thinks that is more important than the exact density.

Mr. FitzSimons asked about the limitation of our 2-lane road. Mr. Spikowski said that because we have too much traffic, we can say we will have no more, or we can say because we have too much, we will make ways for the public to get around in another way.

Mr. Mulholland asked if we shouldn't say something about the birds and wildlife that are within the town's jurisdiction. Mr. Spikowski said that if you only read this element, it would look like we don't have any natural resources or don't care about them, but they are in other elements. He can add it, but at the risk of repetition. It was suggested that perhaps there could be a cross reference to the conservation element.

Mr. Reynolds asked about Policy 4-B-4 (mixed residential) which talks about increasing density from 6 units per acre to 10. Mr. Spikowski said this would only apply to the overlay areas of Crescent Street, Santos (behind 7-11) and Anchorage. This is a way to legalize areas that already have that density. Most areas are going down in density.

Mayor Cereceda complimented Mr. Spikowski for capturing the essence of our community. Anyone could pick up this document and know what was going on. She asked if there are any other areas than those three that need to be singled out. Mr. Spikowski said there may be, and as we find them they can be added, but that is all we are aware of. There are lots of high rises that are over density, but they are not in this category. She asked about Policy 4-A-3, which talks about being vigilant in protecting from commercial intrusion into residential areas. She asked if there could be another way to define this because "intrusive" means something different to different people. Mr. Spikowski said that policy is not really needed there because there are other places where they talk more about commercial issues. This can be cross-referenced too. He said the term "no commercial intrusion" hasn't been very successful because it is too hard to define. We are trying to capture the town spirit, then it will be easier to defend in court.

Mr. Hughes said we are concerned about protecting single family areas not only from commercial, but also from high density multi-family residences. Mr. Spikowski said the future land use map does that the best it can. The only place it can't is where there is a big building right next to single family lot. The only other places where the density could be higher are in those three specific areas. Mr. Hughes said that some high rises, even though they are residential, are more obnoxious to a single family than commercial because they are so large.

Ms. Campbell asked about the territorial boundaries regarding the outer islands. Mr. Spikowski said that the memo by Mr. Hughes appears to be correct, so the new map revises the municipal boundaries. It now goes out 1000 feet regardless of whether there are freestanding mangrove islands or mangroves attached to land. That boundary only excludes San Carlos Island and Black island, because they are specifically excluded in the charter. Ms. Campbell said she was at the San Carlos meeting recently, and the county staff person said they are going to draw the line in the middle of Matanzas Harbor. Mr. Spikowski said he would talk to the county. They will not be allowed to overrule our charter, and if they draw the map that way it will mislead people who see the map.

Mr. Spikowski asked the Council to comment on Policy 4-C-1. Where there is a conflict in what is currently in place and what we adopt, he has given the Council two options. The more restrictive option will be a hardship on some people with projects in the works because there will be an overlap in time. Mr. FitzSimons asked if we don't already have the more restrictive language in place. Mr. Spikowski said that language is directly from the current Lee Plan. He said that the biggest problem is in C-1 zoning and in the mixed-use area. In the Lee Plan, C-1 allows commercial or residential. Under the proposed plan, they can only do commercial if the Comp Plan lets them. What do we do in the interim period? Most of the Council and LPA said they prefer Option A. Mr. Reynolds said he was undecided. Mr. Murphy said he would like something in between the two. Ms. Cereceda said she only prefers Option A because she doesn't like B. Ms. Smith said she is in favor of Option B because she doesn't like A, but she really doesn't like either one of them and would like something in between. Mr. Spikowski said he will try to come up with something close to A but perhaps not as punitive.

Mr. Spikowski said the LPA has done a lot of work on accessory apartments. This element is trying to explain to the community what they are trying to do. These are ideals and cannot be fully accomplished.

Mr. Reynolds asked about FEMA and noted that there are a lot of buildings that are built to the ground. Mr. Spikowski said he is amazed how many buildings are built to the ground and he wonders how that can be happening, not just on this island. Basically, if it was built before 1984, they are allowed to build to the ground. Sometimes they get by the regulations by tearing down all but a little bit and building up again. Sometimes building to the ground is OK if there is enough open space that water can go through it without knocking the building down.

Mr. Reynolds asked about using the measurement of the beach to allow people to increase the number of units they are allowed to build. Mr. Spikowski said this plan will not allow that any more. The dry sand will still stay private property, but it will not be used to increase density.

Ms. Smith asked about the definition of "excessively large structures" referred to on p. 29. Mr. Spikowski said this is designed to prevent the kind of huge houses that have gone up on Sanibel. It is not well defined in the Plan, but the Council will need to decide what measure to use in the land development code. Then it can be changed more easily or the Council can give a variance. If it is specific in this plan, it cannot be changed easily. He said these types of large houses are not a problem now, but it will be as land prices go up.

Ms. Smith asked if the owners of the Red Coconut had been consulted regarding the last page. Mr. Spikowski said he has met with most of the properties involved, but he had to be careful about these redevelopment concepts. The landowners today may like it, but they may sell their property and the new owner may not. These are pre-approved alternatives, if they choose it. They can still do something different by going into a CPD.

It was noted that the motel/hotel density multiplier is currently 1:1. Mr. Spikowski said that was adopted as an interim rule and was not meant to be permanent. This document is a concept not a command. He has suggested some things that allows you to keep certain categories at different levels. It does not include specific multipliers--that will be in the LDC. He cautioned if you do away with the density multiplier altogether, you will get rid of all motels, like Sanibel. On the other hand, the county has allowed large multipliers which is not good either. We must balance with the fact that we are a resort community. If you don't allow motels, they will build 4- and 5-bedroom condos and pack so many people in that you haven't gained anything.

Ms. Heyman said the proposed theatre is an example of Policy 4-B-4 (commercial activity). Mr. Spikowski pointed out that the theatre will be decided under the current zoning, and he will change the map to reflect that. The Council can decide to rezone, but usually it is done by request of the landowner. It is a lot of trouble, time and controversy, but we may have to do it to implement this plan. There would have to be several hearings before any rezoning.

On page 39, Policy 4-B-3, Ms. Smith asked about the definition of home occupations. Mr. Spikowski said they will be defined in the LDC. Currently there are 7 rules about commercial enterprises in a residence (no visible indication, no increase in traffic beyond what would be in a single family home, no outdoor storage, no sign, etc.) Basically this means only someone doing something in their living room. It may be too restrictive. What you want is something that is indistinguishable to the neighborhood.

Mr. Spikowski explained that these elements are available at Town Hall and the library (for browsing) and the Print Shop (for purchase). Each of the 15 elements will be available in a few weeks and then there will be public hearings. He encouraged everyone to come to the workshop on Wednesday, March 25, where they will all be discussed. The workshop will videotaped if someone cannot attend.

VI DISCUSSION OF THE TRANSPORTATION ELEMENT

Mr. Spikowski said this element is extremely long because it contains detailed analysis in Appendix A. The first part is summary of Appendix A and B, and the policies are even more concise. Congestion, parking, and speeding are the three big problems. New initiatives between the town and private sector can make a difference. This element gives no illusion about solving the problem, but only making it better. The use of impact fees is now restricted to building new roads. This suggests a way to get around that by expanding allowable uses to include hidden bike paths, water taxis, etc. (Water taxis would be private sector, but there are things the Town can do to encourage it without costing any money, like easing parking regulations and encouraging marinas and restaurants to provide dockage easements.) We want to make it easier for people to get along without a car after they fly in. If they can get here easily from the airport and know that there will be a way to get around once they get here, they will not rent so many cars. One of the parking options will use technology that the county is proposing so people will

know whether there is parking available before they get on the island. The fear is that if you provide enough parking, people will no longer double up or take the bus. The Plan also discusses the shared parking concept that evolved from the CRA plan, and there is also a discussion of the future of the bridges and why more bridge capacity will not really solve the problem.

Mr. FitzSimons said part of the reason we don't look like a small town is because we have big town traffic, at least part of the year. Are we expected to entertain more than we can accommodate? Mr. Spikowski said we inevitably will, and we do now. The concept is to accept that this is the way it is and to do what improvements we can. Some of those things, such as the sidewalks and beach accesses, will help the tourists but will also help the residents the rest of the year. Focus on things that are good for everybody. The fact is that there is little we can do to reduce the number of people who come, but the county can do a lot of things to make more people come here. The state runs the bridge and the county runs Estero. We may be able to get them to agree to the kind of improvements that we want. If not, we may have to take over Estero in order to make things happen and to keep Estero from becoming a freeway. He thinks it would be best for the Town if the county kept Estero and implemented the concepts in the Plan. There is nothing wrong with the bridge itself. The obvious reason for taking over the bridge would be so we can put a toll on it, thinking that it would reduce the number of people who come. In reality you just reduce the people with less money who come here, but for other people, it will make it seem more desirable. Tolls would only make sense if it were part of an option to park before the toll and use trolleys and water taxis. That way the toll raises a lot of money from people who want to bring their car but also encourages alternate modes of transportation. He said this is an optimistic plan that we can convince the other agencies to do this our way by addressing their concerns of evacuation and safety.

Mr. Reynolds said that the new construction at the Barking Shark does not add anything to the island and is so close to the sidewalk that he doesn't think people will want to walk there. Mr. Spikowski said the first building always looks wrong, but when they all move out to the street, it looks right. The overlay encourages buildings to come out to the sidewalk in that intense pedestrian area. Mr. Reynolds said he does not think that is a good idea in that area--maybe on Old San Carlos instead.

Mr. Spikowski said one of the biggest unfinished parts of the overlay area is public parking. The WRT study proposed 165 mostly on-site parking spaces in that area, but it hasn't happened yet. It involves the cooperation of private property owners. One of the first things we need to determine is if the on-street parking and shared parking behind the buildings is feasible and make it happen (paid for largely by the people who benefit), or reject the concept and make changes to the plan if parking garages are required. This must be done right away. The overlay is optional now, but it was not meant to be optional originally. In the long run, we don't want to stick with that. We need to make the rules, and if they don't like it, make them do a CPD and make their own parking plan. Right now some choose to and some not to. It won't work unless they all agree. The design concept is voluntary now also, and he thinks we need to go beyond that soon.

Mr. Murphy said this element is well done and he got excited reading it. Objective 7-H says that we should experiment widely and he agrees. We should try these things and keep trying until they work. Mr. Spikowski said taking over Estero is potentially expensive, but if you can't get what you want, you will have to. It all depends on the county's reaction. At first the county was against the ideas in the plan, but they are not anymore. Everyone is talking about traffic calming now and there is more movement in that direction. He said even FDOT is going to adopt a policy on traffic calming. It will state that when a state highway goes through a residential or downtown or pedestrian-congested area, they can consider more options. Hopefully this will help LDOT accept the concept. Ms. Heyman said that Estero has 33 pedestrian crossings, so it will definitely fit under the new FDOT guidelines of a high pedestrian corridor.

Ms. Campbell said a columnist recently said that whatever we decide to do, we don't want to lose the small-town character of our beach. Do we really want to spend taxpayer's money for just two or three months of heavy traffic? We have all lived in big cities and lived with worse traffic than we have down here.

Mr. FitzSimons said that traffic lights on Estero are unacceptable to most people. He wondered if we should take a position on it. Mr. Spikowski said it wasn't addressed because nobody has proposed it. We took a stand on 4-laning because that has always been talked about. Stoplights rarely come up because we only have one road with no major intersections. He said there are some times when a break in the traffic is a good thing to stop speeding, but it can be done if the Council desires. Sanibel has prohibited signals, even though it would probably help their traffic at the causeway, because they do not like the ambiance it gives. He cautioned that we may need something in the Villa Santini redevelopment area

because if you are going to have on-street parking, you have to have breaks in the traffic to allow people to pull out.

Regarding reversible lanes on bridge, Mr. Reynolds said that FDOT has turned thumbs down on that idea because it is not wide enough. Mr. Spikowski said it is physically wide enough, it is just not up to the standards they want, because we would lose the breakdown lane, which they don't like to do. He is still not sure it is a good idea.

Mr. Spikowski said there are two items still missing: the future transportation map that the state requires but is not significant to the town; and what to do about the concurrency requirement for traffic. (What is the point you refuse to issue any building permits even though you are going to get sued and lose?) But if it is done right it can be an evaluation standard in measuring new development. The system the county has been using expires next year but wouldn't be applicable for just the town anyway.

VII PUBLIC COMMENT

A BEVERLY GRADY

Ms. Grady, attorney representing the owners of Red Coconut, handed out some points she wanted to address. She said that Red Coconut was first developed in the 1930's and they want to make sure that it can continue as a commercial use. They propose that there be a third small commercial node added. They propose that the area that is designated Boulevard be changed to pedestrian commercial to include Gulf View Shops, a portion of the Red Coconut on both sides, and the restaurant. They also request to add to the Boulevard section the same provision as for pedestrian commercial and mixed use, to provide crosshatching that would indicate that that area could be 10 units per acre. They would like the Boulevard area extended to include the Red Coconut, because they think that is a more appropriate designation than mixed use, and have it crosshatched to indicate the higher density. They also want confirmation from the town that nothing would preclude the rebuilding or reconstruction of Red Coconut as it exists today. Their last concern is the inclusion of sketches. They are concerned about having that in the plan, because it becomes viewed as mandatory or concrete. Red Coconut is requesting is that the resort use be recognize at the same level of intensity. It will not change density because it is already there.

B CHARLES BIGELOW

Mr. Bigelow stated that he is representing some of the owners on Santos. Before making his comments regarding Santos, he complimented Mr. Spikowski and the LPA on the Plan, and spoke on the plan in general. He believes that the parking solution is one of the most important, and he suggested that we look carefully at the interaction of private and public parking. He is not thrilled to think that every public access will be turned into a parking lot. Perhaps we need to form a parking planning agency. He also said that the language in 18.2.1 in the Lee Plan was mandatory because county zoning was a disinterested party. Now you don't have to do that because we are an interested party. What are the limits of a neighborhood? Can it be on both sides of Estero? What is intrusion? There is a difference between intruding and annoying. The problem with a mandatory provision is that the court will require us to be very precise. They are great conceptual words, but not for defining precise limits. He cautioned the Council to think carefully about using that language. Regarding Santos, some provisions in the Plan have helped them out, but that area is a great redevelopment opportunity. It is put in mixed residential but it fronts on and interacts with pedestrian-commercial. It is very narrow and one side is the dumpsters of the restaurants on Estero, and on the back side is a canal. Their direct interaction is with the pedestrian-commercial area. The future of the parking lot that is there is uncertain, and if the ownership changes, they do not know what the impact will be. The owners on Santos think they could become an area with small shops downstairs and apartments above, instead of two living units. They could be a low intensity pedestrian area. Different owners have different ideas. Santos is also a dead end street except for the alley, so the future of the alley is critical to them. He would like the Council to think about including them in the pedestrian commercial category, initiate some kind of micro planning study for this neighborhood, and initiate a rezoning category that would facilitate this opportunity.

C ANDY PRIEM

Mr. Priem, a resident of the beach, said that a major impact on the traffic will be the build-out of Bay Beach. Traffic will flow out of Bay Beach Lane onto Estero. He asked the Council to not exclude the possibility of traffic lights, because they may be part of the solution in about ten years.

D MICHAEL SHORT

Mr. Short, a part-time resident for 6 months of the year, said he owns a house in the low density area on the bay. He said his fear from looking at the map is that we are planning to change the area

around Shell Mound from what it is now to something that looks slightly dangerous. Are we going to get more condos? Mr. Spikowski said that triangle is an older subdivision and the size of the lots made it so they couldn't be put in the low-density category. But they will stay the same, and the yellow areas will never have anything but single family homes. Then Mr. Short expressed his concern about the tennis court at Bay Beach, which is going to be lost to condos. The new condos are going to mean a lot of extra people. He is concerned that the Town could have voted for a tax to get money to buy sensitive land, and they turned it down. Diamondhead went ahead because we didn't have the money to buy it from developers. We ought to be able to stop the vested rights. In Britain, a development order can only last 5 years or you have to resubmit plans. He also said we need to encourage people to use alternates to cars. We need a multi-story car park on San Carlos Island to be serviced by trolleys and water taxis.

VIII ADJOURNMENT

The meeting adjourned 9:10 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary