

**FORT MYERS BEACH
TOWN COUNCIL MEETING
OCTOBER 6, 1998**
NationsBank Building, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

Mayor Anita T. Cereceda opened the meeting on Tuesday, October 6, 1998 at 9:04 A.M. Present at the meeting were: Mayor Cereceda; Vice-Mayor Ray Murphy; Council Members Daniel Hughes, Garr Reynolds, and John Mulholland; Town Manager Marsha Segal-George; and Town Attorney Richard Roosa.

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III PUBLIC HEARING: NORMAN PRIMEAU 98-05-223.01S 01.01

Joanne Semmer James and Norman Primeau were sworn in. Mrs. James noted that they did not receive the notice of the meeting until yesterday so they did not have much notice about the conditions. Mr. Primeau said he did not receive notice at all. Mrs. Segal-George noted that at the LPA meeting it was announced that the hearing would be before the council on this date.

Ms. James said the condition about the gravel and shell parking lot is already addressed, but they do not believe the storm water retention should be required. Mr. Primeau said he took pictures during a big storm but they are not developed yet. He said the lot drains very well. All the water that comes into his parking lot, comes from the Lani Kai apartments and down the sidewalk then makes a right turn into his parking lot, then goes down the fence into the back bay. When they built the Lani Kai, they did not put any retention ponds in because it wasn't required then. There is nothing he can do about the water. It is actually washing away his parking lot. But it dries very fast. He does not feel he should be supplying the drainage for a property that is much larger than his and doesn't have any drainage. He also noted that water comes from Marozza's. Mr. Primeau said he would like someone to visit the site during a storm to see where the water is coming from.

Regarding continuous buffers, Mr. Primeau said the east side has a lot of large trees planted by the Lani Kai. Underneath there he could plant a buffer but he doubts the plants would live. He does not think there is a problem there anyway. On the north side is where the 4' fence is now. He would be happy to take the fence down and plant anything there that they want. They could take down the fence and leave the posts and plant around the posts. That might stop traffic from going through there.

Mr. Hughes said that Mr. Primeau is going through the conditions of the LPA, but he would like him to go through the conditions by the county staff. They are requesting an 8' high opaque fence on the north side. Mr. Primeau said he thinks that would be a mistake. There would be a security problem with what goes on behind the fence, it would be ugly and it would cost a lot of money. But he would be glad to put in vegetation. Ms. James said she does not think that is required for temporary parking lots. Mr. Mulholland asked if he wanted to continue as a temporary parking lot. He said he assumes that at some point, he will discontinue the parking lot and do something retail on the lot. He asked him to talk about Times Square since it is mentioned that that is one of the reasons why he would like more time. Mr. Primeau said his original development plan was based on the old county rules of being placed off the ground, but now he thinks he would like to put it on the ground like the Waffle House. Right now he does not know what he will do there except park cars. He said he was speaking of the Times Square Overlay Zone, not Times Square per se. He doesn't want to lose his development order from 1988 but he thinks he can do better there now under the new rules. Mrs. James said that on the south and west parking line, the conditions talk about the numbers of trees and shrubs that must be planted, but she thinks that is too much because they have to take into account the driveway. Mrs. Segal-George said that Mrs. James and Mr. Primeau were at the LPA meeting and heard all these conditions. Mrs. James said they had discussed two driveways, but the development order only has one driveway. Mr. Primeau said there are two openings on the back to Santos Street on the development order. Mrs. James said they do not know what the town would like them to do.

Nettie Richardson with Lee County Development Services was sworn in. She said Mr. Primeau is requesting a special exception in the C-1 zone to allow continuation of use as a parking lot. To the north is Santos Street with residential on the other side. To the west is Marozzas, to the east is residential condos, and to the west is Estero. In 1988 he got a development order for an office/retail complex. That development order was to expire in 1993, but it has been extended. In 1993 they asked for special exception for a commercial parking lot and also a variance so they would not have to design it as a permanent lot. That exception was granted for 5 years. It will expire this month so they are asking for another special exception to continue the use as a parking lot. In 1993 they were supposed to put in buffering and water management, but the staff took the position that since it was a temporary use, they did not require those two things. They just required the 4' high buffer fence. They put it up on the north property line and the west side facing Marozzas to prevent car headlights on the Santos residential area. The staff is concerned because the lot is sand/gravel, the fence is weather-beaten and the numbers are just painted on the fence. There is a small attendant's hut on the side. It appears that the lot is not kept up. The staff recommends approval with conditions: the development order should be amended to include the parking lot as phase one, and the retail/office would be phase two. They must make improvements based on the development order. It should be a shell-based parking surface, with bumpers that delineate the spaces. There should be an "A" buffer along Estero and a "C" buffer along the north, west and east. There also should be an 8' opaque fence along Santos, and access would be as shown on the approved development order. The temporary parking lot use shall be permitted for at least 5 years. The staff felt that since Fort Myers Beach has a shortfall of parking spaces and since the lot has been used for 5 years with no problem, they felt it should be approved. But the appearance needs to be improved and they need to protect the property owners along Santos. During the LPA hearing, the applicant discussed the conditions they were not happy with. The LPA recommended approval with conditions: The development order must be amended to include the parking lot as phase 1 and the building as phase 2; and they must make improvements: shell-based parking lot with bumpers that has storm water retention within; certain landscape buffering; a shrub buffer instead of a fence along the north property line; and access to the parking lot as shown on the development order. They also said the parking use shall be permitted for a maximum of 5 years. They also added a condition that signage is not to exceed 12 sq. feet and the design is to be approved by members Beasley and Kidder.

Mr. Hughes said that the 1988 development order was for a 7000 square foot building. It was clarified that in 1993 the variation was from buffering and water retention, and the exception was for the use as a parking lot. Mr. Reynolds said he sees no place on the drawing for water retention, but we are requiring it. Mrs. Richardson said the water retention is not shown on the drawing.

Pam Houck, Principal Planner with Lee County Development Services was sworn in. She said there is another plan that has the water retention plan on it. It was not provided to the council. They are recommending that they will have to provide water management for phase 1. He only has to make the improvement for his site, not the water problems caused by others. Mrs. Segal-George clarified that the staff report did not ask for water retention. That came from the LPA and therefore there is nothing in the staff report about it. If the council chooses to accept that condition, then Mr. Primeau would have to submit a plan. Mr. Hughes asked what the LPA meant. Mrs. Segal-George said that, like any new development order, the owners would have the responsibility for taking care of the water on their own site. In the past they did not have to take care of it. The LPA is asking for it now for the next five years or however long it remains as a parking lot. Mr. Hughes said we only have the testimony of the applicant that his lot is permeable so he is not causing the problem. Mrs. Segal-George said that if a design is created and there is no water, there wouldn't be much to the design of what he has to hold. Mr. Hughes said this development order was never developed and there has been no requirement that it be developed. Ms. Hauck said it was approved as temporary parking lot, which meant it wasn't subject to their development standards. They did the minimal improvements that were required. The site plan has nothing to do with the temporary parking lot.

Mrs. James said they want to eliminate the bumpers in the middle of the lot. Mr. Primeau is one of the only lots in the town that can accommodate large trucks for special events and the bumpers would prohibit that. The LPA seemed to agree. Regarding the 8' high fence, they feel this could be a security problem. There are some large trees that could become a haven for people to prey on people returning to their cars at night. Mr. Primeau said he just wants one entrance on Estero but he would like to keep the entrance near Marozzas, not in the middle like on the development order, but that is not paramount. Now the entrance is down about 15' from the middle. That appears to be a better place for them. They also

wanted to talk about the landscaping on Estero. With the driveway entrance, they don't think they can comply with the shrubbery that is required. Also there are three gumbo limbo trees on the lot, and he might have to cut those down if they start changing things. The gumbo limbos eliminate some of his parking, but he wants to leave them there. Also, regarding drainage, they have the only lot that drains itself. When you put a building on a lot, it needs a retention pond because you are taking away some of the land for drainage. There is not one other retention pond in the whole area. Also regarding signage, they would like a 24 sq. foot (3 x 8') sign. Mr. Primeau said he recommended the smaller size at the LPA meeting, but he has changed his mind and would like something larger. Mr. Hughes questioned why he needs a larger sign--surely people don't have trouble seeing that it is a parking lot. Mr. Primeau said that the sign now is 4 x 8. He only wants the sign to say "parking," nothing else.

The public hearing was opened.

A CHARLES BIGELOW

Mr. Bigelow stated that he is here representing Mr. Parillo, who lives and owns on Santos Street. Mr. Parillo was sworn in. Santos has problems—it is caught between commercial and residential. It interacts principally with the commercial activities, one of which is this parking lot (and the building if phase 2 is done.) The commercial activities also includes Marozzas and the Lani Kai parking lot, and the water runs off those and runs between the two properties owned by Mr. Parilla on Santos. He knows it is frustrating to hear about a water problem and not have a notion what is causing the problem. The development order is from 1988. Development orders are supposed to give people the opportunity to build, and it gives a window of opportunity for several years. This is a 10-year-old development order, and if extended, it will be to develop pursuant to 1988 regulations. When does a parking lot cease to be temporary? When is it 10 years old? This is an example of how bad planning is in Lee County. The council is not given an opportunity to deal with this except through blinders that deal with this single site. They can't deal with the water problems because they are only dealing with this one lot. During the Comp Plan hearings, they talked about Santos in a broader context and they made a case that so much could be done if it was looked at in a broader sense. He is disappointed because of the interaction of commercial and residential. Here is one area in which the impacts are profound and there was not a word from the LPA on it. Mr. Primeau should be able to use the lot as commercial and they don't have an objection for a parking lot or for other commercial purposes. But something ought to be done about the interface with Santos. In the 1988 order, the county allowed traffic from the intense use of the parking lot to go to a residential street. Is Santo going to be residential or something else? Before deciding what to do about buffering and traffic, maybe we should decide what to do about Santos. If Santos is to be mixed use, as they proposed in planning, then this traffic pattern may work. If it is going to be residential, then it needs some kind of profound barrier (but an 8' wall probably is not the way to go.) Also the town needs to address Marozzas, Lani Kai, and 7-11. The applicant wants to hang on to the rights that he got in 1988, but that means we have frozen the regulations. Since 1988 a lot of planning has gone on and we have an overlay. Mr. Bigelow suggested that the council not repeat the mistake of 1993 when the county gave the applicant a temporary permit and pushed the problem down the road. We need to look in a broader context. He doesn't object to the parking lot continuing, but they need to look at the water problem and to interface with Santos so they can determine what buffering makes sense. Mr. Mulholland asked Mr. Bigelow what parties he has in mind to get together. He replied that it should include the people on Santos, the town, Marozza's, Mr. Primeau, and the Lani Kai.

Mr. Hughes said that in 1997 they were granted an extension on the development order. Is that granted in-house by the county staff? He doesn't recall anything coming up before the LPA during that time. Mrs. Richardson said it is done administratively and there is a copy in the packet as exhibit C. Anita asked if the applications for extension for the temporary lot extend the life of the original development order? Mrs. Richardson said they do not. He will have to come back in 1999 to ask for another extension. Mr. Hughes said that the original development order was for 5 years, then it went to 2-year increments. The variance was for 5-year increments. In 1997 the development order came up for renewal and in 1998 the temporary parking lot came up for renewal. He said they don't come up at the same time and it seems like they are coming up on ad hoc basis and in different contexts. He agrees with Mr. Bigelow's remarks. How can we address these in the limited context of this application? Mrs. Segal-George said that when this case was in the LPA, they also had case from Marozza's, but they asked for a continuance and it may be withdrawn. Marozza's wanted outdoor seating and that allowed the county to investigate, and they would add conditions that had to do with service bar in front, etc. Pam Houck said they have a code violation for deck permits and outdoor seating in conjunction with the bar. Marozza's may want to look at a

development of the site. Anita asked if there is some way to give Mr. Primeau some freedom with his parking lot without giving it for a period of five years, until we can sit down and discuss the whole area. We will struggle every time Marozza's or anyone else comes in for anything. Mr. Murphy agreed. It involves not just the people on Santos, but also Palermo, and Estero Blvd. The time to act is now, not the piecemeal way we are doing it. The drainage is all bandaied stuff. Perhaps we can extend his permit for another year until we get a more comprehensive plan. Mr. Mulholland feels strongly that we should do something and that Santos should remain residential. But what are we doing to the applicant if we do that? Mrs. Segal-George said we can do some mini planning in that area. Mr. Roosa said we can continue this hearing to the first meeting in February and grant a temporary parking permit with no requirements other than what is already there. It would not cost Mr. Primeau. He picked February because March 2, 1999 is the renewal of the development order. Mr. Reynolds said he sees this leading toward something, without any of the residents there to defend themselves. They have indicated they don't want Santos to become commercial. Mr. Primeau has the right to continue as a temporary parking lot or to make a decision on the development order by next time it is up for renewal. Temporary parking lots have very little requirements. Permanent parking lots have demands on them. The owner needs to make a decision. Meanwhile he doesn't have a problem with the extension, but he doesn't want it tied in with changing the zoning on Santos. Mr. Mulholland reiterated that he wants it to remain residential. Mr. Reynolds said maybe he misunderstood what Mr. Mulholland said. Anita asked Mr. Primeau about initiating a public workshop with the people in the area to see what could be done in the big picture. Would he have a problem with a temporary extension and then being involved in planning for the area? Mr. Primeau said there is a lot of merit in the idea--it is a downtrodden area. Things have changed--now we have Times Square and Diamondhead. He would be amenable to talking about it. But every time he goes for something it costs him a lot of money. He requested that it be extended for 2 years and 5 months so the dates would coincide. February is in the height of season and nothing is going to happen before then. He will clean up the lot and take down the fence and plant shrubs. Mr. Hughes said the problem is that in the meantime the parking lot continues as it exists. This is an opportunity to get some upgrading. There will be a parking lot there for at least 3 more years. He would like to effectuate some of the recommendations in the meantime. Mrs. Segal-George offered that if we go through the planning process, it might change the entrances, buffering, etc. It would put Mr. Primeau in the position of having to make changes and then they may decide that something else might be better in the planning process. Mr. Murphy said that in the meantime we haven't conquered the overall parking problem so there is still a demand for a parking lot there. The owner has stated that he would put up some landscaping and that would be great. Mayor Cereceda asked Mrs. Segal-George how quickly we could put some planning in place. Mrs. Segal-George said the Old San Carlos/Crescent planning is also moving forward, along with the final comp plan hearings, and the LDC. She can check with Mr. Spikowski but everything is coming together at once, with the same people trying to do it all.

The public hearing was closed.

Motion: Mr. Mulholland moved and Mr. Murphy seconded that Mr. Primeau be granted a temporary permit for the parking lot, as existing, until March 2, 1999. **Discussion:** Mr. Reynolds said that he believes the meeting about the area is important, but he objects to anything north of Santos. Mr. Hughes said that on February 2 we will be facing the same problem because we will not have a long range picture by then. It is an unsightly lot and we are losing the opportunity to upgrade. It will still be a parking lot on February 3 and for a long time. Mayor Cereceda said that Mr. Primeau has said he would clean the place up so we have his word. We have to be optimistic that we will have begun a planning relationship with the people in the area and that on February 2 we will have some information and input. Mr. Murphy said that Mr. Primeau is on record about what he would like to do and about the signage. Mr. Mulholland said we don't want to make additional hardships and there are others that are in worse shape than his. Mr. Reynolds said he thinks we will be back to the same spot on Feb 2. This is a problem related to the other lots. Mr. Primeau said there are a couple of signs and a fence. What does the town want? Do they want it torn down, a new sign put up? Mr. Murphy said it should be a better sign. It was pointed out that that could cost a lot of money. Mr. Hughes asked what would be permitted. Mrs. Segal-George said they have a new sign ordinance coming. She has the draft of the ordinance and can work with Mr. Primeau. It will be a smaller sign that is not lit and that would have the look of permanency, and it would be a ground sign, not a pole sign. Mr. Primeau agreed that the booth is ugly. He is willing to remove the booth and put up a sign similar to a political sign in the

center. Mrs. Segal-George said the other problem is with cars that park on Estero over the parking lot. Mr. Primeau said he would take care of that. He said if you paint the fence it will just become a place for graffiti. It was decided to let it stay until February. **Action:** The motion carried unanimously, with the improvements to the lot as agreed to by Mr. Primeau.

Mr. Hughes requested that the record should show that we are directing staff to proceed with a planning workshop.

IV ADJOURNMENT

The meeting adjourned at 10:50 AM .

Respectfully submitted,

Peggy Salfen
Recording Secretary