



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES
Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
Tuesday, May 10, 2016**

DRAFT

I. CALL TO ORDER

Meeting was called to order at 9:00 a.m. by Chair Zuba. Members present: Bruce Butcher, Al Durrett, Jane Plummer, Joanne Shamp, James Steele and Hank Zuba.

Excused: Suzanne Katt

Town Attorney: Dawn Lehnert

Staff: Matt Noble and Megan Will.

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES - February 9, 2016

Correction: Change Ms. Pratt to Ms. Katt on page 2.

MOTION: Ms. Shamp moved to approve the minutes as amended, second by Mr. Steele.

VOTE: Motion approved; 6-0.

V. SEZ2015-0003

A special exception in the DOWNTOWN zoning district to accommodate the expansion of the existing building, modifications to stormwater drainage and expand the outdoor seating area from 1,020 square feet to 2,711 square feet of the Fish Bowl Restaurant located at 1167 Estero Boulevard within 500 feet of a dwelling unit under separate ownership.

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Principle Planner Matt Noble stated that the request was to expand the outdoor seating area of the Fish Bowl Restaurant. The request has a companion limited development order (LDO) that will be acted upon if the SEZ application is approved.

The staff report identified parking and compatibility concerns with the Silver Sands Resort located next door. The staff devised conditions to deal with those issues. The applicant revised the site plan, revised the parking calculations, proposed valet parking for approximately 12 spaces, agreed to incorporate an 8-foot wall behind the upstairs seating area and bar that would wrap from their secondary access point around the elevator shaft and down to the first floor landing of the stairwell. With the revised conditions, Mr. Noble recommended approval of the application.

LPA Member Shamp noted that an interpretation of the Land Development Code stated one required parking space could be eliminated by providing a bike rack for four bikes. She questioned whether three bike racks were permitted. Mr. Noble replied that the code allowed the substitution. Ms. Shamp felt that allowing boats was a precedent and she did not think it was permitted in Table 34-1.

Mr. Noble agreed that it was not permitted in Table 34-1. Ms. Shamp opined that they were establishing a precedent.

Katie Berkey from Pavese Law Firm summarized the application. The LDO had been applied for and was on hold.

Pete Maastricht, President of Maastricht Engineering, introduced himself. Mr. Maastricht reviewed the site characteristics and he explained how the project complied with the Comprehensive Plan. He discussed the parking and seating plan, landscaping along Estero Blvd. and conditions set forth by staff. He had no objections to the conditions. He discussed concerns including outdoor consumption in the downtown core, pedestrian use, environmentally critical areas and compatibility with existing or planned uses. In his opinion, the project meets or exceeds all the land development code requirements and other applicable Town ordinances or codes.

LPA Member Steele questioned whether the comp plan permitted valet parking. Mr. Noble replied that he believed it was within the ability of the Town to allow valet parking. Mr. Steele questioned the size of the boat slips. Mr. Maastricht replied that they were tight, but he felt it was doable.

Ms. Shamp questioned the property lines in the survey. Mr. Maastricht replied that property lines on the Lee County Property Appraiser's website were not necessarily accurate. Mr. Noble stated that the applicant provided a legal description and a Title Opinion as to ownership of the whole property, that they were dealing with an already developed site and that a permit was pulled for the dock. Ms. Shamp questioned whether the guard rails would remain. The property owner responded that there will be something there. Mr. Maastricht indicated that the use of the area would be restricted to valet parking and not public access. Ms. Shamp questioned the lack of handrails along the dock. Mr. Noble replied that handrails were not required for commercial docks.

Ms. Plummer questioned the location of valet parking. Mr. Maastricht stated all parking, including valet, would take place on the property.

Chair Zuba clarified that the music started at 11:00 a.m. and there would be handicapped access throughout.

Town Attorney Lehnert swore in those providing testimony and those who already testified.

- Andrea Carriere from Silver Sands Resort, stated that the eight foot wall would not suffice for the neighbors. She questioned the dumpster location and the oil usage. Mr. Maastricht identified the dumpster location and he stated a grease trap existed under the deck.
 - Christine Patton, resident, expressed concern regarding the noise. She stated the mangroves were cut down to build the docks. She questioned whether they would pay property taxes on the bulkhead.
 - Doris Grant, resident, was concerned about the music and she questioned where the wall would be located. Ms. Berkey replied that the wall would be along the Silver Sands side and the canal to block the music. She discussed the size of boats in the area.
 - Ms Carriere stated that it was downtown, not Times Square. She stated that they had a hard time getting boats into the area due to the tide. She requested that they hold off on making a decision until she could obtain counsel.
 - Ms. Berkey noted that the property was in the Times Square activity center along Estero Blvd. Mr. Steele clarified the location of the dumpsters and the wall.
- Ms. Shamp felt they were trying to squeeze too much into the site and would set precedent with regard to parking at the docks. She could not support the application without doing additional research. She felt that Silver Sands needed protection. She brought up valet parking and she questioned the amount of space for safely parking four boats.
- LPA Member Plummer clarified that the music hours were until 9:00 p.m. and the water slips would be used for dockage.
- LPA Member Durrett felt parking was immaterial and there was enough room to get dinghies in the spaces.
- LPA Member Butcher agreed that they did not need more congestion and a new parking lot was going in right around the corner, which would provide parking.
- Ms. Shamp stated that boat parking went against the Comp Plan and the LDC and she felt they should fully consider what they were doing. Mr. Noble noted that Council could issue a variance for the four slips.
- LPA Chair Zuba questioned whether the original parking ordinance was based on the county. Mr. Noble replied in the affirmative. Town Attorney Lehnert indicated that it had changed over the years.

MOTION: Mr. Durrett moved to recommend that Council approve the request with inclusion of the errata sheet and the revised site plan with the parking plan; second by Ms. Plummer.

VOTE: Motion approved; 4-2 with Ms. Shamp and Mr. Steele dissenting.

VI. MCP2015-0001

A proposed minor amendment to the approved Lighthouse Island Resort CPD Master Concept Plan (MCP). The amendment proposes to provide an architectural decorative wall under the building closest to Fifth Street. The purpose of the wall includes: aesthetics; noise reduction; wind control; and, boundary definition for the Tiki bar.

Principle Planner Matt Noble indicated that he would come back in June with the staff report. Joe McHarris from McHarris Planning & Design, presented a slide show. Included were photos of existing interior and exterior conditions, the scope of work and maps of the change.

LPA Member Plummer questioned the material of the wall. Mr. McHarris indicated that it was solid but shutters would provide air movement and could be closed in inclement weather.

Mr. McHarris clarified that the hotel COP area of service included the parking structure and he thought they were in FEMA zone A. LPA Member Shamp questioned the code regulations. Mr. Noble will check on regulations. Ms. Shamp questioned the setback. She questioned why they should have an exception for the height of the wall. Mr. McHarris replied that it was not a volume wall, it was a decorative element. Ms. Shamp requested clarification of the parking plan. Mr. McHarris stated they were not changing uses or expanding.

- Doris Grant, resident, received clarification on the plan.

VII. POST-DISASTER RECOVERY AND RECONSTRUCTION

LPA Member Shamp reviewed where they left off and she stated they needed to schedule a work session with Council. She noted they had to talk about cleanup, recovery, mitigation and redevelopment. She indicated that the community should be educated so they knew which documents they should have in their possession in the event of an emergency. Ms. Shamp discussed the community development handout. She noted that building value determination after a storm was critical. LPA Member Durrett indicated that Mayor Ruane from Sanibel was attempting to change the 50-50 rule so it could be done every year instead of every five years. He questioned whether that would affect changes on Fort Myers Beach. Discussion was held concerning the 50-50 rule and Town Senior Planner Megan Will's evaluation of the current policy, which was included in the packet of information.

Town Attorney Lehnert questioned whether Council asked the LPA to draft an ordinance. Ms. Shamp did not know. Town Attorney Lehnert indicated that FEMA regulations were being updated, an ordinance was working through the system and staff planned to update the provisions the LPA was talking about now. Ms. Shamp questioned whether they should address some of the issues like a potential moratoria and put some procedures in place in the event of an emergency. Town Attorney Lehnert stated there should be an ordinance or regulations that act as an umbrella to allow people to do minimum repairs without a permit during a state of emergency.

Mr. Durrett questioned whether Lee County had something in place. Principal Planner Noble replied in the affirmative and stated it was in their packet. Town Attorney Lehnert was not aware that the LPA was working on it. She indicated she would meet with Town Manager Stilwell and ask Council for direction for the LPA.

MOTION: LPA Chair Zuba moved to adjourn as LPA and reconvene as Historic Preservation Board; second by Member Shamp.

VOTE: Motion approved; 6-0.

Review of CHI2 Applications

A. HDD16-0001 - Silver Sands Villas

HPB Chair Shamp reviewed the history of the cottages at Silver Sands.

MOTION: Chair Shamp moved that HDD16-0001, the Silver Sands Villas at 1207 Estero Boulevard, is determined to be category of historical interest 2 in the Town of Fort Myers Beach and eligible for a plaque within its plaque program; second by Mr. Zuba.

VOTE: Motion approved; 6-0.

Discussion was held regarding the difference between categories. Mr. Zuba questioned whether replacing regular windows would impede the classification. Chair Shamp replied that updates were expected. Discussion was held concerning specific changes.

B. HDD16-0002 - 160 Coconut Drive

Chair Shamp reviewed the application for Morey and Rebecca Nakaya's property. She described updates to the house. HPB Member Plummer indicated that neighbors thought the house was older than 1958 and Mr. Nakaya was attempting to confirm the date.

MOTION: Ms. Plummer moved that HDD16-0002, 160 Coconut Drive, to be qualified and to be put on the CHI2 category of historical importance for the Town of Fort Myers Beach, second by Mr. Butcher.

VOTE: Motion approved; 6-0.

C. HDD16-0003 - 231 Pearl Street

Chair Shamp review the application submitted by Judy Haataja and she described updates.

MOTION: Mr. Zuba moved to accept HDD16-0003 at 231 Pearl Street; second by Mr. Butcher.

VOTE: Motion approved; 6-0.

D. HDD16-0004 - 5664 Estero Blvd.

Chair Shamp reviewed the application for her property and she described updates. Town Attorney Lehnert requested that Chair Shamp abstain from voting. Ms. Plummer requested transcripts of the letters. Chair Shamp indicated she would include the transcriptions for the application. Ms. Plummer requested that Chair Shamp's application be made available as an example for future applicants.

MOTION: Ms. Plummer moved to approve both applications for the CHI2 category of historical importance, HDD16-0004 at 5664 Estero Blvd., second by Mr. Steele.

VOTE: Motion approved; 5-0 with Chair Shamp abstaining.

(Clerk's note: Attached to these minutes is LPA Member Shamp's CE Form 8B, Memorandum of Voting Conflict)

MOTION: Ms. Plummer moved to adjourn as Historic Preservation Board and reconvene as LPA; second by Mr. Zuba.

VOTE: Motion approved; 6-0.

VIII. LPA MEMBER ITEMS AND REPORTS

LPA Member Shamp distributed and explained an action item list to keep track of items. Mr. Noble thought it was a good idea and he would add recommendations or resolutions to Council.

LPA Member Butcher requested that the minutes be distributed when they were prepared instead of waiting for the next meeting.

LPA Member Plummer suggested that they return the packets to staff so they could be used at the next meeting to save money. She questioned how resolution 2014-016 had not gone before the Town Council.

LPA Chair Zuba indicated he would not be attending the June meeting.

IX. LPA ATTORNEY ITEMS - no items.

X. COMMUNITY DEVELOPMENT ITEMS

Principal Planner Noble distributed the future land use map and he questioned whether they should amend it. He noted they could discuss it in June.

XI. ITEMS FOR NEXT MONTH'S AGENDA

XII. PUBLIC COMMENT - no public comment.

XIII. ADJOURNMENT

MOTION: Ms. Plummer moved to adjourn the meeting; second by Ms. Shamp.

VOTE: Motion approved; 6-0.

Meeting adjourned at 11:30 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Hank Zuba, LPA Chairperson

- End of document

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Joanne Klope Sharp hereby disclose that on May 10, 20 16:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My personal residence was determined to be of Category of Historic Interest (CHI2) by the Historic Preservation Board. This qualifies my home to have an historic plaque to designate its age but does not give me or my property benefit under town historic regulations.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

May 15, 2016
Date Filed

Joanne K. Sharp
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.