



Fort Myers Beach Management & Planning Session

Diamondhead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Monday, March 20, 2023

1:00 PM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Veatch and Council Member Woodson.

LPA Members present: Chair Cereceda, LPA Member Bowen, LPA Member Eckmann, LPA Member Plummer, LPA Member Safford, LPA Member Sudduth and LPA Member Vanasse.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Comprehensive Plan

Eddie Ng - Corradino Group

- Additional "Nodes" throughout the island;
- Increased FAR;
- FAR calculation from BFE/Height;
- Comp Plan inconsistencies

Mr. Ng described his FAR Description Presentation. Slides included: Ground Rules - Difference between Comprehensive Plans and Land Development Regulations; But What About Setbacks?; What is FAR?; Case Examples; FAR Renderings; Critical Directions; Future Land Use Map; Comprehensive Plan & Land Development Regulations; Current Comprehensive Plan Policies; Proposed Comprehensive Plan Policies; Proposed Districts; Times Square Mixed-Use District; Civic Center & Coconut Village RV Park; Publix Commercial Parcel; Neighborhood Center; Theatre & Arts District; and Santini Village.

LPA Member Plummer questioned why the marina was included in Santini Village, but the other marinas were not included in the other nodes. Mr. Ng replied that they would include them if so directed.

LPA Member Eckmann noted that many people did not use banks anymore after Mr. Ng indicated that a bank wanted to move to the town, but regulations prevented it. LPA Member Eckmann indicated that the dry-cleaning business was closed and he did not think people were looking for office space on the island. He noticed that the Publix node was the only one that encroached on residential properties. Mr. Ng responded that they were shrinking the area after direction from the Council. Mr. Eckmann felt that a marina district made sense and, in his opinion, buildings over four stories did not feel like a community to him, but Margaritaville, with three stories, looked better. LPA Member Sudduth felt that having marinas separated into different nodes made sense. He noted his condominium was a community and most of the south end was a residential area. LPA Member Vanasse summarized previous discussions for the audience.

LPA Member Plummer stated they needed to open up some uses regarding the bank issue and felt the marinas needed to be included in the nodes. Vice Mayor Atterholt received unanimous consent from Council Members to remove Bay Beach acreage from the proposal. Mr. Ng stated that it was not intended to be in the proposal. Vice Mayor Atterholt hoped Mr. Ng would look at incorporating pedestrian overpasses and a water ferry service to help mitigate traffic.

Chair Cereceda questioned whether parking should be included or excluded in the FAR calculation. She was not open to changing FAR in the comp plan or any substantial change except for node designations. Her goal was to create certainty and security for the residents, developers and speculators.

She discussed height and open space and felt it was open for discussion. Council Member Woodson noted she was not interested in changing the comp plan either and liked having the marinas as a separate entity. Council Member Veach agreed with a marina district and creating a mixed-use district. He supported using a point system for bonuses. He asked why the sentence in the comp plan noting that the town was road capacity limited was removed. For incentives, he suggested that leaving the ground floor open could count less towards FAR and enclosing the ground floor would count as more towards FAR. He felt that the nodes should not be right next to residential neighborhoods. He questioned no residential on the Gulf side in the civic or downtown area. Mr. Ng responded that he had received comments from the LPA concerning the issue and would remove the restriction.

LPA Member Safford questioned the height graduations between the nodes. Mr. Ng replied that the Council had to reach a consensus regarding height. LPA Member Safford agreed with incentives regarding open parking on the ground floor. LPA Member Bowen also agreed that marinas should be separate nodes. Mr. Ng clarified that it could take up to 180 days for the comp plan to be approved, not 18 months.

Town Attorney Herin, Jr. noted that the LDC had to be consistent with the comp plan and both were somewhat limiting. He stated they could make changes to the LDC, but they had to be consistent with the comp plan. Chair Cereceda verified that a private entity could request to change the comp plan that would affect all properties.

Mayor Allers questioned whether offering marina districts the same intensity/density as the surrounding districts made sense. He asked whether it made sense, regarding measuring from base flood elevation, to add a bonus story or two as a feature for the needs area depending on where it was located. He stated the FAR was not an issue, but the dwelling units per acre were. He used the Town Hall property and building as examples to explain what he meant. Mr. Ng replied that intensity had to be consistent with the comp plan.

Mr. Ng said they wanted separate marine districts, more separation between the nodes, reduce the Publix area, remove the Woman's Club and Mosquito Control area, look across the street for potential redevelopment opportunities, and consider maintaining existing FAR across the board.

Public comment:

Pasquale Ferrino from Bay Beach Lane commented that the audience cared about the island and the majority of people were middle-class and wanted to stay on the beach. He stated that the residents made a commitment to the island. Martha Minogue from Bay Beach liked neighborhood villages surrounding the marinas, but she did not think the word village would fit with the tall stories at Santini Plaza. She suggested following Fifth Ave. South and Third Ave.

South as a model. She stated they needed more shade trees on Estero Blvd. to promote walking and biking in the heat. She suggested forming a shade tree committee.

Denise Klint cautioned against building what the town wanted versus what developers were willing to build. She was glad they brought up providing certainty for the community.

Jack Daniels, resident, questioned why they had to update the comp plan and he supported a bonus plan to bring houses up to code.

Dale Whitwood, Bay Beach Lane, requested bike lanes and a trolley lane the length of the island. He hoped Santini Plaza stayed at one level.

Dan Pletcher, Bay Beach Lane, noted that Santini Plaza had always been the node for the south end and felt it was essential to keep that intact. He agreed with a better trolley system and a ferry service.

Judy Haataja, resident and business owner, mentioned the struggle between residents and tourists. She noticed that the push to open commercial businesses overshadowed residential permitting issues. She brought up taking away the right for apartment units on the ground floor and felt that the tax rolls should be used as verification that they existed.

Grace Workman, resident, asked for consideration of density. Less density would be more exclusive and the hotels could make more money.

Sue Patton, Bay Beach Lane, stated they needed to bring back all the greenery they lost and that the town should consider using 75-100% native plantings.

Cassius Upton stated that residents were having problems getting permits. He said they became a town partly because they did not want a bunch of high-rises on the island. He encouraged the Council to keep the comp plan in place because it was a small community. He asked that they take care of the community and not take money from the big boys.

Bonnie Slatton, Bay Beach Lane, questioned keeping the island more spacious.

Wayne Rockman from Oklahoma indicated that he had been trying to get a permit to rebuild a fourplex for months and was told there were no records to prove the structure had existed. He questioned how to move forward.

Roger Celeste, resident, noted that the island's south end lost the Wyndham and a very big social area with surrounding businesses. He asked that they consider what would happen with the property.

Public comment closed.

Increase FAR? LPA Member Eckmann - no; LPA Member Vanasse - no; LPA Member Plummer - no; Council Member King - no; Vice Mayor Atterholt - no; Chair Cereceda - no; Mayor Allers - no; Council Member Woodson - no; Council Member Veach - no; LPA Member Safford - no; and LPA Member Bowen - no. Town Attorney Herin, Jr. stated that they had to establish a ceiling for FAR and there were different ways to calculate FAR. Mr. Ng indicated that it was contradictory to set a ceiling and then ask for bonuses on top of the cap. He asked for the group's priorities regarding bonuses and a point system. Community Development Planner Sarah Propst noted that while a priority discussion was held, it was not clear whether the group wanted a point system or just flexibility with FAR negotiations. Chair Cereceda noted that pedestrian walkovers, water ferries, open spaces and view corridors were some of the priorities. Vice Mayor Atterholt encouraged Mr. Ng to watch the meeting discussions. Mayor Allers added that the point system was difficult, but categories such as vegetation, traffic flow and view corridors were important. Council Member Veach explained that he liked the point system because it let the developers know what they got in return for a beach access, public dock or any other public benefit. Chair Cereceda's number one public benefit was public space and she asked how that would work with a point system. Mr. Ng replied that specific items like nature paths or trees would be awarded a certain number of points.

LPA Member Vanasse suggested keeping the FAR as is and allowing leeway to count FAR from BFE (Base Flood Elevation) to allow for parking. Mr. Ng will work with that suggestion and bring something back. Council Member Veach questioned whether the point system had to be in the comp plan. LPA Member Vanasse thought a policy could be created in the LDC and they needed to create a priority system with points attached to categories. LPA Member Safford felt that a point system encouraged bigger development because they could obtain a beach access, but the small business owner could not.

Vice Mayor Atterholt agreed and added that people on the bay side would have different opportunities for public benefit than those on the gulf. LPA Member Bowen cautioned against adopting a point system that created entitlements for developers.

Council Member Woodson did not support assigning points for specific items; she preferred categories with items underneath and the ability to combine or pick and choose from categories. She stated they had to prioritize what they wanted as a community before randomly assigning points. Council Member King did not care for a point system and appreciated the flexibility. Mr. Ng replied that he would work with staff and create the pros and cons of a point system. He noted that he was hearing what the town wanted, but they had to be willing to give something in exchange for what they wanted. Mayor Allers questioned whether the majority favored a specific item point system or a broader category point system.

BFE: Mayor Allers questioned whether they supported changing from sea level to BFE. He felt that they automatically gave people an extra story if they started at BFE. He preferred a mechanism to change the height in the LDC instead of arbitrarily giving up the first floor in the FAR calculations. LPA Member Bowen supported more flexibility. LPA Member Safford indicated that open parking should start at BFE because it was a benefit. Mayor Allers questioned whether BFE would be a high-priority category. He disagreed with changing it across the board, but it would be considered if it was in one of the prioritized categories.

Chair Cereceda agreed with Mr. Ng that flexibility did not create predictability or security and the community needed to know what to expect. She questioned Planner Propst regarding something in the LDC about six feet.

Planner Propst replied it had to do with where the first story started and the height was measured from BFE. The first floor below flood was counted but not the height and that is where the six feet came in. Vice Mayor Atterholt suggested keeping BFE as a negotiating tool instead of a blanket authorization. Town Attorney Herin, Jr. stated that there were state limitations regarding negotiating certain aspects of a development approval. There had to be a rational connection between asking a developer to provide something for a bonus to offset the project's impact on the community. He noted that their discussions had merit, but there would be certain limitations as they moved forward based on case law, restrictions by the legislature, and the community's unique characteristics. He stated they had to set criteria or objective components to the process because it could not be discretionary without guidance if they wanted to avoid legal issues. The goal was to apply the criteria evenly across the board and flexibility was built in, but it was not a free-for-all. Town Attorney Herin, Jr. indicated that rules had to be created to minimize the risk to all. Chair Cereceda felt they needed to eliminate the word "negotiate" from the conversation and they needed criteria. Town Attorney Herin, Jr. responded that the goal was to ensure the comp plan and LDC had sufficient criteria to provide flexibility and certainty simultaneously.

Council Member King supported flexibility. LPA Member Plummer agreed that applications should be looked at individually, but she felt they should consider granting an extra floor in exchange for keeping the bottom open. LPA Member Eckmann noted that it was not easy to see through when cars were parked and utilities were on the ground floor.

Comp Plan Inconsistencies: Senior Planner Smalley indicated that they needed more time to establish inconsistencies and he would bring something back.

Nodes: Chair Cereceda reviewed what they discussed above. LPA Member Vanasse did not have a problem with nodes or sub-districts being next to each other. Vice Mayor Atterholt confirmed that the Wyndham and Outrigger were in separate nodes and Mr. Ng stated that the Beach Baptist church was not in a node but could ask to be included.

Mayor Allers summarized the discussion: work within the current FAR ratios in the comp plan; create a plan for overall priorities for development for visibility with high-priority categories and calculations for BFE for height would fall under a give and take and not by right. Council Member Veach stated that any large-scale development at Beach Baptist would encroach on the residential area. Chair Cereceda read synonyms for nodes and suggested changing the word. Planner Propst indicated that other communities referred to them as centers.

B. Land Development Code

- **Density per acre calculations;**
- **Commercial Design Standards;**
- **Defining Public Benefit;**
- **Validating non-conforming units for re-build**

Density Per Acre Calculations: LPA Member Vanasse suggested creating a base with a maximum. People would have to ask for anything over the base and demonstrate the project's benefits and compatibility with the community. Mayor Allers questioned whether they were more concerned with the size of the building or what went inside it. He did not think it made sense that anyone in the RC zoning district was allowed to have a duplex, but if the FAR did not match or the dwelling units per acre did not match the square footage, a duplex was not allowed. He questioned how to close the gap with the calculations. LPA Member Vanasse noted that it significantly affected the smaller hotels and motels because they were limited to a few units. LPA Member Safford commented that it was all about the doors in the hotel world. Town Attorney Herin, Jr. suggested that LPA Member Safford and hotel owners in a similar situation meet with Mr. Ng and staff to see if there was a way to level the field for them. LPA Member Safford referred to a list of hotels, the number of units and the square footage of each. He questioned calculating the FAR on a bigger scale to help with rebuilding. Planner Propst remarked that for lots less than 15,000 square feet, one could count half of the right-of-way width towards the acreage and round up.

Mayor Allers questioned whether Town Council could give them what they had before and allow them the flexibility to ask for more as they did with the beach cottages. Chair Cereceda noted the beach cottages needed to be legitimized, but that was not the case with commercial properties. She discussed giving advantages to some commercial properties and not all. Council Member Veach questioned adding restrictions on additional density so owners could not turn around and sell the property to make more money. The buyer would inherit the normal rights.

Vice Mayor Atterholt stated that residents he spoke to wanted to keep the small businesses alive and he supported helping smaller entities. He was open to suggestions on how best to do that and supported non-transferable rights. Mayor Allers mentioned making policies in the best interest of the entire community. If a hotel had 4 units but now needed 20 to make it financially viable due to the cost to build, was it up to the Council and the LPA to make it work for them without giving them an unfair advantage? LPA Member Sudduth suggested focusing on the smaller entities and working with them individually. He supported calculating FAR from the right-of-way for small lots.

LPA Member Plummer suggested that hotels under 25 units be considered Mom & Pop hotels.

Planner Propst stated that the Dolphin Inn could get its 13 units back with the post-disaster build-back, but they could be no larger than they were. She clarified that FAR could be calculated by using half of the right-of-way on adjoining streets of the property.

LPA Member Vanasse discussed spending a lot of time on commercial development because it would have a disproportionate impact on the island and its ability to recover. He mentioned the cost of rebuilding the town and increasing the tax base to contribute to the quality of life on the island. LPA Member Safford will get together with other small hotel owners and report back at the next meeting. He noted that some people who had a duplex before Ian were now told they could not rebuild what they had. Senior Planner Smalley clarified that if the owner could establish they had a legal duplex, the post-disaster policy did vest the interior area and the number of dwelling units. The limitations would be setbacks and height, but they were allowed to keep two units even if that meant they had to build up. LPA Member Plummer described another property owner who used to have a fourplex on the tax roll but was denied a permit to rebuild. Senior Planner Smalley stated that if Council desired, staff could take a much broader look at the level of documentation needed to establish the dwelling units existed.

Town Attorney Herin, Jr. reiterated that reliance upon the tax rolls was legally insufficient according to Florida courts and staff was looking at how other jurisdictions dealt with the issue. He indicated that a combination of documents listed in the LDC could be used to prove the structure legally existed. Senior Planner Smalley commented that staff would give the benefit to the property owner and Town Attorney Herin, Jr. suggested that the criteria be codified with an amendment to the LDC.

For homeowners looking for old pictures, the FDOT (Florida Department of Transportation) took aerial photos of FL every two years starting in the 1950s.

Public comment:

Madeline Boyd, co-owner of the Beach Bar, stated she wanted to rebuild and was interested in meeting with LPA Member Safford and other entities. She questioned whether they needed such a big post office on that big piece of property mid-island.

Grace Workman, resident, clarified that they should give hotels what they had but not extra; however, she supported giving the smaller businesses anything they needed to allow them to rebuild.

Terry Persaud, business owner, felt there was no clear direction on FAR or density and it was difficult for him to create a plan to rebuild. He suggested that the Times Square merchants and Town Council meet and discuss how to rebuild.

John McClain, resident, thanked the group for collaborating. He suggested learning from other communities and questioned why the previous subcommittee was disbanded. Town Attorney Herin, Jr. replied that the state advised the town to disband the committee due to the sunshine law.

Becca Nakaya, resident, was not sure what to do about her house yet and suggested that the town stand for what they wanted. She thanked everyone for working so hard on the community's behalf.

Deb Sonic, resident, felt there needed to be disclosure statements when people buy their properties.

Public comment closed.

C. Miscellaneous

▪ **"Mom and Pop" hotels**

See above.

IV. ADJOURNMENT

Mayor Allers adjourned the meeting at 5:24 p.m.

Minutes adopted, April 3, 2023; Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk