



Fort Myers Beach Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

Tuesday, March 22, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Megan Heil, Anita Cereceda, Forrest Critser, Jane Plummer, Scott Safford and Karen Woodson.
Excused: Patrick Vanasse

II. INVOCATION

LPA Member Critser.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Draft February 8, 2022 minutes
LPA Member Cereceda moved to approve the minutes; second by LPA Member Plummer.
Motion approved 6-0 with LPA Member Vanasse excused.

V. PUBLIC HEARINGS

- A. DCI 20210115, 2301/2307 Estero Blvd, Amend existing CPD to allow brewing of beer for on-site consumption

Recommend approval with conditions of DCI20210115 to allow brewing of beer for consumption on premises in an existing Commercial Planned Development.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: All LPA Members disclosed a site visit. In addition, LPA Member Cereceda spoke to the owner and Council Member Allers; LPA Member Safford spoke to the owner and Chair Heil spoke to the owner. Tre Gillet, owner, stated that he wanted to open a brewery for consumption

on-premises. He explained the brewing operation and noted he would not modify his building at the present time. He requested that condition 9 be clarified to allow amplified music or entertainment indoors.

Community Development Planner Sarah Propst reviewed the request. Slides included: Application/Request Information; Findings and Conclusions; Staff Recommendations and Conditions and Deviations.

Condition 8 was eliminated and the word "outdoor" was added to Condition 9.

Public comment:

Sharon Faircloth, business owner, supported the request and felt it was a great addition to the beach.

Public comment closed.

LPA Member Cereceda moved to approve DCI200210115 including the findings and conclusions listed in the packet amending the conditions of approval, solely number 9 to read no outdoor amplified music or entertainment is permitted and eliminating number 8; second by LPA Member Critser.

Motion passed 6-0 with LPA Member Vanasse excused.

B. LDC Text Amendment to Sec. 34-638, Table 34-3, and Table 34-1, re Single Family and Two Family Footprint Limit

Recommend approval or denial of proposed Ordinance amending Land Development Code Sec. 34-638, Table 34-1, and 34-3, related to single-family and two-family building footprint limits.

Chair Heil read the title of the ordinance. Planner Propst reviewed the proposed ordinance. Slides included: Options Used in Other Communities; Other Approaches Evaluated and Proposed Solution.

LPA Member Plummer questioned whether the proposed solution would reduce what could be built on a lot. Community Development Director Jason Green replied that a 7,500 square foot house was 40% of an 18,750 square foot lot. Planner Propst added that all other regulations still applied.

No public comment.

LPA Member Cereceda moved to approve the language and forward to the Town Council for review; second by LPA Member Plummer.

Motion approved 6-0 with LPA Member Vanasse excused.

C. Ordinance 22 - regarding the licensing of PWVL's / PAL's

Recommend to the Town Council approval of Ordinance 22 - entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 27 "PERSONAL WATERCRAFT AND PARASAILING", SECTION 27-52 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE APPLICATIONS AND REGULATORY FEES"; SECTION 27-53 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE RENEWALS" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, TO PROVIDE A LIMITED EXEMPTION TO THE CAP

ON THE NUMBER OF ANNUAL LICENSES; PROVIDING THAT PERSONAL WATERCRAFT VENDOR LICENSES AND PARASAILING ACTIVITY LICENSE THAT ARE NOT ANNUALLY RENEWED OR ARE INACTIVE FOR ONE-YEAR OR MORE SHALL REVERT BACK TO THE TOWN; PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

Chair Heil read the title of the ordinance. Town Attorney Herin, Jr. explained that the ordinance was to provide a limited exemption to the cap on the number of PWVLs / PALs and to provide for the reverter to the Town of annual licenses that are not renewed, as stated on the information sheet in the packet. LPA Member Critser questioned public safety issues with too many vendors operating on the beach. Town Attorney Heirn, Jr. replied that Town Council would have the ability to deny requests. He stated that those with existing approvals with the listed uses were exempt. LPA Member Safford questioned how many had current approvals. Town Attorney Herin, Jr. responded that they were unsure but could continue the matter until concrete numbers could be obtained. He added that existing vendors were grandfathered and were exempt from separation requirements. LPA Member Cereceda stated that no one wanted an open door to a proliferation of licenses up and down the beach. She discussed the license dormancy issue and indicated the licenses belonged to the town and were issued to a vendor. She brought up Pink Shell's CPD. Director Green commented that each CPD was a unique zoning district and the uses were site-specific. Town Attorney Herin, Jr. noted the current ordinance intended to balance the rights of all parties. LPA Member Cereceda questioned tying license renewals to state sales tax receipts. Town Attorney Herin, Jr. replied that proof of operating a business was required to renew a license. Chair Heil concluded that the LPA needed more detail.

Public comment:

Sharon Faircloth, owner of Holiday Water Sports, stated there used to be 22 PWVL licenses and now there were 11 PWVL licenses and 7 parasail licenses (PAL). She noted the one inactive license was a parasail license. She felt they were going back in time and described fights between vendors and people getting killed because there were too many wave runners and unsafe practices. Ms. Faircloth indicated the original ordinance was written for the safety of the residents and guests and the ordinance worked. She requested that the town keep the current cap on licenses and keep the procedures in place to make a transfer of the licenses.

Chris Weber, of Mid-Island Water Sports, stated that the ordinance was crafted due to the explosion. He indicated that the license holder was the owner and the license was a sellable asset. He explained that the person who held the expired license already had four parasailing licenses and he did not use one because it was busy on the beach. He brought up Chapter 27 and the CPDs and felt they should lower the cap.

Eric Ogilvie, a resident, was not currently in the water sports business but had been for over 22 years. He stated that before the ordinance went into effect, the question was how many accidents would occur, now whether they would. The caps were essential and the current operators had to be respected for what they went through previously. He recommended meeting with the vendors to hear their input.

Attorney Beverly Grady from Roetzel & Andress represented Mid-Island Water Sports. She described the history of the ordinance and approved uses. She suggested that the LPA be given the entire ordinance because it was critical to their review. She objected to the current proposed change because it was not defined and not thought through.

Public comment closed.

LPA Member Cereceda requested the transferability section. Town Attorney Herin, Jr. remarked that a copy would be provided. Chair Heil questioned whether there was a cap on how many watercraft each vendor could operate. The cap was eight per license. LPA Member Cereceda remarked that the ordinance stated that the Town Manager may, not shall, renew the license provided that the criteria were met. Town Attorney Herin, Jr. agreed and noted the town had the ability to eliminate all the licenses. LPA Member Cereceda felt there were two issues. One was the unknown variable of open CPDs and the other was raising the cap by one and reining in the dormant license that did not really exist. Town Attorney Herin, Jr. commented that it was up to the LPA to direct him and staff to modify the ordinance. LPA Member Cereceda mentioned that Council Member Atterholt specifically linked the open CPD with TPI. She clarified that Joanne's email was accurate in her description of the ordinance, but it was not the whole picture. She explained that there were hundreds of meetings surrounding the TPI project before the vote ever came in front of the Town Council. There was no violation of the Sunshine Law and it was the most complicated case the town would probably ever see.

LPA Member Woodson questioned whether there was a cap on what could be charged for a license. Chair Heil replied that it was a private sale.

LPA Member Plummer felt they needed more information.

LPA Member Critser discussed changes and being relevant.

LPA Member Safford wanted to know how many open CPDs were out there before he could make a decision.

Chair Heil stated that they were trying to keep everyone safe on the beach and the proliferation of watercraft would cause an issue.

LPA Member Cereceda summarized that Town Council needed more clarification on tying the dormancy factor to something and the ramifications of the open CPDs.

LPA Member Woodson questioned why the Town Manager was the sole decider for renewing licenses. Town Attorney Herin, Jr. replied that the ordinance was written that way, but the LPA could recommend a change.

LPA Member Cereceda moved that the LPA recommends to Town Council that the LPA is not in agreement with the language currently amended in the ordinance for the following reasons: that there was no clarity or definition of the impact of open CPDs and that information needs to be delivered to the Town Council prior to their deliberations and the issue of license dormancy should be clarified and more clearly delineated; second by LPA Member Safford.

Motion approved 6-0 with LPA Member Vanasse excused.

VI. ADMINISTRATIVE AGENDA

A. Presentation: Comprehensive Plan Update

Comprehensive Plan Update presentation

Eddie from the Corradino Group utilized PowerPoint for his presentation. Slides included: Agenda; FMB Population; Population Projections; Housing Data; Town SWOT Analysis; Tools; Inclusionary Zoning, Workforce Housing Bonus; Future Land Use Map; Comprehensive Plan & Land Development Regulations; Current Comprehensive Plan Policies; Considerations -Comprehensive Plan Policies; Future Land Use Map; Proposed Districts; Times Square Mixed-Use District; Civic Center & Coconut Village RV Park; Publix Commercial Parcel; Neighborhood Center; Theatre & Arts District; Santini Village; Town-Wide Recommendations and Discussion.

VII. LPA MEMBER'S ITEMS/REPORTS

LPA Member Plummer questioned why the Surf Club kept opening and closing. Director Green replied that no one received a complaint. Town Attorney Herin, Jr. explained that the state ruled that local governments could no longer initiate investigations regarding alleged violations of code unless a formal complaint with a name was attached or there was an issue of public safety. He added that if an LPA Member was interested in filing a formal complaint, the town would investigate.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green noted that Jason Smalley was hired as a planner. Two historic recognition applications will be presented at the next meeting.

X. ITEMS FOR NEXT MONTHS AGENDA

Possible variances.

XI. PUBLIC COMMENT

Sharon Faircloth clarified that PWVL vendors were required to submit a letter from a property owner allowing them to operate on their property. She questioned whether any licenses were for sale.

Attorney Beverly Grady stated that the Town Manager was only allowed to renew licenses if the application met the code. She indicated that PWVL and parasailing offices on the landward side of the EC zoning district were allowed if permitted by Chapter 27.

Chris Weber questioned provisions for future CPDs. LPA Member Cereceda replied that every Town Council had the ability to change anything. He stated that there was always a business where Margaritaville was located and they should have to follow the same rules as everyone else. He discussed his history of operating on the beach.

Tom Torgerson, resident, explained his history regarding PWVL and parasailing operations in his CPD. He stated the license was not a contentious issue at the time and the language was accepted by staff. He noted he met the requirements of Chapter 27.

Chase Hussy, representing Paradise Parasail, stated he had operated on the beach for 20+ years and would welcome a conversation concerning selling a PAL license.

Jason Newton, owner of Adventure Water Sports, operated for 20 years. He revealed that he received a call yesterday regarding selling his license. He commented that he had not been approached previously.

XII. ADJOURNMENT

LPA Member Plummer moved to adjourn; second by Chair Heil.

Motion approved 6-0 with LPA Member Vanasse excused.

The meeting was adjourned at 1:04 p.m.

Minutes adopted as presented, April 14, 2022. Motion by LPA Member Woodson and seconded by LPA Member Critser with LPA Members Cereceda and Heil excused. Passed 5-0.



Amy Baker, Town Clerk