



Fort Myers Beach Local Planning Agency

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

Minutes

**Tuesday, December 6,
2022**

10:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Chair Plummer.

III. PLEDGE OF ALLEGIANCE

LPA Member Sudduth moved to add Vice Mayor Atterholt and reorganization to the agenda; second by LPA Member Cereceda.

Motion passed, 7-0.

Vice Mayor Atterholt discussed the challenges facing the LPA post-1an. LPA Members described their backgrounds.

REORGANIZATION

LPA Member Safford nominated Jane Plummer as Chair; second by LPA Member Sudduth.

Motion passed, 7-0.

Chair Plummer nominated Anita Cereceda as Vice Chair; second by LPA Member Vanasse.

Motion passed, 7-0.

AGENDA DISCUSSION

LPA Member Vanasse noted that the LPA received the agenda on Thursday with the complicated floodplain ordinance. He suggested a public forum since the ordinance will affect many properties and businesses. He also suggested input from the public regarding the vision for the beach. He expressed concern regarding the current meeting process.

Chair Plummer agreed and stated that the package of information was very

detailed with little time to review. She suggested that the LPA receive the packages seven days before their meetings.

LPA Member Cereceda agreed with LPA Member Vanasse related to the floodplain ordinance. She stated that discussions with business owners in Times Square and downtown regarding the plan for the future had to occur before moving forward. She stressed that the implications concerning the floodplain ordinance were enormous for the whole island.

LPA Members Sudduth, Bowen, Eckmann and Safford concurred with previous comments. LPA Member Safford hoped that the 15% side setbacks were on the agenda and they needed to be fixed first. He suggested that the LPA discuss the topic at the next meeting. Chair Plummer agreed that the setbacks had to be addressed.

LPA Member Vanasse suggested that Community Development Director Jason Green introduce the floodplain ordinance to help the LPA understand. He also suggested that they table any decision. He indicated that he was willing to meet as often as needed to get things moving. He commented that he wanted to hear from experts regarding technical issues before making any decisions.

Director Green pointed out that the LPA did not have to make decisions on drafts immediately. The sign and floodplain ordinances were discussed for a year before Hurricane Ian hit. He noted that 80% of the flood regulations were fixed and could not be changed, but uses and intensity of the uses had to be discussed. He indicated that the LPA could meet every week, but someone had to produce content for the meetings. LPA Member Vanasse responded that even the tweaks the LPA could make to the floodplain ordinance could impact many people. He pointed out that the LPA was told that resources would be available for meetings. Director Green agreed and noted that the LPA had to discuss priorities. He stated that experts were on staff and other resources could be included. LPA Member Vanasse commented that he was not dismissive of the staff's expertise, but suggested supplementing staff with others.

Chair Plummer questioned whether the town could achieve a lower CRS rating than a five. Director Green replied that the island did not have a lot of government-owned protected preserves or open space to help bring the rating down. Other ways to reduce the rating cost time and money to achieve. He felt it was premature to have the conversation.

LPA Member Cereceda moved to reorder the agenda, beginning with Item C., then Item A, followed by Item B; second by LPA Member Sudduth.

Motion passed, 7-0.

IV. APPROVAL OF MINUTES

A.

LPA Member Cereceda moved to approve the minutes; second by LPA Member Sudduth.

Motion passed, 7-0.

V. PUBLIC HEARINGS

A. Text Amendment to LDC Ch. 30 Signs

Recommend approval or recommend changes to the proposed amendments to LDC Ch. 30 Signs

Town Attorney Herin, Jr. explained why the changes were necessary. Planner Propst reviewed the changes and noted her main concern was allowing all residentially zoned properties to have a single exempt non-illuminated, four square-foot ground or wall sign. LPA Member Vanasse commented that a lot of concerns surrounded real estate signs. LPA Member Cereceda questioned whether they could require that people apply for a temporary sign on a residential property. Planner Propst replied that it was an option but questioned how to enforce it. LPA Member Vanasse suggested that all residential signs be allowed and the size was fine. LPA Member Cereceda did not support allowing signage on Estero benches unless they paid for a bus stop.

No public comment.

LPA Member Cereceda moved to recommend that the sign ordinance, as distributed, be moved to Town Council for their approval; second by LPA Member Vanasse.

Motion passed, 5-0, with LPA Members Sudduth and Eckmann excused.

B. Article IV Flood Regulations Text Amendments

Floodplain Management Ordinance - Amend Article IV Floodplain Regulations to update various sections to comply with state and federal law; provide for higher standards within a Coastal A Zone; and to implement local flood regulations.

Director Green reviewed the ordinance and noted the new maps took effect on November 17, 2022. He commented that the original goal was to have the draft ready for the LPA and be adopted before or shortly after November 17. He stated that the Coastal A Zone did not exist on previous maps or regulations and it was up to local communities to regulate it. He described the Coastal A Zone standards and noted the Coastal A Zone followed closely with the V Zone. He indicated that the rest of the ordinance was cleaned up and items repeated from the Florida Building Code were deleted. LPA Member Vanasse questioned whether the maps would change within the year after reassessing the hurricane. Director Green explained why he felt that they would not. LPA Member Vanasse suggested providing real-world examples of rebuilding in relation to the Coastal A Zone.

Director Green suggested that individual LPA Members make an appointment to discuss the item with him or Flood Plain Coordinator Kristin Schumacher. He stated that he would try to have an updated version by their next meeting.

C. Discussion Item: Corner lot setback changes

Provide feedback to staff and recommend approval of amended corner lot regulations.

Community Development Planner Sarah Propst stated that a hard copy of the presentation was distributed due to the lack of an overhead projector. She noted that many of the variance requests submitted to the Town are to allow development on corner lots. The LDC currently requires corner lots to provide a right-of-way setback, of 25 feet, from both rights of way, a side setback that is 15% of the width of the lot, and a rear setback, of 20 or 25 feet. Often it is difficult to design a home on a lot with all of those setbacks. Staff was tasked with providing options to amend the code that would make more corner lots buildable without a variance. She reviewed the slides in the presentation. LPA Member Eckmann questioned whether elevated homes had porches, stoops and balconies. Planner Propst replied affirmatively and added that the porch, stoop, or balcony could encroach into the required front yard setback.

Chair Plummer questioned how many 50-foot lots were 115 feet deep.

Planner Propst replied that she based the example on lots that looked difficult to build. Chair Plummer questioned whether she could pull how many 50-foot lots were on the island. Planner Propst responded that she would have to hire a GIS expert.

Public comment:

Louis **Degrade**, 95 Mound Road, has a double lot on the corner with a swale in front of the street and he asked where he should start to measure. Planner Propst replied that it depended on the survey. He questioned how to measure height. Director Green replied that all elevations were based on sea level and the sites were different. He commented that an elevation certificate would tell him the elevation of the existing house and the finished grade. The elevation certificate could be compared to the new maps on the town's website. LPA Member Vanasse recommended that he contact his flood insurance company for the certificate and a surveyor could also provide that information.

Doug Hansen, representing a property on Delmar, discussed the software used by the building department regarding the 50% rule and the itemized list. He mentioned the profit and overhead categories. Director Green directed him to the building department on the town's website and the FAQs.

Doug Young, 750 Matanzas Court, suggested that if the side street setbacks were going to be varied on the lot, then make it a percentage instead of a bracket. He provided an example. He distributed the 34-3 setbacks table and Note 8 stated that from Matanzas Court and Matanzas Street, the side setbacks were a minimum of 10 feet. He wondered why that was the case.

Michael Miller, 290 Bahia Via, questioned whether the corner lots affected the bay and canal. He noted that he had merged three lots and explained how the change in the setbacks affected him. He felt the town needed to clarify what a corner lot was. Planner Propst responded that a corner lot was a lot that was considered to be in the corner of two streets or the curve of a street of 135 degrees or less. Mr. Miller owned The Whale and was rebuilding and questioned whether he still had zero setbacks. Planner Propst replied affirmatively. Mr. Miller asked whether he could take over the corner in front

of The Whale designated for local vegetation. He was interested in putting seating in that area and adding landscape. Director Green noted there were ways to utilize the right-of-way.

Cole Stenson, 18081 Estero, built and remodeled homes on the island. He noted he would submit several permits to raise all electrical panels up to 12 feet above grade, add platforms and ladders for accessibility and engineering and permit requests to add cantilever porches to hold generators on houses. He indicated that all of the requests would encroach on setbacks. He hoped the topic would be added to a future agenda and approved, so he did not have to request variances for all the homes. Planner Propst explained that they needed to make sure the areas between houses were available for utility purposes since they would encroach almost halfway on small setbacks. Mr. Miller described the size of the platforms and the design of the ladders and hoped to avoid the variance process. Director Green replied that a text amendment was required.

Glen Harris, a building contractor, represented a client that merged his lots at 6120 and 6110 Court Street. He indicated that his client was not allowed to use half of one lot due to the restriction on corner setbacks. He stated that lots with 30% gross side setbacks were a major impact and suggested returning to standardized setbacks.

Town Attorney Herin, Jr. stated that establishing setbacks does not constitute a taking of real property under Florida law.

Nate Johnson, affiliated with a local developer, represented three clients with corner lots. He noted the setbacks changed three times in two years and asked for consistency. He requested that the LPA view the side setback as a side setback instead of a right-of-way setback. He requested that the LPA view lots the same instead of using a percentage on larger lots and that some variances be moved to administrative approval.

Public comment closed.

LPA Member Vanasse wondered whether very small lots were legally plotted and, if so, the town needed to provide relief. He questioned whether they could consider wherever the driveway was located to be the front lot.

Planner Propst described minimum use determination and noted that some lots under 40 feet were plotted and difficult to develop. She questioned whether the LPA wanted to make every lot have a 30-foot-wide house. She added that the language regarding the front street setback was from the City of Fort Myers.

Town Attorney Herin, Jr. read and explained Sec. 34-3274 regarding minimum use determination and unplatted lots.

LPA Member Safford commented that his pool survived on Estero and was nowhere near the 20-foot rear setback. He questioned whether his pool was grandfathered in or if he had to request a variance to keep the pool. Director Green replied that a variance was not needed.

LPA Member Vanasse suggested they go back to 7.5 feet on all side setbacks except for lots over 75 feet. He supported 10 feet for side street setbacks with lots 50 feet and under with the caveat of no allowed

encroachments for a porch or mechanical equipment. LPA Member Eckmann felt that 10 feet was too small and should be 12 feet. LPA Member Vanasse calculated different lot sizes and different house sizes.

Director Green suggested that side street setbacks be determined based on the type of street. Otherwise, the lot width would result in different setbacks on the same street.

Director Green discussed setbacks with corner lots on Estero and mentioned that the rear yard would be treated the same as the neighbor's side yard.

Planner Propst indicated that the Town Council did not support that idea.

Questions on page 114 were discussed. Consensus was reached that corner lot rules would be the same for both sides of Estero. Planner Propst directed the LPA to the three questions on the slide in the presentation.

Consensus was reached to allow smaller setbacks on the side to allow for a wider home on small lots, which would be from 50 feet down, a 10-foot side setback; from 55-75 feet, a 20-foot side setback and above that, a 25-foot side setback. Consensus was reached to allow some encroachment with porches, stoops and balconies on small lots. Discussion was held regarding whether additional setbacks for houses 65 feet or more should be reduced for homes on narrow lots and consensus was reached to allow four to six feet for extensions.

LPA Member Bowen provided a general observation of the discussion.

Planner Propst noted that the majority of lot sizes were 50 feet. Planner Propst agreed that she had the direction to move forward.

VI. ADMINISTRATIVE AGENDA

No items.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse indicated that pool variances in front of homes needed to be reviewed and new builds addressed. He suggested they discuss where the comp plan was going. Director Green replied that many topics were being discussed. LPA Member Vanasse brought up administrative thresholds. Director Green responded that they were reviewing all processes. LPA Member Vanasse suggested that accessory use units be discussed.

LPA Member Safford stated that residential setbacks in the commercial zone should be addressed along with duplexes. He indicated that administrative variances had to move forward as quickly as possible. LPA Member Vanasse questioned whether they could conduct a post-storm housing inventory. Director Green replied affirmatively.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green stated that FEMA requested that multi-family units and hotels submit applications for grants to do repairs if they agree to provide housing.

X. ITEMS FOR NEXT MONTHS AGENDA

LPA Member Vanasse stated that policy decisions had to be made before allowing permits to move forward. He felt they needed to add items to the agenda regarding what could be resolved quickly. LPA Member Cereceda brought up adding items that could be administratively approved. Director Green replied that they were permitting and trying to do everything as fast as possible. LPA Member Vanasse encouraged people in the permitting process to continue moving forward. Director Green noted that 2,700 permits had been processed since the storm. Planner Propst recommended that she bring forward the corner lots and all of the side setback discussions at once. She was not sure whether she could bring it back in time for their next December meeting, but it would be ready in January. The next meeting was tentatively scheduled for December 21, 2022, at 9:00 a.m. to discuss the Floodplain Ordinance. January meetings were tentatively scheduled for January 10, 2023, at 9:00 a.m. and January 24, 2023, at 9:00 a.m.

XI. PUBLIC COMMENT

Dave Lawrence, 612 Estero, and Katherine Butler, 610 Estero, both had 50' x 60' lots, which were considered non-conforming. Both homes were destroyed and the Planning Commission told them they could not build on the lots. Director Green stated that their lots were not platted and lots that were subdivided after the town's establishment did not meet the minimum standard. He noted the LPA could adopt different regulations and the text of the code could be changed. LPA Member Vanasse indicated that they might have to be creative to find a way to build. Ms. Butler stated that FEMA would not provide a trailer, she was paying a mortgage on a house that did not exist and she was paying a mortgage on a lot she could not build on. She questioned what she should do next. LPA Member Vanasse replied that he would research ways to allow them to rebuild. He added that the rules might change. He requested that staff get back to the LPA with options to help. LPA Member Cereceda volunteered to work with them. Chair Plummer read an email from Dave Lee regarding the new setback rules that did not allow him to build his house. She questioned whether the LPA could address single-family home setbacks at the next meeting. Director Green replied that some variance applications would move forward in January and one or two may be ready by their next meeting. He encouraged Mr. Lee to continue to move forward in the process.

XII. ADJOURNMENT

Chair Plummer adjourned the meeting at 1:54 p.m.

Minutes adopted as presented, December 21, 2022. Passed 7-0.



Amy Baker, Town Clerk