



Fort Myers Beach Local Planning Agency

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes

Tuesday, April 30, 2024

9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann, LPA Member McLean, LPA Member Sudduth (via ZOOM) and LPA Member Vanasse.

Excused: LPA Member Plummer

LPA Member Boan moved to permit LPA Member Sudduth to participate via ZOOM due to extraordinary circumstances, seconded by LPA Member Eckmann. The motion carried unanimously.

II. INVOCATION

No invocation.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. April 9, 2024 LPA minutes

LPA Member Eckmann moved to approve the minutes, seconded by LPA Member Boan.

The motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly noticed. LPA Member Vanasse disclosed a conflict of interest with item A. and Form 8b was submitted and will be attached to the minutes. Town Clerk Baker swore in those providing testimony.

A. DCI 20230197, 841 Estero Blvd.

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. No ex parte communications were disclosed.

Community Development Planner Sarah Propst reviewed the background of the request as stated in the yellow sheet.

Ken Gallander, applicant on behalf of 7-11, utilized PowerPoint for his presentation. He indicated that they fully agreed with the staff report and conditions. He was unaware of any public opposition and noted his presentation was in the agenda packet. LPA members agreed to waive the presentation. Mr. Gallander displayed renderings of the building.

LPA Member Boan noted there was more pedestrian traffic in this location and supported granting the variance on parking. Mr. Gallander commented that he would increase the height of the dumpster for consistency before presenting it to the town council.

Chair Cereceda noted that staff recommended approval with conditions. No public comment.

LPA Member Eckmann moved to approve the ordinance with conditions as set forth in the application, seconded by LPA Member Sudduth.

The motion was carried unanimously by roll call vote, with LPA Member Vanasse recused.

B. SEZ20240069, 830 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240069 TO ALLOW FOR THE REPLACEMENT/REPAIR OF A SUN DECK, POOL PATIO, RETAINING WALL, AND FENCE IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 830 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated in the yellow sheet. He indicated that the applicant requested to replace what was there before the hurricane. He noted that the application mentioned foot washes and showers, but staff could not verify that those existed seaward of the line, so the request did not include them.

Justin Yax represented the Edison Beach House and requested to rebuild what they had. The foot washes and showers were landward of the EC (Environmentally Critical), and Planner Propst commented that the plan showed them as being landward.

No public comment.

LPA Member Vanasse moved to approve the resolution, seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

- C. SEZ 20230226, 275/322, 200 & the Common Element of 192 Estero Blvd. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS SPECIAL EXCEPTION SEZ20230226 TO ALLOW RECONSTRUCTION OF A POOL DECK, CABANAS, FENCE, IRRIGATION SYSTEM AND CHICKEE HUTS IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 275/322, 200, AND THE COMMON ELEMENT OF 192 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Planner Propst reviewed the background of the request as stated in the yellow sheet. She noted the applicant was not proposing additional development in the EC zone beyond what existed before Ian. However, the lawn would likely require additional chemical applications, which is a concern for staff. Staff received several letters of support from adjacent property owners. Chair Cereceda noted one letter in opposition was recently received. LPA Member Sudduth questioned whether they could condition a low-maintenance grass to reduce irrigation and chemicals. Planner Propst replied that the environmentalist recommended a native grass, but it would still require additional maintenance. She noted that they might want to consider a condition to remove the Chickee huts, especially those with utilities before storms. LPA Member Sudduth suggested adding a condition to require utility shut-offs at those locations. LPA Member Eckmann had an issue with the lawn being on the seaward side of the CCCL (Coastal Construction Control Line). Planner Propst noted that although they were seaward of the CCCL, they would be behind the new dune system.

LPA Member Boan questioned whether they could add a condition today that the approval was based on approval of the vacation and relocation of the easement. Planner Propst agreed that was an option.

Attorney Sarah Spector from Roetzel & Andress represented the applicant and requested a copy of the correspondence received. She utilized PowerPoint for her presentation and slides included a site plan. She commented that the lawn area was previously native vegetation and that the lawn had large trees that were damaged by the hurricane. She displayed a 2017 aerial, which showed the improvements, Clarification, Chickee huts before the hurricane, the lawn, pavers and trees, relocating the beach access

for improved public access and Special Exception Criteria. She commented that the lawn would not go to the property line at the dedicated beach access. Bill Waichulis, President of Pink Shell Beach Resort & Marina, stated that the lawn area was 25 feet shorter than what was displayed. He indicated they would use native plants for the vegetation barrier on the Vacation Villas side. He noted there would be two dunes in front of the lawn area and a vegetation barrier was included around the pool deck. He offered to provide a landscape design plan for the property. Mr. Waichulis stated that one of the Chickee huts was a beach bar approved by the state with power, water and sewer and another was a nature center for education with power and water.

No public comment.

Mr. Waichulis commented that the two Chickee huts were removable and had emergency shut-off valves for all utilities and additional shut-offs at the building structure.

LPA Member Vanasse moved to approve the resolution with staff recommendations and a requirement to provide a landscape plan for the council hearing that would include addressing native vegetation buffering to the northern property, landscaping around the pool deck, the dune plantings secondary to the overall beach dune plantings, approval conditioned on approval of the access easement and requiring a plan regarding shut-off and evacuation, seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

D. VAR20240088, 614 Estero Blvd.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20240088, A REQUEST FOR TWO VARIANCES FROM LDC TABLE 34-3 TO DECREASE REQUIRED STREET SETBACK BY 17 FEET 6 INCHES FROM THE REQUIRED 25 FEET, AND TO REDUCE THE REAR SETBACK BY 12 FEET 1 INCH FROM THE REQUIRED 20 FEET, IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 614 ESTERO BLVD; AND PROVIDING FOR AN EFFECTIVE DATE

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Planner Propst reviewed the background of the request as stated in the yellow sheet. She noted that the staff recommended approval.

Nick Demary, a home builder, represented the applicant and described the setbacks. He noted the structure would be 1,088 square feet.

No public comment.

LPA Member Boan moved to approve the resolution, including the three staff conditions, seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

E. VAR20240084, 6140 COURT ST

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240084, REQUESTING A VARIANCE FROM LDC 34-1174(b). TO ALLOW A PICKLEBALL COURT, CLOSER TO STREET THAN THE PRINCIPAL BUILDING IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 6140 COURT STREET; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte communications were disclosed.

Senior Planner Smalley reviewed the background of the request as stated in the yellow sheet. He noted that the applicant proposed to plant buffer materials to help buffer the street and neighbors from the court. The staff included three conditions in the report.

LPA Member Boan commented that the pickleball court was contiguous with the driveway. Senior Planner Smalley reviewed the lighting requirements.

Mike Penn from Potter Homes represented applicants Cary and Laura Kledzik. He noted the property was unique, with a large front yard and the family enjoyed pickleball. Mr. Kledzik said they planned to live there permanently and would not rent it out. Mr. Penn indicated that a revision was submitted for a new driveway design. He did not object to making a landscape plan a condition of approval.

No public comment.

LPA Member Vanasse moved to approve the resolution with staff's conditions and a landscape plan included, seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

F. Ordinance 24-10 to specifically re-hear the Property Rights Element and to hear the Capital Improvement Element

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, THE CAPITAL IMPROVEMENTS ELEMENT, AND THE PROPERTY RIGHTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING

FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance.

Planner Propst stated that the property rights and capital improvement elements were being discussed today because of an error in advertising. She proposed changing the criteria and policy language to comply with the CIP (Capital Improvement Program) fiscal policies. The LPA was required to see every element before moving it to the town council.

LPA Member Vanasse noted the document referred to the CIP as a Plan and a Program. He requested more specific language be added to the CIP, requesting more details. For example, a broad category of landscape improvements would include a list of projects, costs and exact locations. LPA Member Eckmann agreed. Town Attorney Stuparich suggested that the proposed CIP be developed by the town manager in sufficient detail. LPA Member Vanasse suggested adding a detailed list of proposed projects with estimated costs. LPA Member Eckmann noted that a CIP usually includes a timeline.

Planner Propst stated that the town did not currently have a capital improvement plan, but it was in the works.

LPA Member Eckmann indicated that the sanitation sewer policy was incorrect and suggested changing it to state that sanitary sewer services must be compatible with Lee County utility standards. Planner Propst stated that there was previously a stormwater management plan element, but she did not think it made sense and the state did not require it. She agreed that "element" be replaced with "plan."

Planner Propst reviewed changes to community parks in the recreation element. Keeping the transportation element intact was discussed in terms of impacts on the town and fees. LPA Member Vanasse suggested keeping the public-school element and the transportation element, which received unanimous support.

LPA Member Vanasse moved to approve the ordinance, seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

VII. ADMINISTRATIVE AGENDA

No items.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Boan wished LPA Member Vanasse the best and was impressed by his knowledge.

LPA Member Vanasse thanked the LPA and said serving was an honor.

Chair Cereceda reminded the staff to review mobile vendor permits. She asked whether the town council was discussing impact fees. Planner Propst commented that they would be.

No items from other members.

IX. LPA ATTORNEY ITEMS/REPORTS

Town Manager Stuparich stated that the expedited variance review was before the council for the second reading. The town council requested that language be added to the agenda to notify the public and to include it in comments made at the beginning of the quasi-judicial hearings. Planner Propst reminded people to update their address with the Lee County Property Appraiser's office because many postcards were being returned. Chair Cereceda suggested that the PIO (Public Information Officer) add a blurb to the town's website.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Not listed.

XII. ADJOURNMENT

LPA Member Boan moved to adjourn, seconded by LPA Member Eckmann. The motion carried unanimously.

The meeting was adjourned at 11:02 a.m.

Minutes adopted as presented, May 14, 2024; Motion by LPA Member McLean and seconded by LPA Member Eckmann. Passed 6-0.



Amy Baker, Town Clerk