Fort Myers Beach Local Planning Agency

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

Minutes **Tuesday, May 14, 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 Plummer and LPA Member Sudduth.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

LPA Member Sudduth moved to approve the final agenda, seconded by LPA Member Plummer.
The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - April 30, 2024
LPA Member McLean moved to approve the minutes, seconded by LPA Member Eckmann.
The motion carried unanimously.

VI. PUBLIC COMMENT

Patrick Vanasse, planner, represented the Cottage and stated that the staff was unable to complete the review by the deadline, so the project was set back. He requested that the LPA meet on Tuesday, May 28, 2024, so they could present their project.

Fred Drovdlic, planner, represented the Outrigger project and was working with staff to move their project forward. He requested an additional LPA meeting on June 25, 2024, to present their plan.
Patrick Vanasse commented that some people would like to speak now rather than during the public comment portion of the Myerside project.
Ellen Vaughan, resident, supported the Myerside project and the owners.
Becky Weber, resident, supported both of the projects on the agenda.
Dale Snow, the resident, supported the Myerside project and the owners and would like to see it go forward.

VII. PUBLIC HEARINGS

Town Attorney Stuparich explained the expedited variance process and the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were property noticed and she swore in those providing testimony.
Jeanna Green, professional engineer, reviewed her experience.
LPA Member Eckmann moved to accept Ms. Green as an expert in her field, seconded by LPA Member Sudduth.
The motion carried unanimously.

A. VAR20240111, 5662/5664 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240111, REQUESTING A VARIANCE FROM LDC 34-1174(b) TO ALLOW AN ACCESSORY APARTMENT, CLOSER TO STREET THAN THE PRINCIPAL BUILDING IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 5662/5664 ESTERO BOULEVARD; 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.
Community Development Planner Sarah Propst reviewed the background of the request as stated on the yellow sheet. LPA Member Boan questioned why it was a nonconforming property. Planner Propst indicated it was not in the analysis.
Charles Capps from Pavese Law commented that the applicant could not attend the meeting. He stated that the applicant had no objections to the accessory apartment designation or the conditions. He thought the width was nonconforming and Planner Propst confirmed.
No public comment.

LPA Member Sudduth moved to approve the requested variance based on competent and substantial evidence that the criteria in Section 34-1174(b) of the LDC are satisfied, having heard the testimony at the hearing, review of the agenda materials, and subject to the three conditions listed in the materials, seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

Town Attorney Stuparich announced that there were ten business days to allow for additional review if requested.

B. <u>VAR20240095, 714 Estero Blvd</u>

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20240095 TO ALLOW 12.5 FOOT VARIANCE TO THE REQUIRED 25-FOOT STREET SETBACK AND A VARIANCE OF 14.5 FEET FROM THE REQUIRED 20-FOOT REAR SETBACK FOR THE PROPERTY LOCATED AT 714 ESTERO BLVD; AND PROVIDING FOR AN EFFECTIVE DATE; 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.

Community Development Senior Planner Jason Smalley reviewed the background of the requests as stated in the yellow sheet. He pointed out that staff requested that the elevator shaft and storage area on the ground floor be left open. He noted they had not received opposition from their neighbors and Planner Propst stated that she received a phone call supporting the project.

Kara Stewart represented the applicant and stated that the structure was similar to what was there, but they shifted it. The applicant accepted the conditions.

No public comment.

LPA Member Eckmann commented that seeing an aerial of the previous structure would have been helpful. Planner Propst stated that the year could be changed on the LEEPA (Lee County Property Appraiser) website so that properties can be viewed before the hurricane.

LPA Member Eckmann moved to approve the requested variance based on competent and substantial evidence that the criteria in Section 34-3 of the LDC are satisfied, having heard the testimony at the hearing, review of the agenda materials, and subject to the conditions established by the staff, seconded by LPA Member Plummer.

The motion carried unanimously by roll call vote.

Town Attorney Stuparich announced that there were ten business days to allow additional review if requested.

C. VAR20240094; 21481 Widgeon Terrace

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240094, AVARIANCE FROM LDC TABLE 34-3 TO DECREASE THE REQUIRED WATERBODY SETBACK BY 10.5 FEET FROM THE REQUIRED 25 FEET, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 21481 WIDGEON TERRACE; 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.

Planner Propst reviewed the background of the request as stated in the yellow sheet. LPA Member Sudduth indicated that the steps were built with the house.

Jeanna Green, engineer, verified that the stairs were built with the house. She noted there was a limited rear yard and the pool was smaller than what most people build. She distributed photos of the backyard and stated that it would not be elevated and there would not be a deck.

No public comment.

LPA Member Sudduth moved to approve the requested variance based on competent and substantial evidence that the criteria in Section 34-638 (d)(3)c.3(iii) of the LDC is satisfied, having heard the testimony at the hearing, review of the agenda materials, and subject to the two conditions as set forth in the materials, seconded by LPA Member McLean.

The motion carried unanimously by roll call vote.

Town Attorney Stuparich announced that there were ten business days to allow for additional review if requested.

D. CPD20240049, Amending CPD 22-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING AND RESTATING ORDINANCE NO. 22-06 TO AMEND THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., GENERALLY IDENTIFIED AS STRAP NUMBERS 219-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, AND 19-46-24-W3-0120E.0030 FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL AND DEVIATIONS, AND OTHER CLARIFICATION AS NECESSARY; PROVIDING FOR REPEAL, CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Ex parte communications: All LPA members disclosed their meeting with The Neighborhood Company. Planner Smalley reviewed the background of the request as stated in the yellow sheet. Planner Propst clarified that the previous hours of operation for the business were 6:00 a.m. to midnight; the hours of operation for the indoor restaurant were 7:00 a.m. to midnight, with outdoor seating limited between 7:00 a.m. and 10:00 p.m. 7 days a week. The proposed hours of operation would be 7:00 a.m. to midnight, 7 days a week, for both the restaurant and the outdoor seating area. The staff proposed a change and the conditions in the report were different from what was requested. The applicant requested that amplified music or entertainment be permitted outdoors until 11:00 p.m. within the designated areas on the master concept plan and will be oriented away from residential uses.

Planner Smalley noted that some deviations were eliminated and the numbers were compressed. He acknowledged that the numbering was a little confusing and that the nine deviations would be renumbered. He explained the requirements to provide a 10-foot triangle. No trees with branches above two feet and lower than six feet were allowed and hedging material had to be maintained above two feet or below six feet. He indicated that the applicant requested that the 10-foot triangle be reduced to three feet, but the staff was concerned about the inherent risk.

Ken Gallander with the Neighborhood Company represented the applicant and utilized PowerPoint for his presentation. Slides included Background & Request, Aerial of the Location, and CPD Amendment to Resolution 22-06. He clarified that the hours of operation for the outdoor seating area would be 6:00 a.m. to 10:00 p.m. The Master Concept site plan was displayed, Conceptual Renderings of the Tiki Structure, Constructed Tiki Structures from the Tiki company, Findings & Conclusions, Deviations, Deviation #9, Fairweather intersection, Example of Proposed Triangle with Landscape and Tiki and Conclusion. Mr. Vanasse added that typically, traffic was slow-moving and was an important factor.

LPA Member Eckmann questioned why they could not modify the footprint of the tiki hut to ten feet since the area was not utilized. Mr. Gallander replied that they could evaluate that area. LPA Member Sudduth noted that removing the tables and pavers would not keep people out of the area. Mr. Vanasse requested consideration of the conditions today since the better line of sight created some mitigation from the ten feet. LPA Member Plummer indicated the umbrellas used to obstruct the view more than the landscaping.

Public comment:

Mike Miller, applicant, clarified that bushes would be added partially under the tiki hut to keep people out of the area. They installed an eight-foot fence at the back of the property and will do more planting. The outdoor music would consist of one or two people and he encouraged feedback from the neighbors. The food truck was temporary until they got the CO (Certificate of Occupancy) for their building.

Dawn Miller, applicant, stated that they were investigating creative ways to keep people out of the area.

Public comment closed.

LPA Member Sudduth moved to approve recommending to the Town Council approval of the rezoning subject to the conditions based on a finding of consistency with the comp plan and compliance with the LDC and based on competent substantial evidence and allow the deviation for the visibility triangle and nothing can be installed to obstruct the view, seconded by LPA Member Plummer.

LPA Member Boan disagreed with allowing a three-foot visibility triangle. Planner Smalley noted that a reduction in the site triangle would allow at least one post to be between the two and six-foot area. He commented that the staff did not believe the line of sight would be clear regardless of the applicant's proposal. The expectation was that there would be at least one post, if not multiple posts, depending on the construction method.
Mr. Gallander stated that two vertical posts would potentially be in the triangle and mitigation measures would be taken to provide visibility down Estero Blvd.

The motion carried 4-1, with LPA Member Eckmann dissenting.

E. <u>DCI20230246; REZONING FROM CPD TO CPD</u>

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 125, 131-151 SCHOOL ST AND 2661-2681 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 FORT MYERS BEACH TO ALLOW A MIXED USE DEVELOPMENT INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; 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. All members disclosed ex parte communications via a meeting with The Neighborhood Company. Chair Cereceda and LPA Member Plummer were involved with the first CPD on the property.
Planner Propst reviewed the background of the request as stated in the yellow sheet and read the six deviation requests. She noted she had not heard anything from the library or school district. She explained deviation six regarding the maximum equivalency factor.
Attorney Noel Davies from Davies Duke represented the applicant. Patrick Vanasse from The Neighborhood Company described the background of the Myerside Resort & Cottages Pre-Ian, the MCP (Master Concept Plan), the Winkler Subdivision Plat and The Myerside - Redevelopment. Ken Gallander from The Neighborhood Company continued the presentation with The Myerside - Redevelopment bullet points, an Aerial Photo of the Property, the Proposed MCP, Location, Site Design & Compatibility, Renderings,

Elevation, View toward the Library, Looking Down School St., Interior Portion of Proposed Live-Work Units, Height Comparison, Stepped Back (Wedding Cake) Design, Density/Intensity Analysis, Transportation & Parking, Parking Analysis, Other Mitigation, Consistency with Comprehensive Plan & LDC, Deviations, Public Benefits and Findings & Conclusions.

Mr. Vanasse discussed the height and meeting specific requirements and noted that letters of support were provided. He stated the workforce housing units were approximately 500 square feet. He said they did not need special permission for a COP in a restaurant and did not need a deviation because they were not a bar. He added that the workforce units could be made larger. LPA Member Boan expressed concern regarding the reduced parking. Mr. Vanasse commented on mixed-use zoning and encouraging bicycle and pedestrian use. He added that they were open to leasing parking places and mentioned that the Sandy Bottoms project had a 30% parking reduction. He acknowledged that there were 45 lodging units, not 42. LPA Member Plummer explained why she was concerned about the lack of parking for the employees and retail uses. Mr. Vanasse stated that parking ratios and requirements were based on IT Manuals and looked at things comprehensively to establish a number. LPA Member Eckmann thought the parking was okay because one of the goals of the comp plan was to reduce traffic and decrease traffic. He mentioned utilizing unused parking at the library and Bay Oaks and offering valet parking. LPA Member Sudduth stated that they would need more spots and suggested adding a parking deck or car lifts. He noted there were ways to address the parking issue and he thought the building concept looked great. He said that more projects like this would come forward and they would have to get comfortable with being uncomfortable. LPA Member Plummer loved the design, but they had to have accessibility so the businesses could succeed. She felt they needed to come up with more parking. Mr. Vanasse responded that they would have discussions about parking spaces and solutions.

Public comment:

Cheri Dobroski, resident, commented that the location was accessible to many amenities and did not think parking was a big issue.

Gill Poff worked for the applicants and described how they turned the place around. He supported the project.

Marty Lemmons, resident, stated the development would be across the street from his complex and was excited. He understood parking concerns but did not think it should mess up the opportunity for the project.

Gabriella Leonard thought the project was fantastic for the beach. She agreed about the parking but felt it would work itself out.

Joy Leonard, part-time resident, loved the design and location. She compared the project to Casa del Mar in Santa Monica, CA. She supported the project.

Bev Milligan, applicant, thanked staff for working with them and stated that Myerside had always supported the community and would provide membership for Bay Oaks.

She described how they supported the Little League, the Mound House, the school, the Methodist Church and the library. She noted she received support from her neighbors.
Public comment closed.
Chair Cereceda supported the design and suggested adding a condition that the end product would look like the renderings provided. Mr. Vanasse replied that they could be generally consistent with the renderings and an alternative planting plan was included. Chair Cereceda questioned whether Myerside would offer incentives so people do not come to the island with a car. Mr. Vanasse noted they could commit to encouraging people not to drive and would be a part of any island-wide policy. He agreed to commit to addressing overflow parking as a condition.

Planner Propst suggested the following changes and additions: Condition 2 - Add any other tenants will have to demonstrate employment on the island.

Condition 7 - Encourage visitors and staff to arrive without an automobile, and if they need additional parking, they will look at other options. Condition 8 - The final development must be consistent with the master concept plan renderings and generally consistent with the landscape betterment plan attached to this ordinance.

LPA Member Boan moved to recommend to the Town Council that they approve the ordinance rezoning the property and it was consistent and in compliance with the LDC with the conditions added, seconded by LPA Member Sudduth.
The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

A. Policies and Procedures Update

Schedule review of LPA Resolution 2009-21 and existing LDC provisions at the next LPA meeting.

Town Attorney Stuparich noted the current resolution was from 2009, which set forth policies & procedures. She provided a copy for members to review and discuss at a future meeting. She indicated that the draft resolution for the three variances they made today would be modified.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Plummer reminded members that the ethics paperwork was due in July and could only be submitted online. Town Clerk Baker noted that the paperwork was sent to members by the ethics commission.
Chair Cereceda asked whether the changes to the comp plan could come back to them after the state reviewed it.
No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Discussion was held regarding adding additional meetings on May 28, 2024, and June 25, 2024, for the Cottage and the Outrigger projects. Planner Propst explained that adding meetings slowed down the entire process. She stated that the Cottage could come forward at the June 11th meeting and the town council meeting on the 17th. Another LPA meeting for the Outrigger is tentatively scheduled for June 25, 2024. Planner Propst listed the nine CPDs in the pipeline.

XII. ITEMS FOR NEXT MONTHS AGENDA

Discussed above.

XIII. ADJOURNMENT

LPA Member Boan moved to adjourn, seconded by LPA Member Eckmann.
The motion carried unanimously.
The meeting was adjourned at 1:10 p.m.

Minutes adopted as presented, June 11, 2024; Motion by LPA Member McLean and seconded by LPA Member Plummer. Passed 7-0.

Amy Baker

Amy Baker, Town Clerk