



Fort Myers Beach Local Planning Agency

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

Minutes

Friday, August 23, 2024

9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Dunlap, LPA Member Eckmann, LPA Member McLean, LPA Member Plummer and LPA Member Sudduth (virtually).

LPA Member Plummer moved to approve LPA Member Sudduth's participation virtually due to extraordinary circumstances, seconded by LPA Member Boan. The motion carried unanimously.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Local Planning Agency – June 11, 2024

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

The motion carried unanimously.

V. APPROVAL OF THE FINAL AGENDA

LPA Member Plummer moved to approve the agenda with Items A, B, C and D rescheduled, seconded by LPA Member Dunlap.

The motion carried unanimously.

A. Local Planning Agency - June 11, 2024

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

The motion carried unanimously.

VI. PUBLIC COMMENT

No public comment.

VII. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures and the expedited variance process. Town Clerk Baker confirmed that all agenda items were properly noticed, and she swore in those providing testimony.

A. Ordinance 24-21; CPA20240067, 6200 Estero Blvd, Outrigger Resort Comp Plan Amendment

ORDINANCE 24-21: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP, AS ADOPTED ON AUGUST 19, 2024, FOR A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD, IDENTIFIED AS STRAP # 33-46-24-W3-00012.0000 THAT IS LANDWARD OF THE 1978 COASTAL CONSTRUCTION CONTROL LINE, IN FORT MYERS BEACH FROM MEDIUM RESIDENTIAL TO OUTRIGGER RESORT MIXED-USE; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Rescheduled to a date uncertain.

B. Ordinance 24-22; Outrigger Resort FLU text amendment

ORDINANCE 24-22: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE FUTURE LAND USE ELEMENT TEXT IN THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, AS ADOPTED AND AMENDED ON SEPTEMBER 9, 2024 TO CREATE THE OUTRIGGER RESORT MIXED-USE FUTURE LAND USE CATEGORY AND TO MODIFY MIXED-USE POLICY FLU-1-B-5.; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

Rescheduled to a date uncertain.

C. Ordinance 24-23; DCI2024-0061, 6200 Estero Blvd, Outrigger Resort CPD

Ordinance 24-23: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING THE REZONING OF A PORTION OF THE PROPERTY LOCATED AT 6200 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBER 33-46-24-W3-00012.0000 TOWN OF FORT MYERS BEACH FROM COMMERCIAL PLANNED DEVELOPMENT (CPD) AND COMMERCIAL RESORT TO COMMERCIAL PLANNED DEVELOPMENT; PROVIDING FOR FINDINGS, CONFLICTS, LAW, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

Rescheduled to a date uncertain.

- D. SEZ20240112, 6200 Estero Blvd, Outrigger Resort Special Exception Resolution 24-161: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240112 TO ALLOW EXPANSION OF CONSUMPTION ON PREMISES IN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT AS PER LDC SECTION 34-1264. (G)(1). FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Resolution 24-162: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240112 TO ALLOW RECONSTRUCTION OF A MAJOR ACCESSORY STRUCTURE IN THE EC ZONING DISTRICT PER SECTION 6-366, FOR PROPERTY LOCATED AT 6200 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Rescheduled to a date uncertain.

- E. Ordinance 24-24; Building Intensity Measurement for Detached Single and Two-Family Residences

Ordinance 24-24

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE

FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Community Development Planner Sarah Propst reviewed the background of the ordinance as stated on the yellow sheet. She clarified that the 40% building coverage applied to elevated structures and was for single-family and two-family residences in all zoning districts. LPA Member Sudduth noted that if someone met the setbacks but did not meet the 40% coverage, they had to ask for a variance. He felt it could be a roadblock to rebuilding. Planner Propst noted they could remove the building coverage requirement.

Public comment:

Albert Dambrose, an architect, explained that every municipality had lot coverage ratios. He supported the ordinance and described how it would affect his clients.

Penny Porter, a resident, noted that her lot was large, but the buildable area was very small. She suggested considering the whole lot.

Public comment closed.

Planner Propst stated that a variance was available to someone who did not meet the lot coverage. She suggested that a percentage of the 40% calculation be included beyond the EC (Environmentally Critical) to the Town Council, but they did not think that was an appropriate direction to go, since property owners could request a variance. She stated that the impervious surface did not count the EC.

Chair Cereceda questioned what members thought about utilizing a small percentage of the EC. LPA Members agreed and will make a recommendation to the Council.

LPA Member Dunlap moved to recommend approval and a finding of consistency with the Comp Plan, consider an additional use of a percentage of the EC and make a recommendation to the Council to reconsider a percentage use consistent with other elements of the code of the EC, seconded by LPA Member Boan.

The motion carried unanimously.

F. VAR20240100, 51 Pearl Street

LPA Resolution 2024-04: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Ex parte communications: LPA Member Plummer visited the property and spoke to the owner, LPA Member McLean was familiar with the property and received letters and Chair Cereceda Googled the property. All members received two emails. LPA Member Plummer indicated that the advertisements were not posted on this property or the property on Lagoon. Community Development Senior Planner Jason Smalley was unaware that the properties were not posted and would ensure they were. Town Attorney Stuparich read the title of the resolution.

Judith Frankel reviewed her qualifications as an expert in planning. LPA Member Sudduth moved to approve her as an expert in her field, seconded by LPA Member McLean. The motion carried unanimously.

The applicant stated that she received the staff report but nothing else. Town Clerk Baker will forward the materials to her.

Planner Frankel reviewed the minimum street setback and side setback requirements. The overall size of the house exceeds the maximum lot coverage requirement by about 15%. She reviewed the site plan and noted that the covered deck in the back was included in the lot coverage. The side setback related to the mechanical equipment on the side of the house and was covered by the balcony.

Penny Porter, applicant, noted the original cottage was built in 1942 before Ian destroyed it. The road was an easement driveway and not a public street. The lot was large, but the buildable area was small and irregular. She distributed the old survey with the buildable area highlighted. She stated that it was difficult to design a house that would fit on the lot within the setbacks and lot coverage. Ms. Porter noted the impervious calculation was 18%. She addressed the emails and explained that she had to elevate the house and was sorry the view would be blocked. She explained that the footprint was close to the original structure with the addition of a second story. She added that if she put the deck at the front of the house, she would not need a variance, but the front faced the street.

Public comment:

William Mizel, President of the HOA at Surf Song Condos, stated that the problem was the setback, not the height. Moving the setback back would block more views. He displayed a picture of her lot after a recent rain and noted that she used the condo parking lot.

Dick Dundee, registered agent of Surf Song Condos, noted that the survey in the packet was 18 years old. He opposed the front setback and wanted the applicant to follow the 25-foot rule.

Albert Dambrose, architect, commented on the details of the build and felt that putting the A/C equipment on the north side made sense. He added that mechanical equipment had to be elevated. He addressed the lot flooding and noted there were ways to deal with the water.

Public comment closed.

Ms. Porter stated there was standing water on the property because Ian took a lot of sand with the house, which resulted in a hole. She indicated that she only encroached on the condo's parking lot when she had to place debris there for pickup after the hurricane. Planner Frankel read the criteria in the staff report.

LPA Member Eckmann agreed with the staff recommendation and felt the owner should consider the cottage build-back policy. LPA Member Plummer asked whether the applicant could get the same space with the cottage build-back. Chair Cereceda stated that the cottage build-back policy was not before them and they could not redesign the project.

LPA Member Plummer felt that the request met the criteria for the variance and the steps took up a lot of space. LPA Member McLean agreed with the staff report and felt the concern was moving it back and extending it from 35 feet to an additional 15 feet on the footprint. It was a design choice to build a larger house than was previously there.

LPA Member McLean moved to deny the resolution for the reasons outlined in the staff report, seconded by LPA Member Dunlap.

The motion carried 6-1 by roll call vote, with LPA Member Plummer dissenting.

G. VAR20240159, 8180 Lagoon Road

LPA Resolution 2024-05: A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240159 TO ALLOW A SIDE STREET SETBACK VARIANCE OF 3 FEET AND 9 INCHES FROM THE REQUIRED 15-FOOT SIDE STREET SETBACK FOR A POOL ENCLOSURE FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE

The recording started with ex parte communications in progress: LPA Member Plummer visited the site, LPA Member McLean visited the site and spoke to the owners and Chair Cereceda visited the site and spoke to the owners. No other disclosures on the recording.

Chair Cereceda read the title of the resolution.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He noted that staff recommended denial because the pool cage was a design choice.

Planner Propst indicated that the applicants requested a pool setback variance on March 6, 2023, but the request did not include a pool enclosure. Staff recommended denial of that request, but the Town Council granted it. Janell Schoonover, applicant, acknowledged that she read the background materials online. She stated she wanted to build a pool cage to the edge of the house and the neighbors she surveyed supported the request. No public comment.

LPA Member Dunlap moved to approve the resolution, finding it was consistent with the comprehensive plan, seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

H. Ordinance 24-20; DCI20240130, Margaritaville CPD Amendment, 251 Crescent Street

Ordinance 24-20

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

No ex parte communications were disclosed. Chair Cereceda read the title of the ordinance. Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He noted the issue referred to signs on the property and indicated there were five total deviations.

The first request was to allow a pole sign. The second was to allow the pole sign to be nine feet tall. The third was to allow both signs to be six inches behind a right-of-way or sidewalk. The fourth requested the monument signs be seven and a half feet tall. The last request was to allow the monument signs to be set back six inches from the sidewalk. Staff recommended approval with conditions. He added that there were outstanding questions regarding other signs and lighting issues and he suggested those issues be included as a condition.

Tom Torgerson, applicant, explained that Rob Phelan from Lee County told him to move the sign on Crescent and Estero Blvd. and the sign on the Beach Club side had to move six inches because the gas line was relocated. He was unaware of any outstanding issues except the FDEP (Florida Department of Environmental Protection) and FWC (Fish & Wildlife Conservation Commission), which inspected the property two months ago and issued an 87-page report. Mr. Torgerson indicated he replied to the report but had not heard back. He hired a third consultant to negotiate with FDEP and FWC so he could finally get the Certificate of Occupancy. He did not object to adding a lighting element.

No public comment.

Planner Smalley stated that the LPA had a revised version of the ordinance. The online version included the conditions of approval instead of the deviations. It also included the most recent master concept plan for the CPD (Commercial Planned Development) and referenced Exhibit A, which was the complete list of deviations.

LPA Member Dunlap moved to approve the ordinance as it was consistent with the comp plan and include the addition of the lighting condition, seconded by LPA Member Plummer.

The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Dunlap addressed defining the public benefit component. He did not think the staff report should include an opinion on what a public benefit was and its value. He suggested that the applicant be responsible for this and that the LPA adjudicate the measure, impact and relevancy of the public benefit. Chair Cereceda discussed attaching a definition of public benefit to the different future land use categories. What might be important to the south end might not be wanted in the north end. She suggested that each member state what they thought a public benefit was. LPA Member Eckmann felt they could establish a checklist of public benefits. Planner Propst noted that the Town Council would have two meetings regarding public benefits and surveys would be available to the public. LPA Member Boan stated that an amenity was not necessarily a public benefit, and a public benefit was in perpetuity. LPA Member McLean felt that a commercial enterprise was not generally a public benefit, but he felt public access to a restaurant in a resort would be. Chair Cereceda encouraged the public to submit emails regarding their thoughts to the LPA or Town Council.

LPA Member Eckmann noted that his church was looking for assistance regarding using native plants to landscape their property.

LPA Member Plummer suggested presenting the entire package if acreage was being added to the project. Chair Cereceda commented that the LPA had to make decisions based on what was presented. LPA Member Plummer will not be at the October 8, 2024, meeting.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XII. ITEMS FOR NEXT MONTHS AGENDA

Planner Propst listed items tentatively scheduled for September 3rd and 10th, 2024. Discussion was held regarding adding a meeting. LPA Member Sudduth stated he would be unavailable on September 10 and the week of the 16th. LPA members felt too many items were on the September 10th agenda. Chair Cereceda asked the planners to talk to the applicants and let them know whether they needed to schedule an additional meeting in September or October.

XIII. ADJOURNMENT

LPA Member McLean moved to adjourn the meeting.
Chair Cereceda adjourned the meeting at 11:54 a.m.

Minutes adopted as presented, September 3, 2024; Motion by LPA Member Boan and seconded by LPA Member Eckmann Passed 7-0.



Amy Baker, Town Clerk