



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, September 3, 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 Dunlap moved to approve LPA Member Sudduth's virtual participation due to extraordinary circumstances, seconded by LPA Member Plummer.

The motion carried unanimously.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

LPA Member Plummer moved to approve the final agenda, seconded by LPA Member Eckmann.

The motion carried unanimously.

V. APPROVAL OF MINUTES

A. Local Planning Agency - August 23, 2024

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

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 24-28; CPD20240015, 1836 & 1840 Estero Blvd. (EIBC)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A TOWN OF FORT MYERS BEACH ORDINANCE, AND APPROVING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT REZONING FOR THE PROPERTIES LOCATED AT 1836 AND 1840 ESTERO BLVD. (LESS THE AREA WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT), GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W4-03200.00CE AND 19-46-24-W4-03200.1010 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. Ex parte communications: LPA Member Eckmann attended a meeting at the planner's office, LPA Member Boan attended a Zoom meeting with the developer, LPA Member McLean had a meeting with the applicant via Zoom and Chair Cereceda spoke to the mayor and former council member Bill Veach. There were no disclosures from other members; however, all members received emails. Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. The request has been amended and includes an additional height deviation. He stated that the applicants requested the removal of deviation five and stay at 1.4 FAR. Attorney Amy Thibaut from Roetzel & Andress represented the applicant. She utilized PowerPoint for the presentation. Slides included the Project Team and Request for Commercial Planned Development (CPD). Architect Fred Drovdlc continued with their Previous Design, New Architectural Design, View Corridors, Site Pla

n, Master Concept Plan, Conceptual Landscape Plan, Deviations, Public Benefits, Things to Consider and Conclusion. (No audio for a few minutes.)

The audio came back with LPA Member Eckmann talking about landscaping. He commented that the LPA would have to address the height of the building, especially in light of the emails received from the community. He liked the project and thought it looked great but hesitated to vote for it because of the height. LPA Member Dunlap discussed the project and felt the height was a consequence of what the LPA asked for. LPA Member Plummer noted the applicant was not asking for more units. Chair Cereceda questioned the discrepancy in the size of the rooms on the Estero Island Beach Club website versus Mr. Drovdlc's statement. Member Dunlap explained the discrepancies in the square footage and noted that the balconies were not included in the original calculation. LPA Member McLean questioned why the distance measurement for Miramar was not exact.

Mr. Drovdljic replied that they could do 75 feet, but he wanted to keep some flexibility. LPA Member McLean commented that it was important for the LPA to see exactly what would be built. LPA Member Sudduth echoed what other members said regarding the applicants responding to feedback.

Mr. Drovdljic addressed intensity and density. He felt the former structure was more intense due to the lack of buffers and wall-to-wall pavement. He mentioned the new building's larger green spaces, traffic circulation and safety concerns.

Public comment:

Nancy Walker, resident, commented on keeping their paradise without giant multi-story complexes on the beach. She compared Fort Myers Beach to Sanibel regarding height and asked that they protect the beach from overdevelopment. She noted they kept Margaritaville from going higher and requested that the LPA stick to the plan.

Gordon Stajowski, resident, lived across the street and commented on the lack of his view with the new project. He supported rebuilding it like it was before the hurricane. He noted that developers offered him a lot of money to sell, but he would rebuild within the rules. He stated that he had beach views before, but now he would have to look at a 10-story building, which was not what they wanted.

Mike Dagnese, resident, suggested they go sideways with three stories instead of up and cover more of the property.

Magdalena Hager, with RAL and broker for the Estero Island Beach Club, stated that they listened to what the LPA requested regarding the view corridors and FEMA regulations. She stated the houses across the street were not beachfront properties. She commented on the generations of owners who invested a lot of money in the property.

David Leigh, resident, stated that the applicants should have had a community meeting with the owners and developers to address the issues. He discussed the view corridor requested by the LPA and the decision to add height because it was arbitrary. He asked why it was expanded on the Miramar side instead of the Palm Ave. side. He stated they already had a precedent with Margaritaville and three stories over parking. He felt any new project north of DiamondHead should adhere to three over parking. Mr.

Leigh suggested they review public benefits and the value of the view corridors. He commented that the whole process was backward.

Public comment closed.

Attorney Thibaut confirmed they received the agenda packet but not the emails. Chair Cereceda called for a short break so Attorney Thibaut could review the emails.

Architect Mike Sheeley, MK Architecture, reviewed his experience in his field. LPA Member Eckmann moved to accept Mr. Sheeley as an expert in his field, seconded by LPA Member Plummer

The motion carried unanimously.

Mr. Sheeley explained that the 10-story portion was moved close to DiamondHead to keep the mass on one side. He stated that they could achieve 90 feet from Miramar. LPA Member Eckmann questioned whether the 10-story section could be reduced by one story and added to the portion facing Estero.

Mr. Drovdljic addressed the lack of detail concerning the plants in the landscape plan and noted that they could not be sure until they were further along with construction. Attorney Tibaut summarized their request and stated they would provide a stormwater management system far superior to what existed.

Senior Planner Smalley stated that staff recommended approval with conditions listed on the staff report. He noted that staff asked the developer to install signs on the ingress and egress on Palm Ave. He identified two possible conditions from the discussion. Specifically, the architect presented will be similar to what appeared on the ground and the addition of a more defined landscape buffer plan. LPA Member Eckmann suggested that the 90-foot setback from Miramar be an additional condition. Chair Cereceda questioned whether FEMA would have a positive or negative impression regarding the project. Senior Planner Smalley replied that the design would provide extra protection from surges and benefit the town. He discussed stretching the building out versus going up. LPA Member Boan stated that every project was independently looked at and CPD requests were allowed by code. He indicated that the project was always going to be higher due to FEMA regulations and they had a right to build back what they had. He agreed that the landscape plan needed to be nailed down. He reviewed the public benefits identified in the presentation and felt the applicants brought back a better project. LPA Member Eckmann suggested lowering the height on Estero to three stories over flood and adding another story to the section next to DiamondHead. Chair Cereceda shared her thoughts on why she could not support the project because of the height. She would like the town council and zoning board to discuss what they would do in the future because other developers will request additional height. She did not think they vetted the concept of height and used the Bay Beach condos as an example of the drama surrounding that project.

LPA Member Dunlap moved to approve the ordinance consistent with the staff recommendations and the comprehensive plan, with the additional conditions discussed today, including the 90-foot setback on Miramar, the architectural representation and a defined landscape plan, seconded by LPA Member McLean.

The motion carried 5-2 by roll call vote, with Chair Cereceda and LPA Member Eckmann dissenting.

- B. Ordinance 24-27; DCI20240155, 2545 & 2555 Estero Blvd., FMBFCD Fire Station CPD

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 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE 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. Community Development Planner Judith Frankel reviewed the background of the request as stated on the yellow sheet. She noted the existing CPD zoning list of uses was being reduced and the list was included in the packet. She reviewed the deviations. She stated that the staff recommended approval with conditions. Chair Cereceda disclosed that she spoke to Fire Commissioner Ron Fleming about the project. No ex parte disclosures from other members.

Greg Stuart co-represented the Town of Fort Myers Beach Fire Control District and his presentation included the Sept. 3, 2024, FMB Staff Report, The New FMB Fire Station Location - Enhancing the Civic Core, The Rezoning Request, The Existing CPD - Ord 08-08, Changes from 08-08 Intensity & Uses, The New Master Concept Plan, The New Fire Station Design, Fire Station Design Elevations, Findings - LDC Sec. 34-85(b)(c), Findings - LDC Sec. 34-216(a)(2), 34-216(4) Deviations Findings and Summary.

Mr. Stuart noted that about six people attended the community meeting on June 9, 2024. He indicated that the light on Estero would probably be a ground-mounted light to be less intrusive.

No public comment.

LPA Member Boan moved to approve the ordinance subject to the staff recommendations on deviations and consistency with the comprehensive plan and the Land Development Code (LDC), seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

- C. VAC20240068, 3030 Shell Mound, Easement Vacation (FMB Art Assoc)
A RESOLUTION VACATING AN UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND ACCEPTING AND APPROVING A COMPARABLE REPLACEMENT EASEMENT TO BE LOCATED ON THE SAME REAL PROPERTY, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A SECOND AMENDED AND RESTATED UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN COUNCIL TO ACCEPT THE SECOND AMENDED AND RESTATED UTILITY EASEMENT AND AGREEMENT; DIRECTING CLERK TO RECORD THIS RESOLUTION; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. Planner Frankel reviewed the background of the request as stated on the yellow sheet. She noted the utilities were not using the easement and vacating it would remove an impediment to the applicant's development. No ex parte disclosures.

Aaron Spence with Maastricht Engineering stated the request was to vacate the easement. He did not receive any letters of objection.

Public comment:

Mike Dagnese, resident, asked whether the transformer would be moved. Planner Frankel explained the site map.

Public comment closed.

LPA Member McLean moved to approve the resolution, seconded by LPA Member Dunlap.

The motion carried unanimously by roll call vote.

- D. VAR20240142; 319 ESTERO BLVD
A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240142, REQUESTING 1) A VARIANCE FROM LDC TABLE 34-3 OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR AIR CONDITIONING EQUIPMENT; AND 2) A VARIANCE FROM SEC.34-638(D)(2)(B) OF 3 FEET FROM THE STREET SETBACK FOR A STREET SETBACK OF 22 FEET FOR THE SECOND FLOOR BALCONY OF A NEW SINGLE FAMILY STRUCTURE IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 319 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. LPA Member Plummer disclosed a conversation with the owner and a site visit. No ex parte disclosures from other members.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the yellow sheet. The staff recommended denial. Kara Stewart represented the applicant.

She stated that construction had started, and she met with the town's building official, who determined that it was a balcony. She added that the lot coverage was 31% instead of 40%. She explained why it was a de minimus request and noted the mechanical equipment on the side would be screened.

Public comment:

Jack Holsem, owner, stated the floor plan was almost identical to what it was before Ian. He explained why he needed the variances.

Public comment closed.

LPA Member Dunlap moved to approve the resolution, seconded by LPA Member Eckmann.

The motion carried unanimously by roll call vote.

E. SEZ20240024; 1400 Estero Blvd. (Lani Kai)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVE/ APPROVE WITH CONDITIONS/ DENY SPECIAL EXCEPTION FOR 1400 ESTERO BLVD, LANI KAI RESORT TO REBUILD PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING TO PRE-IAN CONDITION FULLY IN THE EC ZONING.

Chair Cereceda read the title of the resolution. No ex parte disclosures. Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He discussed how the structures would break away during a storm. The staff recommended approval with conditions.

Greg Stuart co-represented the applicant. He referred to the August 30th staff report with revised conditions. They agreed with the conditions and findings. Slides in his presentation included the Request, Location and Master Site Plan.

Public comment:

Kara Stewart stated that FEMA had strict guidelines and cautioned the LPA about adding certain conditions.

Public comment closed.

LPA Member Sudduth suggested adding a condition requiring thicker pavers. Planner Smalley replied that they must adhere to FEMA regulations and use breakaway materials.

LPA Member Eckmann moved to approve the resolution subject to staff's recommendations, seconded by LPA Member Dunlap.

The motion carried 6-1 by roll call vote, with Chair Cereceda dissenting.

F. SEZ20240200, 6502 Estero Blvd, Privateer

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240200 TO ALLOW REPAIRS TO A RETAINING WALL IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6500 AND 6502 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. No ex parte disclosures. Planner Frankel revealed that the application referred to the structure as a seawall, but it was a retaining wall. She reviewed the background of the request as stated on the yellow sheet and added that they were repairing what existed.

John Siekmann from Stokes Marina represented the applicant and explained how the cap on the retaining wall would be repaired.

No public comment.

LPA Member Dunlap moved to approve the resolution with the conditions in the staff report, seconded by LPA Member Eckmann. The motion carried unanimously.

G. Ordinance 24-26; CB Zoning District Amendments

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED "USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT" IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

Chair Cereceda read the title of the ordinance. Planner Propst reviewed the background of the request as stated on the yellow sheet. The change would allow for more uses. She displayed maps showing the CB zoning district and included an additional change to setbacks for residential structures as an option. LPA members agreed to provide the option. They also agreed to increase the building height to three stories total island-wide. Planner Propst stated that postcards regarding the change would be sent to those who owned property in the CB district.

LPA Member Boan moved to approve the ordinance with the option for setback changes, finding that it was consistent with the comprehensive plan, seconded by LPA Member Plummer.

The motion carried unanimously.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Boan will forward his public benefit ideas to Town Clerk Baker for distribution.

LPA Member Plummer received calls regarding cutouts on Carolina. She was told residents should call Public Works.

LPA Member Dunlap questioned the status of the duties and responsibilities document. Town Attorney Stuparich replied that it would come back in October. Chair Cereceda brought up the September schedule and the election. LPA Member Dunlap indicated different categories of agenda items did not require the same amount of attention and time. LPA Member Boan stated the staff should not feel political pressure to get something done before the election. They should be able to set an agenda they are comfortable with. Planner Propst stated they were still working on all items for next Tuesday's meeting. LPA Member Boan asked whether moving the meeting to the following week would be helpful. Planner Propst replied that she would have to check the advertising schedule. Chair Cereceda will meet with several town officials regarding the meeting on September 10. Chair Cereceda suggested that the town council and planning department discuss public benefits and height. LPA members agreed that she should request a joint 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

No items.

XIII. ADJOURNMENT

LPA Member Dunlap moved to adjourn, seconded by LPA Member Plummer
The motion carried unanimously.

The meeting was adjourned at 1:18 p.m.

Minutes adopted as presented, October 22, 2024; Motion by LPA Member McLean and seconded by LPA Member Eckmann Passed 7-0.



Amy Baker, Town Clerk