Fort Myers Beach Local Planning Agency

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

Minutes **Tuesday, December 3, 2024** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Vice Chair Plummer, LPA Member Boan, LPA Member Dunlap, LPA Member Eckmann, LPA Member McLean and LPA Member Sudduth (virtually).
Excused: Chair Cereceda
LPA Member McLean moved to allow LPA Member Sudduth to participate virtually, seconded by LPA Member Boan.
The motion carried unanimously.
LPA Member Eckmann moved to approve an excused absence from Chair Cereceda, seconded by LPA Member McLean.
The motion carried unanimously.

II. INVOCATION

Chair Cereceda

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

V. APPROVAL OF MINUTES

A. Local Planning Agency - November 12, 2024
LPA Member Dunlap moved to approve the minutes, seconded by LPA Member Boan.
The motion carried unanimously.

VI. PUBLIC COMMENT

No public comment.

VII. PUBLIC HEARINGS

VIII. PUBLIC HEARINGS

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

A. SEZ20240158, 1240 Estero Blvd, Shared Parking Lot

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240158 TO ALLOW SHARED USE PARKING LOT PER LDC SECTION 34-2011(2)a., FOR THE PROPERTY LOCATED AT 1240 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Stuparich read the title of the resolution. Ex parte communications: Vice Chair Plummer visited the site. No disclosures from other members. The applicant confirmed receipt of the agenda and background materials.

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

Reginald Beach, applicant, noted his property was sitting vacant and he wanted to do something constructive with the land.

No public comment.

LPA Member Eckmann moved to approve the special exception with the conditions recommended by staff, seconded by LPA Member Dunlap.

The motion carried unanimously.

B. DCI 20230090, Pink Shell Resort CPD

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR 6.02 ACRES OF THE PROPERTY LOCATED AT 275/322 ESTERO, 200 ESTERO, 192 ESTERO COMMON ELEMENT ONLY, 142 ESTERO, 171-191 ESTERO, 251-281 ESTERO, AND 309 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W1-0070D.028A, 24-46-23-W1-00700.0340, 24-46-23-W1-00700.0290, 24-46-23-W1-00700.0330, 24-46-23-W1-00700.0320 , 24-46-23-W1-03700.00CE, & 24-46-23-W1-04100.00CE IN FORT MYERS BEACH, TO ALLOW EXPANSION OF THE EXISTING PINK SHELL BEACH RESORT TO INCLUDE A NEW 40 UNIT RESORT HOTEL, 4 ADDITIONAL HOTEL UNITS IN THE WHITE SANDS BUILDING, AND A DUPLEX; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Chair Plummer read the title of the ordinance. Ex parte communications: LPA Member McLean met with the owners and developers for a presentation and Vice Chair Plummer visited the site. All LPA members received emails regarding the project. Town Attorney Stuparich indicated that there was an error in the title and Planner Propst read the update: TO

ALLOW EXPANSION OF THE EXISTING PINK SHELL BEACH RESORT TO INCLUDE A NEW 40 UNIT RESORT HOTEL 2 ADDITIONAL HOTEL UNITS IN THE WHITE SANDS BUILDING, AND TWO STAND-ALONE GUEST STRUCTURES.

Richard DeWitt, attorney, represented the intervenors and asked LPA Member McLean questions regarding the project presentation he attended.

Town Attorney Stuparich explained why the hearing was continued.

Planner Propst reviewed the background of the request and described the deviations as stated on the yellow sheet. She noted that staff recommended denial without prejudice, but conditions were included if the LPA recommended approval. She referred to the staff report when discussing reasons for denial. Vice Chair Plummer indicated that Pink Shell promised to keep the tennis court and parking lot area open in perpetuity to get their first CPD approved. Planner Propst responded that the covenant and restrictions recorded did not apply to the tennis court and parking lot but to the larger area where the parking lot and marina were. She stated that none of the density transfers ever worked and she did not know what maps they were basing them on. In her research, she could not find lot references to determine what was intended.

Attorney Amy Thibaut from Roetzel & Andress introduced the team and reviewed the request. Fred Drovdlic of RVi Planning commented that the presentation was sent to LPA members. He continued the presentation with Highlights Since Continuance. He read a letter in support of the boutique hotel from the board of Vacation Villas. The slides continued with the Master Concept Plan, Intensity and Density Summary, Intensity and Density Analysis, Equivalency Factor Comparisons, Current Hotel Rooms Open on Island, Stories and Height, Floor Area Ratio (FAR), Neighborhood Compatibility and Architectural Renderings. Bill Waichulis continued with Public Benefits as Conditions of Approval, Conceptual Landscape Plan for Estero Blvd and Boardwalk and Special Benefits as Conditions of Approval. Mr. Drovdlic continued with the monetary benefits associated with public benefits and the ten deviations.

LPA Member Eckmann asked why they needed 40 units. Mr. Drovdlic replied that the amenities were being underutilized and that 40 units would help sustain the resort economically in the long term. Robert Boykin, partner, stated that economics drove their decision to build 40 units rather than 20.

Mr. Drovdlic continued with the Path for Approval and Conclusion.

Attorney DeWitt represented the Estero Island Beach Villas and described his experience with property rights. He distributed information and summarized his findings. He indicated that this application and request were flawed and inconsistent with the comp plan. He noted the issue was density and the maximum equivalency factor was 3, but the applicant proposed an equivalency factor of 5.4. Approving the application would exceed the number of hotel units allowed within the CPD under the comp plan, violating policy 4-C-6 and future land use element 5-A-5. Attorney DeWitt stated that his clients were not against development; they were just against this project.

Public comment:
Phyllis Scroggie, resident, commented that the Pink Shell was a fabulous family resort. The boutique hotel would be a distance from the amenities at Pink Shell. She felt there was a safety issue with children crossing the street to the pool. She did not support the height.
Cathy Scholz, resident, distributed photos of the property from the bay and used props to show how large the boutique hotel was compared to Island Shores. She noted it was a building mass and purely an expansion because they were not rebuilding from Ian. She stated that the Pink Shell was not entitled to new density, height and setback variances. She asked the LPA to ask the applicant to modify their plan.
Frankie Kropacek, Operations & Compliance Director for the Town of Fort Myers Beach, described pump-out operations at the Mooring Field. He commented that the Pink Shell team had been a good partner regarding the town's operations.
Mr. Boykin, applicant, stated that it was not a perfect project, but they did their best and it was a good project.
Public comment closed.
Attorney Thibaut explained why she thought the project was consistent with the comp plan and policy 4-C-6. She noted that variances and deviations were available for a reason. She acknowledged that safety concerns were important, but they would have pushed for a crosswalk if they felt the public was at risk. She stated there was no restricted covenant on the Bayside parcel. According to Florida law, the owners who complained about the lack of a view were not legally entitled to a view.
Attorney DeWitt stated they were looking for consistency, not perfection. He read policy 4-C-6.
Town Attorney Stuparich described the role of the LPA in making a decision based on which experts they believed.
LPA Member Dunlap commented that they did not have to guess what Pink Shell would do and he supported the project.
LPA Member Dunlap moved to approve the ordinance. No second.
LPA Member McLean had concerns regarding using the single lot for such intensity.
LPA Member Boan felt that the staff's denial was objective. He discussed public benefits justifying the height and thought being a good public partner was a public benefit and justified the deviations requested.
LPA Member Sudduth agreed they were a great public partner, but it was a new development.
Vice Chair Plummer did not support the project because the density transfer numbers did not add up and it was over what the marina parking was. She stated that the density had already been transferred across the street.
LPA Member Eckmann understood why the applicants wanted to build the hotel, but he felt the building was too large for the site.

LPA Member Boan moved to approve the ordinance with the 10 deviations and conditions for approval, seconded by LPA Member Dunlap.
The motion failed 4-2, with Chair Cereceda excused and Vice Chair Plummer and LPA members McLean, Eckmann, and Sudduth dissenting.
LPA Member McLean moved to recommend denial of the ordinance without prejudice based on the recommendations of staff, findings and criteria in the staff report and Condition 4 in Resolution 00-07/07A, seconded by Vice Mayor Plummer.
The motion carried 4-2, with LPA members Boan and Dunlap dissenting.

IX. ADMINISTRATIVE AGENDA

A. 2025 Calendar

Discuss and approve the monthly schedule for LPA meetings in 2025

The January meeting was rescheduled to the 9th at 9:00 a.m.
LPA Member Sudduth moved to approve the amended 2025 calendar, seconded by LPA Member Dunlap.
The motion carried unanimously.

Town Attorney Stuparich reviewed what would be on the agenda for next week's meeting.

X. LPA MEMBERS ITEMS/REPORTS

LPA Member Dunlap asked for an update on enforcing application restrictions for applicants with fines. Town Attorney Stuparich did not have one yet.
Vice Mayor Plummer commented that she used the town's Report a Concern on the first page of the website to report a water break and it was repaired by 5:00 p.m. on Saturday.
No items from other members.

XI. LPA ATTORNEY ITEMS/REPORTS

No items.

XII. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XIII. ITEMS FOR NEXT MONTHS AGENDA

Discussed.

XIV. ADJOURNMENT

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

Minutes adopted as presented, January 9, 2025; Motion by LPA Member Boan and seconded by LPA Member Sudduth. Passed 6-0.

Amy Baker, Town Clerk