



Fort Myers Beach Local Planning Agency

Town Hall Council Chambers

2731 Oak Street

Fort Myers Beach, FL 33931

Minutes

Thursday, January 9, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Dunlap, LPA Member McLean, LPA Member Plummer and LPA Member Sudduth.

Excused: LPA Member Eckmann

LPA Member Sudduth moved to excuse LPA Member Eckmann, seconded by LPA Member McLean.

The motion carried unanimously.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

The recording started with Attorney Bob Burandt talking about refunding the fees. Community Development Planner Sarah Propst stated that the special exception was not possible without the variances. She noted that continuing the hearing would not make a difference because the special exception would not be valid until the variances were approved. The special exception was not granted yesterday at the council meeting because it was continued.

Town Attorney Stuparich explained that Public Hearings A and B were related but were two separate actions. She suggested discussing B first. She noted the title of A had changed slightly.

LPA Member Dunlap moved to approve the amended agenda, seconded by LPA Member Plummer.

The motion carried unanimously.

V. APPROVAL OF MINUTES

- A. Local Planning Agency - December 3, 2024
LPA Member Boan moved to approve the minutes, seconded by LPA Member Sudduth.
The motion carried unanimously.
- B. Local Planning Agency - December 10, 2024
LPA Member Boan moved to approve the minutes, seconded by LPA Member Sudduth.
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. 2500 Estero Food Truck Park

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2500, 2510 AND 2518 ESTERO BLVD. AND 2543 COTTAGE AVENUE, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0120A.0100; 19-46-24-W3-01302.0000; 19-46-24-W3-01301.0000; 19-46-24-W3-0120A.013A IN FORT MYERS BEACH, TO ALLOW "OPTION A" MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND CULTURAL FACILITIES OR "OPTION B" A MOBILE VENDOR/FOOD TRUCK PARK WITH SHARED PARKING; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Stuparich read the new title of the ordinance and noted it was rezoning the four parcels as a project. See below for discussion and vote.

- B. 2500 Estero CPD Expanded Boundary

AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 07-28 FOR PARCELS LOCATED AT 2500 AND 2510 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0120A.0100; 19-46-24-W3-01302.0000, TO ADD PARCELS 2518 ESTERO BLVD. AND 2543 COTTAGE AVENUE, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-01301.0000; 19-46-24-W3-0120A.013A IN FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Stuparich read the title of the ordinance and noted two additional parcels were added to the project. Ex parte communications: all LPA Member received emails, LPA Member Dunlap met with the applicants and The Neighborhood Company, LPA Member Boan met with the applicant several weeks ago, LPA Member McLean met with the applicant and The Neighborhood Company and visited the site, Chair Cereceda met a relative and had a conversation the applicants and The Neighborhood Company and LPA Member Sudduth met with The Neighborhood Company.

Expert witnesses include Ken Gallander, Patrick Vanasse and Brandon Frey. The applicant confirmed receipt of the agenda and background materials.

Community Development Principal Planner Judith Frankel indicated this item was about changing the property's boundaries. The 2007 resolution created the CPD and only Option A was approved. The applicant's first request is to add 2518 Estero Blvd. and 2543 Cottage Ave. to the previous CPD. This ordinance and the ordinance under item A were initially combined, but they were separated into two ordinances for legal and clarity purposes. The LPA's first vote will be to approve or deny expanding the CPD boundaries to include these two properties. LPA Member Boan clarified that the 2007 schedule of uses would not change.

Principal Planner Frankel indicated the conditions were lengthy because the LDC (Land Development Code) did not include regulations for a food truck park. She added that the applicant provided food truck park regulations from three surrounding municipalities. Town Attorney Stuparich noted that the new schedule of uses would include some of the previous uses. Principal Planner Frankel stated that the applicant also provided parking regulations for the food truck park.

Principal Planner Frankel reviewed the noticing policy. The postcards were mailed one week before the meeting.

Ken Gallander of The Neighborhood Company started the presentation with Introductions - Project Team and Background Pre-lan. Jamie Hotka, applicant, reviewed the history of the property and different ideas for the future. Debbie Hotka described the family atmosphere at the food truck park in Bonita Springs and indicated they wanted theirs to be similar and cater to families. Dan Myers, co-owner, discussed the old businesses pre-lan and hoped they could find a place at the food truck park. He stated they were not bringing Times Square to the residential neighborhood.

Mr. Gallander continued with the Background - Moving Forward, Request, Aerial of Existing Boundary, Location, Site Design & Compatibility, Master Concept Plan, Concept Views - South, Corner of Estero & Chapel, Corner of Chapel & Cottage, North along Cottage, Southwest from Estero, Ground Level South from Estero Pathway, West from Parking Area, Location, Site Design & Compatibility, Transportation and Parking, Parking and Proposed Conditions/Commitments. Discussion was held regarding the lack of 15 dedicated parking spots since everyone entering the park had to pay, although Mr. Myers indicated vouchers would be available.

LPA Member Boan commented that people could sell out the parking lot in the morning and spend all day at the beach, preventing people from accessing the park later in the day. Mr. Hotka commented that the reserved spots could be included in the vendor's lease. Mr. Gallander continued reviewing the conditions.

LPA Member Plummer asked whether commercial parking lots had to be paved. Community Development Senior Planner Jason Smalley indicated that there was an option and the recording skipped. He listed current parking lots with sand, crushed shells or rock. Brandon Frey stated that there would still be runoff with pervious or impervious surfaces that had to be collected and treated before discharge. Regarding the evacuation of the trucks, the lease would include the requirement to remove them and the applicant would ensure it happened. The recording skipped to Town Attorney Stuparich talking about a separate state of emergency.

LPA Member Dunlap questioned whether lowering the light standards was allowed. Senior Planner Smalley replied that they would have to provide the minimum standards as required by the code. Mr. Gallander concluded the presentation with Findings and Conclusion. Mr. Hotka hoped to complete the project by next season, although obtaining permits may affect the timeline.

LPA Member Dunlap questioned what the town could do to prevent a half-completed project that sat for years. Town Attorney Stuparich responded that the council would monitor the development along the line to ensure things moved forward. The recording skipped to Mr. Vanasse mentioning erosion.

LPA Member Boan thought the park was a good temporary use, but the way it was proposed was not temporary. Mr. Gallander responded that it was not temporary and he felt it could help support the opportunities for the vendors to move to a brick and mortar. LPA Member Boan compared the implications between the food truck park and a restaurant in a building on the same site. LPA Member Sudduth questioned whether it was their task to decide the economics of the project.

Mr. Gallander stated that the Master Concept Plan for the food truck park and commercial parking lot did not include the three dwelling units. The property owners would have to come back to the council if they decided to add the dwelling units later.

Principal Planner Frankel reviewed the findings and conclusions for expanding the CPD boundary ordinance on page 220 of the agenda packet. She noted that the staff recommended approval for the expanded boundary. She reviewed the considerations and findings of the second ordinance and indicated that the staff found that the CPD with deviations meets the criteria. If the LPA agrees with the applicant's proposed parking calculations, the staff would recommend approval with the listed conditions. She added that the applicant was interested in making changes to the conditions and she would address the proposed changes. Principal Planner Frankel discussed condition 5 of the displayed list. She clarified that if the applicant wanted to add more vendor spots, they would have to come back before the council.

She continued discussing condition 12 regarding the parking lot, condition 16 about grease traps in the food trucks and "first right of refusal" in condition 24. Chair Cereceda received a consensus to eliminate condition 24.

Public comment:

Randall Briesath, PW of the Pelican Watch HOA, asked that they not vote today because the notices were received on January 7, 2025, and they did not have enough time to go through everything. He indicated many people were hearing this for the first time today. They retained an attorney because they did not know their rights. He asked for a continuance on behalf of Pelican Watch because they needed time. He described the constraints put on the board by law. They would like to make an informed decision.

Gary Fields, resident, objected because the developers deceived them by saying it was a temporary project, but they found out yesterday that it was not. He was not against commercial development and would like to see an enclosed restaurant at the site. All of their property values and their quality of life would be affected. He suggested the LPA deny the proposal and asked whether they would like to have the park ten feet from their door. He invited them to tour the property to see what it looked like from their perspective.

Susan Bonfigli, resident and the only inhabitable house left on Cottage appreciated a family-oriented business, but this seemed more like a commercial parking lot. She preferred that the vendors operate out of a permanent structure with designated parking for the business. She described living near the parking lot on Estero and Mango and said she did not want to live surrounded by parked cars. She noted that people consistently parked illegally even when paid parking was available next door. She described increased traffic on Cottage because it was a perfect circle and traffic was already a problem. She indicated that many trailers did not bother to remove their structures before Milton. She was not keen on having drunk people around her house and she described having to smell the food like she could from Mom's restaurant. She also worried about property values.

David Tezak, resident, thought it was a great idea but in the wrong location. He said it belonged in Times Square. The streets were only 30 feet wide and did not comply with commercial development, which required 50 feet by law. He noted that sidewalks had to be installed on Cottage and Chapel for ADA (Americans with Disabilities Act) requirements. He stated the subdivision was residential and not a commercial access that went through his properties. He talked about the increased traffic and devaluing his property. He described Mom's being out of compliance for years due to the lack of parking. He felt they should establish rules for food truck parks before voting.

Monica Tezak, resident, asked where the mobile vendors would park their personal vehicles. The people who park on the side streets will not pay to park to get food from a food truck. She described the times she could not leave her driveway because of the people parking on the street. She said it would end up looking like Avenue E and Avenue C and devalue her properties. She distributed a handout of concerns.

She supported a brick and mortar and discussed the smell and all the rats who came out from under Mucky Duck when they demolished it.

Ed French, resident, was opposed to the food court park in that area. He described people parking on his property, stealing his chairs and garden hose and using his property to defecate. He thought it was a good idea in the wrong place.

Tom and Deb Danford, residents, were not opposed to development because they were developers, but the parking was going to be a nightmare. Ms.

Danford discussed how they had to deal with the parking now and noted that the primary access to Chapel would create a congested traffic mess. She stated it was already difficult for them to access Estero. She brought up security and described drunk people on her property at all hours of the night. Mr. Danford thought better buffers, changing the access to Estero, better security and establishing hours of parking would help. Ms. Danford stated people would stay there all night drinking and partying. Their two houses were rentals and it was not fair to the renters to have to put up with that. She asked who would control the capacity issues.

Public comment closed.

LPA Member Plummer felt they needed a minimum of 10 designated parking spaces for the restaurants and how they would address employee parking.

Planner Propst stated that sidewalks were not required and the 50-foot requirement was probably a fire code requirement, but she could not speak to that. Principal Planner Frankel indicated that the parking calculations included employees and she described discouraging ingress and egress on Estero per the comp plan. Mr. Gallander was disappointed to hear the statement of deception, especially after reaching out to the neighbors. He could add where the surrounding buildings were to more accurately represent their project and evaluate the buffering. The access point off of Chapel already exists and they will evaluate the 24/7 parking. They would work with the town to enhance the Chapel and Cottage right-of-way buffers and promote a better aesthetic.

Mr. Vanasse addressed the deception statement and did not stand for being called a liar. He described how they reached out to the condo association four to five months ago to set up meetings. He agreed with the parking concerns and noted they would work out details to curb illegal parking. Chair Cereceda suggested that the parking should be free and only for businesses. Mr. Vanasse asked whether it was fair for them to subsidize public parking and he did not think it would benefit anyone. Mr. Hotka said he paid \$5.00 to \$10.00 to park when he ate at Wahoo Willies and Snug Harbor. He noted they would allow each vendor to lease a spot at a discount, but he wanted to leave that as an administrative function because it would be too hard to manage. He discussed the emails from the condo over the last four to five months to try to set up a meeting. He offered several dates to meet, but the condo only offered one day. He did not have a problem changing the 24/7 parking. Mr. Myers asked whether other places restricted parking and Chair Cereceda replied that he was in an existing neighborhood.

Chair Cereceda stated that she could not support the project in the neighborhood and wondered whether walls would help buffer the park. She thought it was a great idea but there were too many issues for her. LPA Member McLean noted the property had been undeveloped since Hurricane Charley, and they had the right to redevelop it, but the use was a reach from what they had before. He appreciated the creativity but would not support it. LPA Member Dunlap stated they were trying to put a basket of criteria around a future development set of standards and codes acceptable for Fort Myers Beach that were unenforceable. He did not feel comfortable setting a precedent around the criteria for a development. LPA Member Sudduth applauded the applicants and The Neighborhood Company for their idea.

LPA Member Plummer thought it was more of a service to the beach instead of families going there for dinner. She felt it would be great for a five-year plan.

LPA Member Boan moved to continue it to the next meeting so the neighbors could talk to the applicants. No second.

Chair Cereceda moved to deny the request for the food truck park, finding it inconsistent with the goals and objectives of the neighborhood because it was a commercial intrusion into the neighborhood, seconded by LPA Member Boan. Motion and second withdrawn.

Chair Cereceda moved to approve the ordinance to expand the CPA boundaries and the conditions of approval as found in the staff report, seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

Chair Cereceda moved to deny the request for the food truck park, finding it inconsistent with the goals and objectives of the neighborhood because it was a commercial intrusion into the neighborhood, seconded by LPA Member Boan.

The motion failed due to a tie.

LPA Member Sudduth moved to approve with conditions as modified by staff and amended during the meeting, seconded by LPA Member Dunlap.

The motion failed due to a tie.

LPA Member Dunlap moved for a continuance to February 11, 2025, at 9:00 a.m., seconded by LPA Member Sudduth.

The motion carried unanimously by roll call vote.

C. Lani Kai Variance

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE 20240233, REQUESTING FOUR VARIANCES FROM THE LDC FOR THE PROPERTY LOCATED AT 1479 ESTERO BLVD., GENERALLY REFERRED TO AS “LANI KAI” STRAP NUMBER 19-46-24-W4-0060B.0070, IN FORT MYERS BEACH 1) WAIVING REQUIRED PARKING FOR THE 25-UNIT HOTEL, REQUIREMENTS FOR 2) PARKING LOT CONFIGURATION, 3) LANDSCAPING REQUIREMENTS AND 4) DRIVEWAY WIDTH REDUCTIONS FOR ENTRANCES ON ESTERO BLVD.; 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. Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. He noted that he would prefer to holistically look at their parking lot next to Norms, the main building at 1400 and the parking and use on 1479 holistically so they could determine what parking was left over and available for commercial use. He indicated that this might be an opportunity to look at the use and condition it with the approval of this holistic plan where all the issues are separated and come up with an actual number of available commercial parking at the end. He said he would let code enforcement know the applicant was working with them.

Attorney Robert Burandt stated they were not asking for a commercial parking lot but a shared parking lot. Their goal was to rent to people who were staying at the hotel. He noted that the parking lot had been used as a shared parking lot for 35 years. He asked that they be grandfathered and not have to come into compliance with the rest of the code. He discussed code section 34-2019 regarding other uses of parking lots and explained how it applied to the applicant. He thought the LPA approved them using the extra spaces for public parking pursuant to 34-2019. He stated they were not against working with the town.

Town Attorney Stuparich noted the LPA approved the special exception and it went to the council. It was continued so the LPA could vote on the variance request and then the two would be together in front of the council. Planner Propst indicated that shared parking did require a special exception per table 34-1 and the variances were a way to allow them to continue operating without updating their landscaping. Attorney Burandt eliminated the first variance. Principal Planner Frankel commented that the reason the variance was there was to allow them to use the entire site for the paid commercial parking, but she was interrupted mid-sentence.

Attorney Burandt stated they did not want to repave the parking lot, add landscaping or reconfigure it. They just wanted to continue doing what they had been doing for 35 years. Discussion was held regarding all the parking lots and LPA Member Sudduth stated that the variance was for this lot, which had 25 parking spots.

LPA Member Boan asked if they wanted to amend their request for a variance to provide 25 parking spaces and the balance of the unused spots would be available for the public. Mr. Burandt agreed.

Senior Planner Smalley counted 30 spaces based on a 2022 approved LDO and 13 would be available to rent. He agreed that the first variance request was not necessary.

No public comment.

LPA Member McLean moved to approve the resolution with the removal of variance number one, include variances two, three and four and stipulate that the applicant will work with the town to develop a holistic parking strategy, seconded by LPA Member Sudduth.

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

D. SEZ20240257, 2654 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240257 TO ALLOW REPAIR OF POOL, POOL DECK, FENCES, GRILL AREA, FOOT-RINSE STATION, AND BEACH ACCESS STAIRS IN EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 2654 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

LPA Member Plummer read the title of the resolution. No ex parte communications were disclosed. Planner Propst reviewed the background of the request as stated on the yellow sheet. She noted the applicant was replacing what was lost from the hurricane.

Janette Dvorak, applicant, read a letter from Erica Wessel, who could not attend the meeting. She listed the items attached to the application and stated they were restoring the pool and deck to what it was before the hurricane.

No public comment.

LPA Member Dunlap moved to approve the resolution with conditions by staff, seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

E. VAR20240267, 63 Delmar Avenue

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240267, REQUESTING THREE VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 63 DELMAR AVENUE., GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0100H.0010 IN FORT MYERS BEACH, TO VARY FROM REQUIRED STREET SETBACK, AND SIDE SETBACKS TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT; AND 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 resolution. No ex parte communications were disclosed. However, LPA Member McLean lives on Delmar and is familiar with the property. Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He noted the staff recommended approval with conditions.

Kara Stewart represented the applicant and noted she was unaware of any opposition. She explained why they decided to locate the house where it was. Richard Durling, contractor from Marvin Homes, discussed balancing the home between the condo project and the existing home. No public comment.

LPA Member Boan moved to approve the resolution with the staff recommendation as conditions, seconded by LPA Member McLean. The motion carried unanimously by roll call vote.

VIII. ADMINISTRATIVE AGENDA

No items.

IX. LPA MEMBERS ITEMS/REPORTS

LPA Member Dunlap asked how they knew whether unanimous variance decisions were not challenged in 10 days. Town Attorney Stuparich replied that Town Clerk Baker tracked the timeline. After the deadline passed, the resolution was signed and a copy was provided to the applicant. She offered to attach signed resolutions to agendas. LPA Member Dunlap asked whether they could have a meeting where staff updates them on complex issues coming before them, similar to the council's M&P sessions. Town Attorney Stuparich responded they could schedule a workshop. Chair Cereceda agreed and noted the food truck park issue was a good example. She suggested discussing development agreements since the use was intended for small-scale projects and policy issues like bonding requirements. Principal Planner Frankel brought up discussing the frustration regarding the public surrounding noticing. She would have preferred to bring the food truck park ordinance to them first to determine whether they wanted them, but they needed a final comp plan and to look at the LDC. She agreed with working through issues beforehand.

Planner Propst was concerned about scheduling a workshop and explained why it would be a heavy lift for staff. She preferred to meet with them individually, and Chair Cereceda commented that would be clarification and would not solve the issue. Chair Cereceda suggested they talk to Planner Propst individually and figure out how to do it without burdening staff.

LPA Member Sudduth suggested scheduling simple issues at the beginning of the agenda.

LPA Member Boan asked whether they could tie approvals for a specific project to the landowner's other properties that were in disrepair or under code violations.

LPA Member Plummer noted a title search would reveal liens or problems with all properties. Town Attorney Stuparich will research the question.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS

No items.

XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Principal Planner Frankel suggested a resolution that sets policy about the noticing and put the burden on the applicant, especially if it was a CPD or development agreement. LPA members agreed. Principal Planner Frankel will provide a draft by the next meeting.

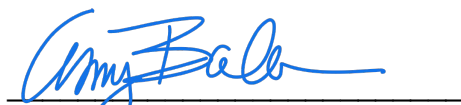
XII. ITEMS FOR NEXT MONTHS AGENDA

Chair Cereceda asked whether the planners could tell them what was in the queue before the agenda was published. Planner Propst indicated items in the queue included the church on Connecticut, potentially a couple of small hotels and potentially a very big development.

XIII. ADJOURNMENT

LPA Member Dunlap moved to adjourn and the recording stopped.

Minutes adopted as presented, February 11, 2025; Motion by LPA Member Sudduth and seconded by LPA Member McLean. Passed 7-0.



Amy Baker, Town Clerk