



Fort Myers Beach Local Planning Agency

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Tuesday, February 9, 2021

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Chair Megan Heil, Forrest Critser, Dan Hughes, Jane Plummer, Scott Safford, Karen Swanbeck and Patrick Vanasse.

II. INVOCATION

LPA Member Swanbeck.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Minutes from 1/12/2021 Meeting

LPA Member Critser moved to approve the minutes; second by LPA Member Safford.

Motion approved 7-0.

V. PUBLIC HEARINGS

A. VAR20200091 5730 Estero Blvd

Recommend approval of a variance from Land Development Code Chapter 34 Article IV Division 2 Sec. 34-1174(b) to allow the construction of two (2) accessory structures - a garage and pool - in front of the principal structure.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: All LPA Members disclosed a site visit or drive by except LPA Members Vanasse and Swanbeck.

Joe McHarris from McHarris Planning and Design represented the Holcomb family. He utilized slides for his presentation, including Existing Conditions, Requested Action/Variance, Reason for Request, Proposed Site Plan and

Impact to Public Safety and Surrounding Properties. Mr. McHarris stated that they were not interested in attaching the garage to the house with a breezeway.

Assistant Community Development Director Carl Bengé reviewed the background of the request. He indicated that a breezeway would not require a variance. Director Green stated that the restroom above the garage was conditioned and could not be converted to a habitable space.

LPA Member Hughes noted he supported the request. He questioned the sanctions regarding the restricted covenant. Town Attorney Herin, Jr. replied that the extreme remedy would be to remove the violation.

Mr. McHarris described landscaping and a fence along the front of the property.

Public comment:

Bobbie Kemp, resident, stated that the owners did a fantastic job and encouraged the LPA to grant the request.

Public comment closed.

Amended Motion: LPA Member Hughes moved to recommend approval of Variance 2020-0091, having found that it met the findings and conclusions on pages 8 and 9 in the packet, subject to the conditions of approval 1-4 as set forth on page 10, to eliminate condition 4 and the fine be subject to the general penal provisions of the LDC; second by LPA Member Plummer. LPA Member Plummer suggested that the \$500 per day fine be reduced to \$100 per day. Chair Heil stated that it was not their job to set penalties. Town Attorney Herin, Jr. stated that they could move to eliminate the language. LPA Member Hughes amended his motion and LPA Member Plummer amended her second.

Motion approved 7-0.

B. DCI 2020-0009 Myerside CPD Rezoning

DCI 2020-0009 Myerside CPD Rezoning

Ex parte communications: LPA Member Vanasse submitted a conflict of interest form (Form 8B). The applicant retained him to represent them and he would recuse himself from deliberations and voting. LPA Member Swanbeck - drive-by; Chair Heil - site visit and met with the owner; LPA Member Plummer - communications from 2015 but nothing regarding the current request; LPA Member Safford - site visit and met with the owner; LPA Member Critser - site visit and met with the owner; LPA Member Hughes - met with the owner.

Beverly Grady with Roetzel and Andres and Patrick Vanasse with RWA Engineering represented the owners. Attorney Grady reviewed the history of the cottages on the property. She indicated that the Town recommended that the property be rezoned for a small resort at a scale that fit the Town. She commented they were well within density and noted that staff recommended denial.

Slides displayed included: Request, Location, Future Land Use Map,

Redevelopment Intent, 1996 Commercial Rezoning Denial on Half of Subject Property, 1996 Rezone to CPD: Irrelevant to this Application and Changes from the 1996 Case. Attorney Grady listed several documents to be filed with the Town Clerk.

Mr. Vanasse commented that he would discuss proposed uses and commercial intrusion, density and master concept plan details. He disagreed with the staff's findings and conclusions. Slides included: Zoning Map, Project Location, Consistency with Comprehensive Plan, Consistency with Comprehensive Plan: Boulevard FLU Category, Consistency with Comprehensive Plan; Allowance for Primarily Commercial Uses - 70%, Consistency with Comprehensive Plan: Platted Overlay, Comprehensive Plan - Density Equivalency, Allowable Density, Existing Units & Allowable Guest Units, Density Analysis, No Commercial Intrusion, Comp Plan Policies Further Supporting Commercial Uses and Preserving of Cottages, Planned Development District, Master Concept Plan Phases, Consistency with LDC Sec. 34-85 - Rezoning Considerations, Proposed MCP & Enhancement to Existing Conditions, Deviations, Proposed Bay Oaks Improvements, Coastal Cottage, FMB History and Lee County Context, Matlacha.

~Recess at 11:11 a.m.

Back in session at 11:21 a.m. ~

Director Green reviewed the primary request, including consumption on-premise. He described the property's intensification over the years and discussed the uses of a hotel versus a single-family. He stated that he could not locate a staff report regarding Blvd. Policies 4-B-5 and 4-B-11 together. He discussed non-conforming density for existing residential uses and pre-disaster build backs. He stated they had to establish the base density before they could evaluate how much more that was. He noted the structures were not designated as historic structures. Director Green commented that this was the first new commercial request in the area since the town was incorporated and it was an intensification of the existing uses. He discussed policy 4-C-3, subcategories 4 and 6 regarding the boulevard category. He indicated that the policy in the overlay did not mention that one could ask for up to 10 dwelling units per acre; it allowed for 10 dwellings per acre for existing residential uses. The conflict was preserving old architecture, new standards and new flood regulations. He stated that they did not present sufficient justification for commercialization and the request was not consistent with the Town's comp plan and LDC.

Chair Heil noted it was a complex issue and she wanted more guidance on why staff was denying the request. Director Green replied that there was a difference of opinion on the interpretation of the policy. Town Attorney Herin, Jr. remarked that the Town's LDC, comp plan and state law required rezoning requests to have two opposing views. He added that it was a threshold matter and if the LPA agreed with staff, it was the end of the discussion.

LPA Member Hughes revealed that he was involved with writing the language

in question and he felt what was proposed was immanently consistent with the comp plan and fell right within the language. He did not think the request was inconsistent with what they contemplated at the time.

LPA Member Safford questioned the increased traffic concern in a residential neighborhood since the Town just bought land between two houses. He suggested that Bay Oaks would generate more traffic than a little hotel.

Director Green agreed and stated they addressed the circulation, the turnover and conflicts with commercial driveways and School St. LPA Member Safford questioned whether the applicants were willing to have the cottages historically recognized. Beverly Milligan, owner, stated that their documents for historical consideration were ready to submit as soon as the Historic Preservation Board (HPB) became active again. LPA Member Safford questioned adding bike racks. Mr. Vanasse replied that they would add them. LPA Member Safford questioned whether the cottage they were trying to put on the property could be relocated. Mr. Vanasse responded that they chose that location to allow room for water management. LPA Member Safford questioned what could happen if they sold the property. Mr. Vanasse stated that new owners would have to abide by the master concept plan. If they wanted to amend it, they would have to follow the steps to apply for a rezoning amendment.

LPA Member Plummer stated that the four homes in the area were short-term vacation rentals and the whole neighborhood evolved into something else. The comp plan protected a residential area that no longer existed. Director Green agreed with the general concept, but they were stuck with the policy and regulations unless they changed them. He noted they could not change the future land use map and they tried to shoehorn development to fit into existing policies.

Chair Heil brought up the two Town-owned parking spots. Director Green commented that if they approved the request, they would work with Public Works to finalize the street design. Chair Heil requested clarification regarding the bolded policy on page 51. Director Green stated that it was open for interpretation.

LPA Member Critser questioned whether School St. was considered a street or a parking lot. Director Green replied that it was a street, but the Town treated it like a parking lot.

Chair Heil noted there were two different interpretations of density. Director Green replied that the overlay applied to existing residential uses. Mr. Vanasse stated they currently had 12 units, the maximum was 10 and they had the right to ask for 14. Director Green indicated the policy was to protect the individual residential unit. Town Attorney Herin, Jr. summarized that if they granted the rezoning request, the master plan would have to be approved and that would control the property. LPA Member Swanbeck questioned how they had the right to approve it and add conditions that could limit it. Town Attorney Herin, Jr. responded that it was their prerogative as the LPA to add conditions. Director Green clarified that the LPA and Town Council required a higher bar for projects that requested over a 2 multiplier.

Mr. Vanasse stated that the question was whether they were compatible or not. He noted the property did not back up against single-family homes. LPA Member Swanbeck described changes in the area since 1996.

No public comment.

LPA Member Hughes brought up the opportunity to preserve cottages. If approved, a commercial development plan would memorialize and protect them from future changes. He indicated he did not have a problem with the density.

LPA Member Swanbeck expressed concerns about new owners redeveloping the property and precluding it from happening up and down the island. She mentioned adding conditions to protect it.

LPA Member Critser discussed the importance of saving the cottages and keeping their heritage. He supported the rezoning request.

LPA Member Plummer stated that there was no public opposition concerning the request and the opportunity to preserve the historical cottages was important. She felt it was a benefit to the community and she liked the idea of a small resort with a restaurant. She suggested adding a condition that the owners move forward with the HPB documents. She indicated that consumption on-premises should be addressed. Town Attorney Herin, Jr. noted they could condition beverages subject to compliance with the Town's licensing requirements. Discussion was held regarding conditioning live entertainment, outdoor speakers and the restaurant. Director Green suggested a general condition regarding alcohol with options from the applicant before presenting to Town Council. He stated he would work with the applicants concerning language.

Chair Heil concluded that some of the Town's objections were thin and she felt it complied with the comp plan. She noted that the comp plan discussed saving cottages. LPA Member Swanbeck agreed that protecting the cottages was an important factor. She noted the community universally agreed during the original comp plan charettes.

Chair Heil moved to recommend approval of DCI 2020-0009 Myerside CPD Rezoning with conditions that meet criteria in the comp plan and LDC; a condition to bring forth ideas on alcohol consumption on-premise; a condition for noise abatement and to obtain a historical significance; second by LPA Member Plummer.

Motion approved 6-0 with Mr. Vanasse recused.

VI. ADMINISTRATIVE AGENDA

A. Comprehensive Plan Update Status

The Corradino Group will provide a project status of the Comprehensive Plan updates

James G. from The Corradino Group spoke via phone concerning his

experience. PowerPoint was utilized for their presentation. Slides included: Project Tasks and Timeline, Preliminary Review, Are There Additional Areas We Should Focus On and Online Survey. Director Green questioned the vision for the community and whether it needed to be updated. Chair Heil questioned why hospitals and long term care facilities were included. Director Green replied that they had to evaluate and address them under state law.

Director Green noted an online survey was available for public input. LPA Member Vanasse cautioned that they needed to take the time to get it done and be careful about creating unfunded mandates. Director Green replied that the schedule was aggressive to encourage the public to participate, but they would slow down if needed to address critical issues. Chair Heil was concerned that the public input would occur in the summer when fewer people were in Town. Director Green mentioned the online format and agreed that the timing was tricky.

LPA Member Plummer questioned the alternative water source. Director Green replied that the state developed a list of criteria that all communities had to evaluate.

Director Green explained that Vision Zero was a state regulation concerning eliminating bike and pedestrian deaths.

LPA Member Hughes questioned whether the scope encompassed portions of the Land Development Code (LDC). Director Green indicated that a lot of reorganization needed to be done and some items in the Comprehensive Plan (Comp Plan) would be moved to the LDC and vice versa.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Plummer suggested that every person evaluate their home security and smoke detectors.

Chair Heil volunteered to attend the March 1, 2021, Town Council meeting. She questioned whether the code enforcement system was set up to report code violations anonymously. Community Services Administrator Daphnie Saunders explained the process and stated that people could anonymously call in a complaint. She noted they operated under a complaint-driven system and wanted to work with people to bring them into compliance.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

X. ITEMS FOR NEXT MONTHS AGENDA

No items.

XI. PUBLIC COMMENT

No public comment.

XII. ADJOURNMENT

LPA Member Safford moved to adjourn; second by LPA Member Plummer.

Motion approved 7-0.

Meeting was adjourned at 1:07 p.m.