



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)**

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
November 13, 2012

I. CALL TO ORDER

Meeting was called to order at 9:05 a.m. by Vice Chair Zuba; other members present:

Al Durrett
John Kakatsch
Jane Plummer
Joanne Shamp – excused.
Alan Smith
Hank Zuba

LPA Attorney, Marilyn Miller
Staff Present: Walter Fluegel, Community Development Director
Leslee Chapman, Zoning Coordinator
Ken Miller, Building Safety Services Coordinator

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES

A. Minutes of October 9, 2012

MOTION: Mr. Kakatsch moved to approve the October 9, 2012 minutes as presented; second by Ms. Plummer.

VOTE: Motion approved 5-0.

V. PUBLIC HEARING

A. VAR2012-0001 Neptune Inn

Vice Chair Zuba opened the hearing at 9:08 a.m.

LPA Attorney Miller swore in the witnesses.

Zoning Coordinator Chapman presented comments for VAR2012-0001 Neptune Inn sign variance on behalf of the Town of Fort Myers Beach. She noted the location of the subject property was 2310 Estero Boulevard; and the request was for a variance from 30-154(c), which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 4'6" for the monument supports and an overall height of 8'. She pointed out that also included was a new request for a variance from Section 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback; and she noted this new request had not been heard at the LPA meeting in August which was the reason why the variance request was remanded from the Town Council back to the LPA. She displayed photographs of the existing conditions of the subject property; reviewed site considerations (existing sign, planted hedge – at grade – maintained at 48-55" +/-). She reported the request was reviewed according to the Town's supporting regulations (Section 34-87), and that staff's position on their review remained the same as when the request came before the LPA in August. She discussed how staff worked to find the minimum variance for the subject property; displayed the artist's rendering of the initial request and monument sign dimensions (Section 30-154(c)-4'3" to the bottom of the sign and 8' 10" overall height) at the August 14, 2012 LPA meeting; and staff's original recommendation of denial and an alternative recommendation of 6'6" and the LPA's approval with a revised overall height allowance from staff's recommendation to a height of 8'7" from the August meeting. She briefly reviewed the public hearing from the Town Council Meeting on October 1, 2012; and how Council wanted additional detail and analysis before making a decision so they continued the case to their November 5th meeting with directives that the applicant was to provide additional analysis of the hardship on-site and reconsider their request to ensure it was the minimum variance necessary. She reported that staff met on-site with the applicant and his sign contractor on October 10th, and discussed alternative locations, wall signs, zero foot setback, height, and measured off the alternative recommendation height of 6'6", and the applicant was to provide updated documents to staff in time for the November 5th Council Meeting. Zoning Coordinator Chapman stated the applicant came back with a reduced height request from 8'10" to 6', and a new variance request for a zero foot setback which had not been heard by the LPA in August and ultimately required the Town Council to remand the request back to the LPA. She displayed an artist's rendering of the sign depicting the request at 6' and a zero foot setback; and noted that the applicant met with staff on-site on November 6, 2012 to discuss the 6' height request, hedge, and minimum variance necessary. She also discussed and displayed an artist's rendering of the current request for a zero foot setback and 4'6" to the bottom of the sign and an overall height of 8'; the applicant's concern about the hedge height; and the sign face. She noted that the applicant believed that wall signs were not an option because the building was set too far back and staff had disagreed. She mentioned staff did recognize the buffering value of the existing hedge. Staff recommended approval of the requested setback variance which required 3' to the zero foot setback; and denial of the requested variance for an overall height of 8'. She stated that staff did offer an alternative

Town of Fort Myers Beach – Local Planning Agency

November 13, 2012

Page 2 of 9

recommendation with conditions and in particular pointed out #4, *“The existing hedge planted in place long the subject property’s Estero Boulevard property line must be maintained at 36” in height at all times. Removal of the hedge or maintenance of the hedge less than 36” will cause this variance to expire.”* She remarked that if the hedge was used as a justification for the variance then there needed to be a recommendation or condition as part of it that was clear that the hedge must be in place.

Mr. Plummer asked if there was a standard height for most vehicle headlights as it related to the hedge height.

Zoning Coordinator Chapman explained it depended upon the vehicle model.

Discussion ensued regarding a 36” height and the hood of a car; the proposed hedge height of 36” for the hedges that run parallel to Estero Boulevard; the previous approvals by the LPA for the subject property; and whether or not there were encroachment issues onto Estero Boulevard at the subject site.

KC Williams representing the Neptune Inn, and Grant Vosburg of Robson Corporation of Sarasota, introduced themselves.

KC Williams, representing the Neptune Inn, stated his presentation would include photos of a ‘physical mock-up of the sign’ with it held at different heights. He recounted his description of the meeting with staff on November 6, 2012. He prepared and utilized a PowerPoint presentation which highlighted the basis for his variance request such as but not limited to the height of certain vehicles with respect to sign visibility, the angle of the building as it related to Estero Boulevard and visibility, the planter box and hedge height, a zero setback, and the unsuitability of other locations for the sign on the property.

Discussion ensued regarding the hedge height, wall signage, the signage limitation of 32 square feet, and the proposed graphics on the sign.

Grant Vosburg from Robson Corporation of Sarasota explained the basis for why he configured the proposed sign as presented by the applicant.

Discussion was held concerning a ‘hanging sign’; the current height of the hedges (approximately 55”); the proposed maintenance height of the hedges and replacement if the hedge died; staff’s recommendation and the applicant’s requested sign dimensions; sign square footage, lettering, and graphics; and on-site vehicle parking as it related to sign visibility.

Community Development Director Fluegel explained how staff had struggled to find the minimum variance that was necessary, and how deliberation would need to determine the more important aesthetic consideration - the vegetation or the signage.

Public Comment opened.

No speakers.

Public Comment closed.

Vice Chair Zuba asked if any LPA Member had ex-parte communication regarding this item. Mr. Kakatsch – none; Mr. Durrett – none; Mr. Zuba – site visit; Mr. Smith: - site visit; Ms. Plummer – site visit.

Zoning Coordinator Chapman restated that staff was recommending approval for the Staff recommended approval of the requested setback variance which requires 3' to allow the zero foot setback; and denial of the requested variance for an overall height of 8'. She stated that staff did offer an alternative recommendation of a 6'6" height requirement with a 36" base with a planter and shrubs maintained at 36" and the sign face would be the remainder of the 42" with the 6'6" overall and 9 conditions.

Discussion was held concerning the hedge height, viewing angle of the sign as it related to the hedge height, and the requested 8' overall sign height and zero setback.

Ms. Plummer requested Mr. Williams review his 'mock-up' photographs again.

KC Williams displayed and reviewed the photographs in his presentation showing a 'physical mock-up of the sign' held at different heights.

MOTION: Mr. Kakatsch moved to recommend for VAR2012-0001, Neptune Inn, that the Town Council approve the applicant's request for a variance from Section 30-93(b) to allow a monument sign with a 0' setback from the front right-of-way/property line of the subject property; and recommend the Town Council approve the applicant's request for a variance from Section 30-154(c) of the LDC which incorporates a 4'6" tall sign base and an overall sign height of 8', measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

1. The height of the sign, as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the highest point of the sign face or its supporting structural elements is not to exceed 8'.
2. The sign base as measured from the highest adjacent grade or the crown of the adjacent street, whichever is higher, is not to exceed 4'6" in height.
3. The sign setback as measured from the front right-of-way/property line will be zero (0) feet.
4. The existing hedge planted in place along the subject property's Estero Boulevard property line must be maintained at 4'6" in height at all times. Removal of the hedge or maintenance of the hedge at a height less than 4'6" will cause this variance to expire.
5. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
6. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.

7. If the principal on the subject property was removed or replaced for any reason, the variance would expire. The sign allowed by the variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of regulations in effect at the time of application for a permit.
8. The applicant has 60 days from the day of Town Council approval to permit and install the approved monument sign.
9. The applicant must provide an as-built survey of the sign and foundations to confirm the zero (0) foot setback, and no right-of-way, encroachment, prior to Town approving the final inspection of the sign permit.

Recommended Conditions of Approval:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question;
second by Mr. Durrett.

Discussion was held concerning the maintenance height of the hedge.

VOTE: Motion approved; 5-0.

Vice Chair Zuba closed the hearing at 10:08 a.m.

B. IPMC

LPA Attorney Miller noted that Chair Shamp had many good comments about the proposed ordinance concerning the International Property Maintenance Code (IPMC). She mentioned how she had prepared the proposed ordinance. She reviewed the 'red-line' copy of the proposed ordinance she submitted to the LPA which indicated the changes recommended by the LPA at the September 11, 2012 meeting.

Discussion ensued regarding the proposed added language in the red-line copy:

Town of Fort Myers Beach – Local Planning Agency

November 13, 2012

Page 5 of 9

- Page 6 – maintenance of trees and shrubs and horizontal and vertical clearance from sidewalks, bicycle paths, and street rights-of-way; weed control and sea oats; inoperable/unregistered motor vehicles or boats.
- Page 7 – exterior storage, outdoor storage; disposal of swimming pool water; use of the ASTM standard as it related to disposal of pool water.
- Page 8 - premise identification; placement times for trash cans and types of trash can screening; premise window screening and operable doors requirements; stairways and lighting.
- Page 9 – storm drainage; screening of mechanical equipment on commercial properties.

LPA Attorney Miller noted that some items were left out of the proposed ordinance because it was covered in other sections of the Town's Code such as but not limited to 'noise'.

Mr. Smith questioned Page 2, Section 6.2, regarding where 'International Building Code' appeared the term 'Florida Building Code' would be substituted.

LPA Attorney Miller explained that after Hurricane Andrew the State of Florida pre-empted to review buildings codes and developed their own buildings codes by State Statute.

Vice Chair Zuba asked if by adopting the IPMC into the Town's Codes gave them more tools to address deterioration.

Ken Miller, Building Safety Services Coordinator for the Town of Fort Myers Beach, responded in the affirmative. He added that the existing Land Development Code was vague in certain areas as it pertained to property maintenance.

Discussion was held concerning other Florida communities that had already adopted the IPMC; and the definitiveness of definitions in the Code and how that related to an enforcement tool.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Ms. Plummer moved to recommend approval of the adoption of proposed Ordinance 2012-015 International Property Maintenance Code (IPMC); second by Mr. Smith.

VOTE: Motion approved; 5-0.

Vice Chair Zuba closed the Public Hearing at 10:44 a.m.

Adjourn as LPA and Reconvened as Historic Preservation Board - Withdrawn

VI. LPA MEMBER ITEMS AND REPORTS

A. Committee Reorganization

Vice Chair Zuba explained at this time it was necessary to discuss and determine the Chair and Vice Chair positions for the LPA.

LPA Attorney Miller ensured that the LPA Members all had received Chair Shamp's letter indicating that she did not wish to be nominated for Chair. She opened the floor for nominations.

Ms. Plummer nominated Mr. Zuba for Chair.

LPA Attorney Miller asked if there were any other nominations; seeing none, closed the floor for nominations.

QUESTION: LPA Attorney Miller asked who was in favor of Mr. Zuba as Chair of the LPA.

VOTE: Nomination approved 5-0.

LPA Attorney Miller opened the floor for nominations of Vice Chair.

Mr. Kakatsch nominated Ms. Shamp for Vice Chair.

LPA Attorney Miller asked if there were any other nominations; seeing none, closed the floor for nominations.

QUESTION: LPA Attorney Miller asked who was in favor of Ms. Shamp as Vice Chair of the LPA.

VOTE: Nomination approved 5-0.

Discussion was held regarding the Chair and Vice Chair positions for the Historical Preservation Board and the current Chair (Ms. Plummer) and Vice Chair (Mr. Kakatsch); and both indicated they would accept remaining in their respective capacity.

Chair Zuba nominated Ms. Plummer as Chair and Mr. Kakatsch as Vice Chair of the HPB.

LPA Attorney Miller asked if there were any other nominations; seeing none, closed the floor for nominations.

QUESTION: LPA Attorney Miller asked who was in favor of Ms. Plummer as Chair and Mr. Kakatsch as Vice Chair of the HPB.

VOTE: Nomination approved 5-0.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel reported staff was working on a date for the joint meeting, and requested the LPA Members forward to him any topics they may want to consider for placement on the Joint Meeting Agenda.

Ms. Plummer suggested a play area on Fort Myers Beach since the Town was ‘family-oriented’.

Mr. Zuba suggested an update on the Seafarer property.

Community Development Director Fluegel suggested Seafarer be included within a ‘downtown and transportation issues’ update. He added that the Selection Advisory Committee was forwarding a recommendation to Town Council for November 19th for a land use consultant, and briefly described the consultant’s initial scope of work (i.e. Seafarer).

Discussion was held concerning five of the responsive consulting firms reviewed by the Selection Advisory Committee with Calvin Giordano ranked as number one.

Mr. Kakatsch commended staff for their work on the demolition of the buildings on 4545 Estero Boulevard.

Discussion was held concerning the building demolition; another potential demolition for an unsafe structure on Avenue E; the 50% rule and the National Flood Insurance Program; non-conforming structures; density and density credits; future Comp Plan review; deferred maintenance and unsafe structures; possible Town-initiated rezoning; and building elevations, FEMA elevation grants, and FEMA standards.

Mr. Kakatsch suggested placing the water and sewer issue on the Joint Meeting Agenda.

Zoning Coordinator Chapman recapped the suggested items for the Joint Meeting Agenda:

- Play areas
- Seafarer property
- Downtown and transit issues
- Estero Boulevard water, sewer, and drainage issues
- FEMA 50/50 rule

Mr. Kakatsch noted the activities on San Carlos Island.

Community Development Director Fluegel briefly described the Ebtide rezoning request to Lee County and gave an update on the status of the project. He noted the project would come before a Lee County Hearing Examiner tomorrow, and the Town had obtained the services of a traffic consultant to review Ebtide's proposal. He reported the traffic consultant did find some issues with Ebtide's project because there would be impacts on Estero and San Carlos Boulevards; and that Council did approve a resolution which would be part of the package presented by the staff to the Hearing Examiner. He added that the Town would be requesting the developer conduct a Traffic Impact Mitigation Plan to address the issues with Estero and San Carlos Boulevards.

Discussion was held concerning the traffic impacts to Estero and San Carlos Boulevards and potential impacts to water quality.

IX. LPA ACTION ITEM LIST REVIEW

X. ITEMS FOR NEXT MONTH'S AGENDA

XI. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XII. ADJOURNMENT

MOTION: Motion by Ms. Plummer, seconded by Mr. Smith to adjourn.

VOTE: Motion approved, 5-0.

Meeting adjourned at 11:12 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Signature

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