



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

Town Hall – Council Chambers  
2523 Estero Boulevard  
Fort Myers Beach, Florida  
**Tuesday, May 14, 2013**

**I. CALL TO ORDER**

Meeting was called to order at 9:01 a.m. by Vice Chair Shamp; other members present:

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

LPA Attorney, Marilyn Miller  
Staff Present: Walter Fluegel, Community Development Director  
Leslee Chapman, Zoning Coordinator  
Josh Overmyer, Planning Coordinator

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

**IV. MINUTES**

A. Minutes of April 9, 2013

**MOTION:** Mr. Smith moved to approve the Minutes for April 9, 2013 as presented; second by Mr. Kakatsch.

Vice Chair Shamp questioned Page 12 as it pertained to a condition of approval regarding the overhang.  
Motion maker withdrew the motion; second agreed.

Approval of Minutes postponed until next month; staff asked to verify conditions of approval regarding the overhang and the right-of-way for the Beached Whale.

LPA presented Zoning Coordinator Chapman with a Resolution in honor of her upcoming wedding.

## **V. PUBLIC HEARINGS**

### **A. VAR2013-00001, Lani Kai**

Vice Chair Shamp opened the Public Hearing at 9:06 a.m.

Zoning Coordinator Chapman reported staff sent an email to the Lani Kai's agent informing them of today's hearing; however, Attorney Burandt had a scheduling conflict. She stated the Applicant's attorney and Town staff requested to continue VAR2013-0001 to the next LPA meeting.

Discussion ensued regarding the number of 'continuances' permitted for an Applicant.

Town Attorney Miller stated she was informed the Applicant's attorney had a deposition for a federal case scheduled prior to receiving notification from the Town about today's hearing. She reported an applicant must send their request for a continuance in writing to the Town Manager at least one day prior to the advertised hearing, or appear at the public hearing and orally request a continuance; and that an applicant may be entitled to one continuance before the LPA and one continuance before the Town Council as a matter of right; and upon a showing of good cause each body may grant additional continuances.

Public Comment opened.

No speakers.

Public Comment closed.

**MOTION:** Mr. Steele moved to approve the Applicant's request for a continuance of VAR2013-0001, Lani Kai sign ordinance, to a date certain of June 11, 2013 at 9:00 a.m.; second by Mr. Kakatsch.

**VOTE:** Motion approved, 6-0.

## B. Lee Plan Update

Community Development Director Fluegel stated Lee County staff was in attendance to present the *Lee Plan Update – New Horizon 2035 Lee Plan*.

Kathie Ebaugh, Principal Planner with the Lee County Planning Department, introduced Andy Getch, Transportation Planner, and stated they would present an update on the EAR Based Amendment to the Lee County Comprehensive Plan. She reported the County began their work in 2010 by updating their vision – *‘Lee County will be a highly desirable place to live, work, and visit; recognized for its commitment to a sustainable future characterized by a healthy economy, environment, and community. She noted that because of its commitment, Lee County will be a community of choice – valued for its quality of life; varied natural environment; unique sense of history and place; distinct urban, suburban, and rural communities, diverse economy and workforce; and varied travel options’*. She utilized a PowerPoint presentation to describe and discuss the following highlights of the New Horizon 2035 – EAR:

- Livable Places – quality of life, sense of place, mixed use
- Strong Connections – people, businesses, parks, public services, public resources
- Community Character – diverse, distinct, local
- Balanced Development – balanced, integrated, diverse, green
- New Horizon 2035 Process – updated EAR, working on the Comprehensive Plan update (planning principles, long-term objectives), organization structure, and the Land Development Code Update (development practices and implementation procedures) would be the final step

She continued to utilize the PowerPoint presentation and reviewed:

- **Lee Plan Update – Central Themes**
  - Urban – promote
  - Suburban – support
  - Rural – maintain
  - Mixed-Use – facilitate
  - Connections – expand
  - Approval process – simplify
- **Urban Development**
  - Features – higher densities, mixed-use centers, multimodal, urban service level
  - Practices – incentive density, TDR receiving areas, priority CIP, no allocation tables
- **Urban Development**
  - Increased density
    - Urban core (15-25 units standard; 40 units incentive)
    - Urban Place – (8-18 units standard; 25 units incentive)
    - Urban Neighborhood – (4-8 units standard; 16 units incentive)
- **Suburban Development**
  - Form
    - Moderate density
    - Residential homes
    - Economic & Commercial Centers

- Practices
  - Support Local Character
  - Density Reflect Development (Lehigh Acres, Whiskey Creek, The Villas, Veranda, Estero, and San Carlos Park)
  - No allocation table
- Reflect Existing Density
  - Suburban 6 – (4-6 units standard; 10 units incentive)
  - Suburban 4 – (2-4 units standard)
  - Suburban 2 – (up to 2 units standard)
  - Coastal Suburban – (up to 3 units standard)
- **Rural Areas**
  - Form
    - Lowest density
    - No category changes
    - Agricultural Focus
  - Practices
    - TDR sending areas
    - Allocation table
    - Rural service levels
  - Maintained Adopted Density
    - Rural – up to 1 unit standard
    - Outer Islands – up to 1 unit standard
    - Rural Community Preserve – up to 1 unit standard
    - Open Lands – up to 1 unit per 10 acres standard; up to 1 unit per 5 acres incentive
    - DR/GR – up to 1 unit per 10 acres standard
    - Wetlands – up to 1 unit per 20 acres standard

She displayed a copy of the proposed Land Use Map and noted the biggest change was in Lehigh Acres. She noted the mixed-use centers were critical to the County becoming a more ‘urban/suburban distinct place’; and that the County was working with the area around Edison College, North Fort Myers, Tice and in the center of Lehigh to develop zoning plans that would allow for a developer to go right to the Development Order stage. She continued to utilize the PowerPoint presentation and reviewed:

- Mixed-Use Centers
  - Practices
    - Increased density/intensity
    - Increased building envelope
    - Multimodal
    - Public spaces
    - Shared parking
  - Incentives
    - TDR receiving areas
    - Capital improvements
    - Streamlined reviews
    - Planning assistance

- Relaxed parking standards
- Connection Places
  - Transportation Options – (hub & spoke transit; safe streets; trails & sidewalks; blueways)
  - Diverse Communities – (local goals & visions; unique character)
  - Varied Public Spaces – (neighborhood parks & spaces; community center; regional open spaces)
- Approval Process
  - Simplified – non-regulatory LOS/Concurrency (transportation, parks, schools)
  - Reduced site location standards
  - No amendment cycle
  - Administrative mixed-use approvals

She explained the County staff was currently looking at the future land use element; and that the transportation & land use maps (other than the two displayed today) remained to be addressed. She added they would bring back the entire document to the LPA, Horizon Council, and the CSAC in the autumn; and afterward the documents would be forwarded to the BOCC and then onto the State agencies.

Vice Chair Champ noted that one of the Town's concerns was regarding 'multimodal' transportation since the Town wanted to be a pedestrian-friendly island. She described the transportation/traffic problems the Town currently encountered.

Lee County Principal Planner Ebaugh explained how they have heard the same concerns from other communities in Lee County, and noted that staff was still working on the issue.

Andy Getch, Lee County Department of Transportation, indicated, as a former resident, he was aware of many of the transportation/traffic concerns; and noted that Estero Boulevard was a 'constrained' road [no capacity could be added to the road]. He reported County staff was working on improving the transportation system, the complete streets concept and safety for all users, reducing the number of overall vehicle miles travelled, and reducing traffic congestion. He stated the County's Draft Capital Improvement Program included a second mile for Estero Boulevard later on in their 5-Year Program.

Vice Chair Champ expressed her hope that the two miles were at the beginning of the Island and not at the south end. She suggested the County staff come to Fort Myers Beach on the 4<sup>th</sup> of July and ride a bicycle the length of the Island. She explained how most residents wanted to ride a bicycle or walk from their homes to the store or other places on the Island but could not due to safety issues.

Lee County Principal Planner Ebaugh reported County staff just completed a 'walkability' study which had been requested by the Tice community; and indicated staff was glad to work with Town staff on taking a similar type of tour of the Island.

Mr. Durrett noted that he and Mr. Kakatsch were also members of the Town's Public Safety Committee. He added that they had worked with Rob Phelan from the County, who has helped them to correct some safety problems and wanted to take the opportunity to publically acknowledge his assistance.

Mr. Kakatsch questioned if there was an incentive in the County's plan for updating or repairing properties.

Lee County Principal Planner Ebaugh stated that the County staff was always looking for new ways to incentivize; and ways to provide an incentive for redevelopment in the Urban Core was a great concept.

Community Development Director Fluegel discussed what the New Horizon 2035 Lee Plan meant to the Town:

- Town's EAR is due in August 2016; the County was working on their plan-based amendments. Town staff was looking at what the County was working on and what needed to be coordinated with the County (i.e. transportation element).
- Town staff's EAR evaluation process would look at the connection between land use issues and transportation solutions; limited access improvement through rezoning; and potential for incentivizing voluntary dedication or granting of easements.
- Strong relationship between the Town and the County and to create a unified approach on Estero Boulevard.

Discussion was held concerning the legal way for a vehicle to pass a trolley or a bus.

**MOTION:** Mr. Kakatsch moved to adjourn as the LPA and reconvene as the Historic Preservation Board; second by Mr. Smith.

**VOTE:** Motion approved 6-0.

**Adjourn as LPA and reconvene as Historic Preservation Board at 10:01 a.m.**

A. Discussion on Historic Recognition Process

Chair Plummer reported the Historical Advisory Committee met on April 23, 2013. She noted the sad loss of Roxie Smith who was Chair of the HAC. She indicated that A.J. Bassett had agreed to become Chair. She explained that there were 60+ properties on the Committee's Historical Significance-Designation List that they would like to pursue; however, after looking at the Comp Plan it only addressed the designations. She pointed out the Committee was receiving resistance due to restrictions placed on sites with a historical designation and the long process to become a historically designated site. She stated the HAC wanted to move forward with two historical designations and seven significant recognitions; however, they had no forms and looked to the LPA Attorney for guidance. She asked if there needed to be language in the Comp Plan to have a historical significance plaque.

Community Development Director Fluegel pointed out that there was a historical designation and significance/recognition.

LPA Attorney Miller noted she was unaware of any specific requirement in the Comp Plan and believed the Comp Plan was more of a general guidance; but, she did believe there was a need in the LDC to specify what the criteria would be and what would be the effect. She reported she spoke with Planning Coordinator Overmyer and she felt the recognition would not carry any particular rights (i.e. non-conforming status). She recommended the HAC should include something in the LDC (Division 4).

Community Development Director Fluegel suggested the HAC work with Planning Coordinator Overmyer to determine how the historical recognition differentiates from the historical designation process; and then contemplate a process for historical recognition.

Chair Plummer explained her belief that the HAC had already done what was suggested, and that the Committee now needed assistance in moving forward.

Ms. Shamp stated she would assist Ms. Plummer to prepare a written proposal for discussion at a future HAC meeting and for review by staff and the LPA Attorney.

LPA Attorney Miller noted that their meeting would require public notification and to be held in a place where the public may attend.

Discussion ensued about how to move the matter forward.

Chair Plummer reported there had been a motion at the HAC to approve the Mound House moving forward as a place to be given the National Historic Register designation; and questioned the status of this decision.

Community Development Director Fluegel noted his belief that the action had gone before Town Council.

Chair Plummer reported the HAC approved the designation on October 9, 2012.

Community Development Director Fluegel expressed his understanding that after Community Development reviewed the request that it was forwarded to Parks & Recreation who in turn presented the request to Town Council.

Chair Plummer explained that the HAC wanted to pursue a historical designation and historical significance designation for the Mound House and Newton Park and five other properties to be considered for a historical significance plaque:

- 1) 2101 Estero Boulevard
- 2) 1696 Estero Boulevard
- 3) 2563 Cottage Avenue

- 4) 1821 Estero Boulevard
- 5) 5421 & 5425 Estero Boulevard

She explained that they needed a form plus rules and regulations for the process.

Discussion was held concerning a workshop to discuss the historical designation/significance designation process; and it was decided that Zoning Coordinator Chapman would verify a date in June [6/12/13 at 1:00 p.m. – Plummer, Shamp, and Kakatsch] when the Council Chambers would be available for an HAC Workshop.

Community Development Director Fluegel asked if the properties on Estero Boulevard, as listed by Chair Plummer, were being contemplated for historical significance and not historical designation.

Chair Plummer responded in the affirmative; and added that they wanted to have plaques made for the Newton House and the Mound House.

Community Development Director Fluegel asked if the HAC still intended to wait to present the plaque to the Mound House until after all the construction was completed.

Chair Plummer noted her thoughts on waiting until October and acknowledging the other five sites at the same time.

Discussion was held concerning when to recognize the various sites; public relations/marketing campaign for the subject properties; logistics associated with one event and multiple site recognitions in one day; the location of boxes of plaques in Town Hall and the remaining number of plaques.

Community Development Director Fluegel stated he would research the invoices for the plaques and inform the HAC of the results. He suggested that the existing plaques that had been awarded should be monitored over time to see how they weather.

**MOTION:** Ms. Shamp moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Mr. Kakatsch.

**VOTE:** Motion approved 6-0.

**Adjourn as Historic Preservation Board and reconvene as the LPA at 10:22 a.m.**

Zoning Coordinator Chapman stated that staff wanted to bring before the LPA the topic of their summer break; and noted previously the LPA approved to take off July and August. She reported since that decision staff had received 4-5 applications (i.e. zoning, CPD amendment, etc.). She explained that staff would like to see if the LPA would consider meeting on August 20<sup>th</sup>.

Discussion was held regarding when the LPA would meet in August [13<sup>th</sup> or the 30<sup>th</sup>]; and Mr. Steele indicated he could not attend a meeting on August 13<sup>th</sup>; Chair Shamp, Mr. Kakatsch, and Mr. Steele indicated they could not attend a meeting on August 20<sup>th</sup>.

Chair Shamp informed staff that August 13<sup>th</sup> seemed to be a better date for the LPA members.

**MOTION:** Mr. Kakatsch moved to approve that the LPA would not convene in July; but would convene on August 13, 2013 at 9:00 a.m.; second by Mr. Steele.

**VOTE:** Motion approved 6-0.

## **VI. LPA MEMBER ITEMS AND REPORTS**

Mr. Steele – reported he received a letter (dated April 10, 2013 from Tom Stull) concerning permits and the permitting process; and asked if a response from staff had been prepared. He stated he received another letter (dated May 2, 2013 from Sally Page).

Community Development Director Fluegel stated he was working on the matter noted in Ms. Page's letter; and indicated he had not seen a copy of Mr. Stull's letter.

Ms. Steele gave a copy of Mr. Stull's letter to Community Development Director Fluegel.

Community Development Director Fluegel recalled the letter and indicated there had been no specifics to address; however, he did explain how the permitting process did **not** shut down when the Building Safety Services Coordinator was out. He reported recently the staff had an increased volume with the number and complexity of incoming permits. He added that staff did not do a courtesy review on the major disciplines any longer; however, they did perform the floodplain, zoning, and environmental review and then transmitted the permit to the County.

Mr. Steele queried if on any permit, the final approval was from the County.

Community Development Director Fluegel responded in the affirmative. He explained the County's review process of the permit applications.

Mr. Steele questioned if staff would respond to Mr. Stull.

Community Development Director Fluegel stated he would speak to the Town Manager to determine if he had responded already.

Mr. Steele indicated that since the LPA received the letter that it should receive a response.

Chair Shamp commented on the letter from Ms. Page as to the section of the letter that pertained to the Director of Community Development. She stated that she had never found Director Fluegel to "*address*

*the public with less than the respect that they deserve*". She added that the question asked by Director Fluegel to Ms. Page was appropriate; and asked if Ms. Page had followed-up with Town staff as suggested.

Community Development Director Fluegel responded in the affirmative.

Discussion was held concerning the Ms. Page's problem and the critical wildlife habitat signage installed on the beach; and it was determined that staff did respond to Ms. Page.

Ms. Plummer requested a timeline beginning with when a permit was submitted and through the review process for flood, code, and use before the permit was sent to Lee County (i.e. a simple remodel).

Community Development Director Fluegel reviewed what was required by the applicant; and explained if the request was straightforward, did not violate the FEMA 50% Rule, and the zoning issues were straightforward [no addition that encroached into a side setback] it should take staff about 3-4 days.

Zoning Coordinator Chapman reported it would take approximately a week and a half to two weeks for a straightforward local review.

Ms. Plummer questioned the length of time for County review of a permit application.

Zoning Coordinator Chapman explained the timeline was defined on a case-by-case basis.

Discussion was held concerning timelines for 'clean' permits, transmission, review time by County, and response time by consultants/contractors to staff comments; creation of a permit timeline list for each permit application by staff; and the expedited permit process used during weather-related emergencies.

Zoning Coordinator Chapman relayed the work schedule encountered by her and the other DCD staff members, and the balance they strived to achieve as it related to their workload.

LPA Attorney Miller noted that State statute allowed for an applicant [at their cost] to hire an engineering firm to perform permit reviews.

Community Development Director Fluegel reiterated that the volume of permits submitted to the Town was up, and that it has remained up. He added that recently during one week staff had received 60 permit applications. He reported that last year the Town issued 15 new single-family permits, and this year he projected the Town would issue 21-25 new single-family permits.

Discussion ensued regarding the length of time a permit was valid; permit process for opening new businesses on the beach versus Bonita Springs; issues with the Town's codes and Comp Plan; a potential zoning application that would go from a Commercial Planned Development to a Downtown zoning; and problems with the certificate of use process and staff's intention to amend and clarify additional information for the certificate of use process on the Town's website.

LPA Attorney Miller reported the Town hired a firm to advise the Town regarding a CRA.

Community Development Director discussed the importance of receiving comments from the public, LPA, and Council during the Comp Plan review.

Discussion was held concerning the Fort Myers Beach market and national companies; and the building change of use process and associated problems.

Ms. Plummer – told of an incident while visiting *Royal Scoop* as it pertained to a request for an outdoor umbrella while eating outside. She questioned if the three stores located in the plaza that contained Fort Myers Beach Realty were permitted to display signs.

Community Development Director Fluegel reported staff had explained to tenants that the property up-front was owned by the bank, and they did not have the right to place a sign on property they did not own. He added that the tenants were informed that if they obtained an easement agreement from the bank for a monument sign, that staff would then figure out a way to make it happen.

Ms. Plummer recounted another signage experience she encountered with a *Curves* business.

Zoning Coordinator Chapman reported staff had worked with the property owner for the subject location for a sign package; and that the owner had entirely what they were entitled to, based upon the sign code that had been adopted by Council. She reviewed the process and outcome of her work with the property owner on the permitted sign package for the subject site. She reported she worked with the owners of the *Royal Scoop* property, met with them on a number of occasions, and explained to them that the area for outdoor seating was based upon what had been approved on their CPD, and that it was up to their landlord to determine the outdoor area allocation for each business.

Discussion was held concerning use of the picnic table in front of the subject property; business signage; benches outside of businesses instead of tables; a lease agreement, variance, and visibility issues for the property where Fort Myers Beach Realty was located; potential for a CRA in and around the Seafarer's property; and four rezoning applications currently submitted to the Town.

Mr. Smith – discussed the event conflicts he encountered on the weekend of the Fort Myers Beach Film Festival and last weekend. He reported the Chamber of Commerce was willing to maintain a 3-year calendar on their website for organizations to utilize in planning/scheduling their events.

Ms. Plummer suggested the local newspaper also run a two or three month schedule of events.

Discussion was held regarding a 'calendar of events' to help avoid scheduling conflicts for both event organizers and attendees.

Ms. Shamp – questioned what was being built on the former Tropicana/Buccaneer property.

Community Development Director Fluegel reported it was for *'three single-families'*.

Mr. Kakatsch – reported his understanding that the same developer intended to construct seven single-family homes on another site.

Mr. Durrett – no report.

Chair Zuba – excused.

## **VII. PUBLIC COMMENT**

Public Comment opened.

No speakers.

Public Comment closed.

## **VIII. LPA ATTORNEY ITEMS**

LPA Attorney Miller – no items or report.

## **IX. COMMUNITY DEVELOPMENT DIRECTOR ITEMS**

Community Development Director Fluegel - no items or report.

## **X. LPA ACTION ITEM LIST REVIEW**

Chair Shamp suggested adding the HPB discussion regarding LDC changes for the historical significance process.

Zoning Coordinator Chapman indicated an LPA representative should be present at the Council Meeting on June 3, 2013 when the Beached Whale was discussed.

Mr. Kakatsch indicated he would attend the Council Meeting on June 3<sup>rd</sup> as it pertained to the Beached Whale.

Chair Shamp stated she may also attend the Council Meeting on June 3<sup>rd</sup>.

## **XI. ITEMS FOR NEXT MONTH'S AGENDA**

None.

**XII. ADJOURNMENT**

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

**VOTE:** Motion approved, 6-0.

Meeting adjourned at 11:25 p.m.

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

\_\_\_\_\_  
Signature

End of document.

DRAFT