

TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
MINUTES OF REGULAR MEETING

NOVEMBER 16, 2010

The regular meeting of the Planning and Zoning Board was called to order at 9:04 AM.

Members Present: Chair BJ Webb, Vice-Chair Allen Hixon, Secretary John Wild, Members Phineas Alpers, Laurin Goldner, Walter Hackett, Bradford Saivetz, George Symanski, Patricia Zunz

Also Present: David Persson, Town Attorney; Nancy Stroud, Special Counsel; Monica Simpson, Planning, Zoning & Building Director; Steve Schield, Planner; Ric Hartman, Planner; Donna Chipman, Office Manager

AGENDA ITEM #1
MAR VISTA RESTAURANT
SPECIAL EXCEPTION APPLICATION

And

AGENDA ITEM #2
MAR VISTA RESTAURANT
SITE PLAN AMENDMENT

Pursuant to published notice, the public hearing was opened. Lynn Burnett, engineer representing the applicant, provided the Return Receipts to the board. Ms. Chipman swore all those testifying at this time.

Ric Hartman, Planner, provided an overview of the application noting the applicant was requesting a special exception to allow for outdoor dining in a proposed second story dining area. He commented that the outdoor dining area would be limited to a maximum of 13 tables and 59 seats. He reviewed the staff report explaining that, in the past, the Mar Vista had requested outdoor dining utilizing the code section for off-street parking, the parking analysis had always been based on seating. However, under this special exception, he pointed out that the applicant was utilizing the parking provisions of the commercial revitalization ordinance (Section 158.178) and as a result, they reassessed their entire parking needs based on that ordinance. Concerning the second story area, he mentioned that because parking was being based on square footage, under the revitalization ordinance, the area used for indoor dining was being relocated to the second story. The bar area would be opened up for patron access, and the code required that the parking calculations account for customer areas, and the relocated retail area.

Mr. Hartman commented that through the use of Section 158.178, the applicant was required to provide a minimum of 35 parking spaces and was able to provide 43 parking spaces.

Mr. Hartman discussed the east side buffer noting that with the rezoning of the Moore's Stone Crab Restaurant property to residential, there was a requirement for a ten-foot landscaped buffer between the commercial use of the Mar Vista Restaurant and the residential zoning of the Moore's property. He mentioned that the applicant was able to decrease the drive width and eliminate parking on the side of Moore's and was able to retain spaces for the residential structure (two parking spaces). He continued with reviewing PowerPoint photos of the site. The east side drive would only be used for residential access for the residence and office as it did not meet minimum aisle requirements. He reviewed the Findings of Fact in the staff report.

Ms. Zunz referred to the tables that were located outside under the trees and asked if they were included in the parking estimate. Mr. Hartman replied yes. Ms. Zunz asked if staff was aware of what type of plants would be used in the landscape buffer. Mr. Hartman responded that the details of the landscaping were not required by the code, but there was a requirement for the landscape buffer. He pointed out that the buffer was not for screening, but for separation; there was a separate screening requirement for the second story.

Mr. Alpers noted the existing outdoor dining area under the trees would be affected by drainage. Mr. Hartman explained that the drainage was shown outside the 599 square foot outdoor dining area. Mr. Alpers noted that the drainage went from the first floor to the bay, and the benches, tables, chairs, etc. existed to the bay. Mr. Hartman pointed out that this discussion would fall under the site plan amendment determination and not the special exception. The special exception request only concerned the use of the second story area for outdoor dining.

Chair Webb asked staff to explain what the board should be reviewing in regards to the special exception versus the site plan amendment. Mr. Hartman explained that the special exception was to review the proposed use of the second story area for outdoor dining; was the applicant providing adequate parking, screening, and hours of operation. The site plan amendment was where the applicant redesigned the site, the drainage was applied to meet certain requirements, the parking was redesigned, the movement of the dumpster, and the swale.

Mr. Hartman reiterated that the special exception question was not if they were allowed to build the second story structure and redesign the site, but whether it would be acceptable to the board for the applicant to use the upstairs area for outdoor dining. Mr. Hixon was not clear as to whether it was "an upstairs area "or" specifically where they are proposing" above the existing restaurant. Mr. Hartman responded it was specifically where they were proposing; they could not take the special exception and move it to another location. The special exception was contingent upon approval of Resolution 2010-44, which was the site plan amendment; if the site plan amendment was not approved, then the special exception approval becomes null and void.

Mr. Symanski referred to the buffer on the east side adjacent to the Moore's restaurant property and asked if the Town Commission had authority to waive, or defer, that requirement until such time that the Moore's property was converted to residential. Mr. Hartman understood Mr. Symanski's concern, but stated the code required the buffer.

Mr. Hixon questioned whether the board was “locked in” to the specific elevations that were shown on the plan, or was it conceptually that the board was asked to approve a view and second story dining facility. Mr. Hartman responded that the site plan amendment may be adjusted, but the special exception would be tied to the site plan amendment approval. Chair Webb explained that the role of the P&Z Board was not of architects or planners, and the board was not here to redesign the applicant’s project; that was not the role of the special exception or the site plan. Mr. Hartman commented that under the conditions of approval for the site plan amendment, the special exception as presented would apply strictly to what was presented as part of the site plan.

Mr. Symanski asked if the special exception was forwarded to the Town Commission. Mr. Hartman replied no. Mr. Symanski asked how the Town Commission would be able to act on the condition for the buffer area. He reiterated his suggestion that the installation of the buffer be delayed until Mr. Moore converted his property to residential use. David Persson, Town Attorney, suggested that the board move forward and also discuss the site plan, but provide separate motions when it was time to vote on the applications. Mr. Symanski referred to Mr. Hixon’s comments related to being “locked in,” and was not sure why they could not be addressed through conditions. Mr. Hixon reviewed an illustration of the applicant’s elevation noting that the potential for the site was “enormous,” and he was not certain they would be getting the product they thought they would get. He was attempting to show that perhaps some modifications to their architectural drawings might provide a better view. He commented that the proposed drawings were showing a view of the sky, but he believed by raising the floor level 3-4 feet would provide a much better view.

Ed Chiles, owner of Mar Vista Restaurant, commented that he welcomed that approach, and they tried to make the project better without taking away from the character of the site, but they were required to operate under certain constraints. He explained they wished to make it an attractive area that was better and more valuable to the community, but addressed the issue of the ten-foot buffer noting he believed it was unfair to them. Mr. Chiles was concerned with the loss of parking spaces and respectfully requested that the board consider Mr. Symanski’s suggestion of delaying the buffer requirement.

Ms. Zunz noted that she agreed with Mr. Hixon’s comments related to the height and suggested that the applicant prepare a new drawing providing for a sufficient floor height to obtain as much of a view as possible. Mr. Chiles responded that if the board allowed a five foot leeway for that area, with the understanding that they would redesign the area, then they would come back to the board if there was a need for a different height to maximize. Mr. Hartman stated that the building height, as proposed, was 29 feet, 11 inches from grade. The applicant was limited to a maximum of 30 feet in height, and the architectural drawings (sheet 3.0) showed a calculation to the top of the finished floor of the upper deck at 14 feet, and then from there it was 15 feet, 11 inches. He noted the drawing that showed maximum building height at 30 feet was incorrect.

Rick Arenó, design professional representing the applicant, commented the project was at maximum height. Concerning the view, he explained in looking at the elevation, the view was not straight out from the restaurant, but was angular from the restaurant; it was the lower roof, and the view was more angular. Mr. Hackett asked what view they had of the bay. Mr. Arenó replied it was approximately a 90 degree view, but pointed out that the screening that was required would hinder the view looking straight east over the roof of Moore’s Restaurant.

Mr. Hixon discussed that their A-3 plan sheet showed a maximum building height of 30 feet, which was five feet from the top of the roof as shown, and Mr. Areno stated that the project was maxed out, but the plan did not show that. Mr. Areno responded that was using the base flood elevation, but commercial was measured from grade, which was the reason they were at the 30 feet to the ridge of the roofline of the second floor. Mr. Hixon continued with discussing the 80 percent screen coverage on the side against the residential area commenting that if the applicant provided a different vertical louver, they would have 100 percent screening from the neighbors and almost 100 percent visibility to the view.

Ms. Burnett commented that the project would result in a net reduction in impervious area, as defined by the Southwest Florida Water Management District (SWFWMD), subject to vehicular traffic. She commented that in a situation like this, it was an exempt type of application with SWFWMD. She noted the applicant held a neighborhood workshop and had invited individuals to provide their feedback. She explained that the special exception was only to relocate the dining to an upstairs portion that was not enclosed with solid walls. She commented that with utilization of the commercial revitalization ordinance, and working with town staff, they arrived at a plan that met all of the current land development regulations, requirements and codes. The retention areas were proposed to be enhanced to provide better water quality, and part of the site plan amendment process was to regrade the shell areas to direct the runoff away from the public streets and towards the internal drainage retention areas. The applicant was in the process of placing berms along the perimeter to prevent water from directly discharging into Sarasota Bay. Ms. Burnett noted that the application specifically included a provision for swales along the side between Moore's and the site to capture runoff from the shell.

Mr. Saivetz commented that he was in favor of the concept, but would like to have a set of plans where the numbers explained how the building would be built. He would like to see the elevations and how the drainage areas would work, how much they would hold, and the contours were difficult to understand. Ms. Burnett explained that the public hearing process required them to submit only a minimal level of information at that stage to ensure what was being requested could be approved, and once the board approvals were complete, the applicant would provide detailed plans. She discussed the use of a survey that was included in the prior special exception request.

Mr. Saivetz asked if Bayside Drive existed. Mr. Hartman explained that Bayside Drive, as shown on the survey, was vacated and part of the applicant's property. Mr. Saivetz addressed the issue of landscaping and noted there were no landscaping details on the plan. He wished to ensure there would be, with an approval, a landscaping plan submitted to the town. Ms. Burnett responded the intent to meet buffer requirements was required at this level, and the details of what was planted were provided at the building permit stage.

Mr. Hixon discussed the retention system and noted he was concerned whether the applicant was berming along the bay to retain the water or excavating. Ms. Burnett commented that it would be a combination of both with the intent that the existing outdoor shell dining area would not be hindered, altered, or modified at any point; the existing shell dining area would remain and the areas around that would be excavated. The shell parking areas would be regraded to drain towards the retention areas. Mr. Hixon noted his concern with the roots of the trees that were within the retention area and if there was a way to avoid excavation. Ms. Burnett commented they worked with a certified arborist on all their projects.

Mr. Hackett asked if it was appropriate to work out the buffer area with the two property owners (Moore's and Mar Vista). Mr. Hartman explained that the ten-foot buffer was required under Section 158.150(C) of the zoning code; there was no flexibility. Mr. Hixon asked if it was possible to replace the buffer with a screen fence of some type which would take up less space. Mr. Hartman reiterated that the code required a ten-foot wide landscaped buffer. Chair Webb commented there were two commercial entities adjacent to each other, but because of the residential rezoning, it was now a usage that did not currently exist. Attorney Persson noted that the usage could change at any time, and agreed with Mr. Hartman, that the code required a ten-foot buffer between two separate uses. Mr. Symanski asked if there was any flexibility as far as the timing of implementation of the buffer requirement; it should be delayed until such time that Moore's wished to use their property as residential. Attorney Persson replied no; it was currently zoned residential. Mr. Hixon asked if it was possible to bond the planting for the buffer so that if the use changed to residential, there would be bond money for the planting. Attorney Persson noted that the code required that ten-feet be provided. He commented that options would be to seek an amendment to the code, or seek a variance, but there were no grounds for a variance.

Ms. Zunz commented regarding the relocation of the dumpster area and noted there was an increasing problem on the island with raccoons. She believed the applicant should ensure they had sufficient room for daily garbage and that the dumpsters were closed properly. Ms. Burnett responded that the applicant would agree to a stipulation to that effect.

The board recessed from 10:15 am to 10:20 am.

Mr. Hartman requested that if the board wished to approve the site plan amendment that they include a condition that the building elevation shown on the architectural drawings be corrected to reflect the true measurement of 29 feet, 11 inches and a 30 foot height from first habitable floor as required by code. He commented that without an amendment to the zoning code, there were no exceptions. Mr. Hackett asked if there was a way to allow an exception to the height. Attorney Persson replied no.

No one else wished to be heard on the special exception, and the hearing was closed.

MR. WILD MOVED TO APPROVE THE SPECIAL EXCEPTION FOR THE MAR VISTA RESTAURANT CONTINGENT UPON APPROVAL OF RESOLUTION 2010-44 FOR THE SITE PLAN AMENDMENT. MR. ALPERS SECONDED THE MOTION.

Mr. Symanski requested that the board ask the Town Commission to consider an amendment to allow flexibility within buffer areas, and if the Town Commission adopted an amendment, that the Mar Vista Restaurant be allowed to take advantage of that amendment. Attorney Persson suggested that item be included with the site plan, and if the code was relaxed, then the site plan would follow the amendment.

MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE; ZUNZ, AYE.

No one else wished to be heard on the site plan amendment, and the hearing was closed.

MR. SYMANSKI MOVED THE P&Z BOARD RECOMMEND APPROVAL OF RESOLUTION 2010-44, SITE PLAN AMENDMENT FOR MAR VISTA RESTAURANT, WITH THE CONDITION THAT THE BOARD ASK FOR A CODE AMENDMENT TO ALLOW THE TOWN COMMISSION FLEXIBILITY IN BUFFER ZONES TO ALLOW WAIVER, MODIFICATION, AND/OR DELAY OF IMPLEMENTATION, POSSIBLY WITH A BOND, AND FURTHER, THAT SHOULD THE TOWN COMMISSION AMEND THE ORDINANCE THAT THE MAR VISTA BE ALLOWED TO TAKE ADVANTAGE OF THE AMENDMENT RETROACTIVELY IF THEY CHOOSE.

Attorney Persson recommended that the board separate the issue of the code amendment from the site plan amendment. He suggested the board could include a provision in the site plan amendment approval that if the Town Commission lessens the buffer, the applicant may avail themselves of that lesser restriction.

MR. SYMANSKI MOVED THE P&Z BOARD RECOMMEND APPROVAL OF RESOLUTION 2010-44, SITE PLAN AMENDMENT FOR MAR VISTA RESTAURANT, AND IF THE TOWN COMMISSION LESSENS THE BUFFER RESTRICTION, THAT THE APPLICANT BE ALLOWED TO AVAIL THEMSELVES OF THE LESSER RESTRICTION.

Attorney Persson clarified that if the site plan amendment was adopted, and if the Town Commission relaxed the code, then the site plan would be allowed to change to the lesser restriction. Mr. Wild preferred that the board act on the site plan amendment and the code amendment separately. Mr. Symanski noted that if the board approved the site plan with the buffer, then it would be "locked in." Mr. Wild asked if the five foot additional height would need to be included. Mr. Symanski commented he was not including that item.

MS. GOLDNER AMENDED THE MOTION TO INCLUDE A CONDITION TO CORRECT THE BUILDING HEIGHT ON THE ARCHITECTURAL DRAWINGS FOR THE SITE PLAN AMENDMENT.

Mr. Hartman pointed out that when discussing the buffer area that it would also impact Moore's Restaurant, and the board should make clear that Mr. Moore would have an opportunity to address the issue when discussed. Mr. Symanski noted that it was thought to allow a delay, with or without a bond, and it be required at the time Mr. Moore wished to use his property as residential.

Allen Moore, owner of Moore's Stone Crab Restaurant, commented that he wished to ensure that prior to the buffer being changed that he be allowed to have input.

MR. SYMANSKI AMENDED HIS MOTION TO STATE THE P&Z BOARD RECOMMEND APPROVAL OF RESOLUTION 2010-44, SITE PLAN AMENDMENT FOR MAR VISTA RESTAURANT, WITH THE CONDITION THAT THE BUILDING HEIGHT ON THE ARCHITECTURAL DRAWINGS FOR THE SITE PLAN AMENDMENT BE CORRECTED. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE; ZUNZ, AYE.

Code amendment related to buffers:

MR. SYMANSKI MOVED THE P&Z BOARD SUGGEST TO THE TOWN COMMISSION THAT THEY AUTHORIZE A CODE AMENDMENT TO PROVIDE FLEXIBILITY IN BUFFERS AT SITE PLAN, OR OTHERWISE, TO ALLOW, IN APPROPRIATE CASES UNDER APPROPRIATE STANDARDS, MODIFICATION, WAIVER, OR DELAY, WITH OR WITHOUT BOND, AND IF THEY CHOOSE TO DO THAT, THEY ALSO PROVIDE, IN THE SITE PLAN AMENDMENT APPROVAL, FLEXIBILITY FOR THE MAR VISTA RESTAURANT TO LATER TAKE ADVANTAGE OF IT. MR. HACKETT SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE; ZUNZ, AYE.

MR. SAIVETZ MOVED TO AMEND THE MOTION TO INCLUDE THAT WHEN PLANS WERE SUBMITTED FOR SITE PLAN REVIEW THAT THE SITE PLAN BEAR CERTIFICATION THAT THE PLAN CAN ACTUALLY BE BUILT AS SHOWN AND THERE WAS SUFFICIENT EVIDENCE ON THE PLAN THAT IT COULD BE BUILT. MOTION DIED FOR LACK OF SECOND.

MR. WILD MOVED THAT THE P&Z BOARD RECOMMEND TO THE TOWN COMMISSION THEY EXERCISE WHAT FLEXIBILITY THEY COULD TO ALLOW A HIGHER SECOND LEVEL FOR THE MAR VISTA RESTAURANT NOT TO EXCEED FIVE FEET IN ORDER TO IMPROVE THE VIEW TO THE BAY. MS. GOLDNER SECONDED THE MOTION.

Mr. Symanski asked if it would be on a case-by-case basis or limited to a certain zoning district. Attorney Persson noted this would be a comprehensive plan issue. The board had to treat similar properties similarly, but it could be limited to publicly available or that provided a public benefit.

MR. WILD AMENDED HIS MOTION TO RECOMMEND THE TOWN COMMISSION CONSIDER A CODE AMENDMENT FOR FLEXIBILITY IN HEIGHT ON A CASE BY CASE BASIS FOR PUBLICLY AVAILABLE PROPERTIES. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, NO; WILD, AYE; ZUNZ, AYE.

AGENDA ITEM #4
CONSENT AGENDA

MR. WILD MOVED APPROVAL OF THE MINUTES OF THE OCTOBER 19, 2010, REGULAR MEETING. MR. ALPERS SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE; ZUNZ, AYE.

Setting Future Meeting Date

The next meeting was scheduled for December 21, 2010.

ADJOURNMENT

The meeting was adjourned at 10:43 am.

John Wild, Secretary
Planning and Zoning Board