

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES
Jarvis Hall - 4505 Ocean Drive
Wednesday, January 20, 2016
6:00 P.M.

1. CALL TO ORDER

Acting Chair Patrick Potts called the meeting to order at 6:00P.M.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. ROLL CALL

Members present were Patrick Potts, Charles Clark, Roseann Minnet, John Lanata, and 1st Alternate John Graziano. Members absent were David Chanon and 2nd Alternate Gerri Ann Capotosto. Also present were Assistant Town Attorney Kathy Mehaffey, Development Services Director Linda Connors, and Clerk Idalia Gutierrez.

4. APPROVAL OF MINUTES

a. Previous Meeting Minutes – November 18, 2015

Ms. Minnet made a motion to approve the minutes of November 18, 2015 as presented. The motion was seconded by Mr. Clark. The motion carried 5-0.

5. PUBLIC COMMENTS

The Acting Chair opened and closed this public comments section of the meeting as there was no one from the public wishing to speak.

6. NEW BUSINESS

- a. Ordinance 2015-17, which amends the definitions used in Chapter 5 and Chapter 30 Related to Channels and Mooring Area; Creates a Standard Mooring Area and a Marina Mooring Area; Amends the Requirements for Docking and Mooring of Watercraft; and, Reorganizes the Requirements for Conditional Use in B-1 and B-1-A Zoning Districts (Linda Connors, Development Services Director)

The meeting was turned over to Development Services Director Linda Connors. She explained what Ordinance 2015-17 meant to accomplish and spoke about the history which created the need for this ordinance. She reminded the Board that at their August 27, 2015 meeting, they reviewed code amendments (proposed Ordinance 2015-08) that created a standard and marina

mooring area and added marinas as a conditional use to the Town's B-1 zoning district. The Town Commission approved Ordinance 2015-08 on first reading at their September 8, 2015 meeting but directed Staff to work with the property owners to revise the ordinance to create a better long-term solution. Ms. Connors explained that Staff did work with the Marina owners. She said that the Marina ended up owning 100% of the submerged land under the marina and the Town owned 100% of the rest of the submerged land in the canal. The Marina could now apply for a site plan amendment to create a Marina Mooring Area under the new process established by Ordinance 2015-17. The rest of the amendments in Ordinance 2015-17 remain the same as what was proposed in Ordinance 2015-08. The biggest change was conditional use going to site plan. The Marina could create a Marina Mooring Area by applying for a site plan amendment. Ordinance 2015-08 was thrown out and Ordinance 2015-17 was adopted. It went before the Town Commission and was approved on first reading but the commissioners wanted P&Z to review it before it went in front of them for a second reading.

Ms. Connors explained to the Board all of the proposed changes which were outlined in Table 1 of the January 10, 2016 Memorandum of Staff's Analysis and Recommendation of the proposed amendment to the Unified Land Development Regulations (ULDR) of the Town's Code of Ordinances as it pertains to Marinas. She said what the code amendment was, what ordinance line(s) were affected by the amendment, and explained a description of what the amendment accomplished. Ms. Connors started with the amended watercraft definition in Chapter 5 (line 38-39 in the ordinance). She finished explaining the amendments in Table 1 by explaining that for the last code amendment on ordinance line 619, Staff wanted the Board's and the public's input tonight as to how many parking spaces should be made available at the marina for charter boats. She explained that these regulations allow for a marina similar to what should be operating now as a storage marina. She reminded the Board that this is not a residential marina. There was no overnight parking allowed.

Ms. Minnet suggested hearing from the public and the other Board Members had no objections. Ed Ellis, a Lauderdale-By-The-Sea (L-B-T-S) resident, expressed concern for parking and the lack of specificity for a requirement for a sewage pump out capability in the marina. He said that the developer should be required to have sewage pump out capability and the State has grants for assistance. He gave his thoughts for charter boat parking spaces and gave an example of a fishing charter needing approximately 6 parking spaces (for the fishermen, captain and mate). Ms. Minnet thanked the public speaker and suggested he communicate with the elected officials as well because they make the decision. Ms. Minnet explained why the marina was originally a conditional use and why she was having concerns changing it to site plan. As the storage marina is right in the middle of a residential area, she is in favor of protecting the environment with concern for sewage pump out. Tracy Hanes, a L-B-T-S resident, inquired about the Town having a Historical Committee. It was explained to this public speaker that the Town was not trying to do away with the marina or to regulate it out. This was not a historical issue. What the Board was trying to accomplish tonight was then described.

Mr. Lanata said that there should be regulations as to how the marina would be used particularly as it concerns to a pump out station and raw sewage. His areas of concern are the sewage, the boats need to be docked stern-to, the size of the boats in the marina to navigate the channel, the fact that this is not a flushing canal and that there were overnight stays. He feels Linda and her Staff worked very hard and is in agreement with some of the recommendations. He did not think that site plan approval would give the Town what it needed to have (i.e., the ability to govern a sewer pump out system at the marina and to govern various activities that go on in a storage marina). He discussed parking spaces but mentioned that the marina has a limited amount of

spaces. Parking is a tough situation and will have to work itself out. Mr. Lanata asked Ms. Connors how the Town could control some of his concerns through site plan approval. Ms. Connors explained about the mooring area. She further explained that a violation of a site plan would be a code violation. The difference is that if there is a violation of a conditional use, the Town Commission could agree to withdraw the conditional use. A violation of a site plan would be a fine on a daily basis and go through the Special Magistrate process. She said the marina owners have been fined in the past for exceeding the size limitations of the boats. She would have to research and get back to the Board if the marina is in compliance now. She said that conditions like stern-in could be added to site plans. She further explained that they do not want to encourage boaters to come to the marina, pump out, and spend the night as this is only a storage marina. She is concerned that with a pump out facility, people could decide to stay overnight and longer. That is why Staff did not want to make a pump out facility mandatory.

Mr. Graziano felt that pumping out is a public health issue. He would like to see some type of pump-out station available. Ms. Connors answered Mr. Clark that they could deal with this issue in the ordinance. Ms. Connors explained again that the difference between a conditional use and site plan application is the way they are enforced. One of the benefits of the site plan is that it gives the property owners certainty. If someone wants to invest in a property, banks often look for certainties. There is no certainty with a conditional use. Mr. Clark felt that the Town would have more control with a conditional use.

Acting Chair Potts would like a comprehensive marina code in which the Town regulates all of the facets of the marina. He would like the marina code to rule out anything that puts the burden of the parking on the Town. This is a storage marina and not a public type of marina. He felt that the Town needs to outlaw the stuff that we do not want to happen in the marina. He understands why an investor would want a site plan rather than a conditional use. The Town has an interest in seeing something viable and clean there. He felt that we have to have a comprehensive marina code first before switching conditional use to site plan. He mentioned that with a site plan, there should be a long-term lease. The Town should be allowed to pull the lease if there is a site plan violation. The lease would be contingent upon compliance. Ms. Connors explained that the Town is working on the common ownership interests between the Town and the marina owners. This common ownership would not require a lease. She addressed the suggestion of looking at other marinas for comprehensive marina regulations in other municipalities. All the regulations that she and her Staff saw for marinas owned or regulated by other municipalities were for a living, working marina. There were no codes consistent with what the Town of L-B-T-S has. Mr. Potts did not agree with the Town giving up ownership of any of the land. He felt that it would be better leverage, if the Town kept all the land.

Mr. Lanata wanted to know why the Town could not eliminate charter boats. Ms. Connors explained that the Town was recommending one parking space for each boat slip and one parking space for each employee. There are fourteen boat slips for fourteen parking spaces plus employees. Ms. Connors said that the marina also has retail space needing parking spaces. She explained the marina's code violation and that they have to upgrade their unapproved parking area so that it is paved, stripped and landscaped. She explained some parking programs the marina owners may be able to participate in if they are still deficient. Mr. Lantana stated again that charter boats should be excluded from this storage marina. Ms. Connors explained how the Town could exclude charter boats from the marina. Ms. Minnet is in favor of putting more restrictions on the marina because the marina should not put a burden on the residents who live in that area. The problem with the regulations is who is going to enforce them. We have a responsibility to both the residents in that area and to the environment. Mr. Clark remarked that

the parking spaces would not be enough to fulfill the requirements of the ordinance. Ms. Connors explained how the existing marina was grandfathered in. If it is substantially re-developed, Ms. Connors said that we would have to re-review the parking that is required based on the code that is established. Mr. Graziano felt that for a public health issue, there should be a pump out station. Mr. Lanata felt that charter boats should be eliminated which would make it a real storage facility. If there were no charter boats, people would not be coming and going to the marina to charter a boat.

Mr. Ellis, Town resident, had a few more comments. He felt that the owner of the marina was getting the riparian rights for the water under the existing dockage. He feels that the owner should be able to re-build the dockage and the Town made a good approach to it. Mr. Potts felt that the Town could dictate what type of material could be used for re-building. Mr. Ellis suggested wording in the code to adopt the State's Regulations for clean marinas. Ms. Minnet reminded the Board that this is just a recommendation to the Town Commission. The decision is up to the Commissioners.

Ms. Mehaffey asked to explain the common ownership interest of the Town (18/19th ownership) and the Marina (1/19th ownership) in the submerged land. She said that all of the water in the canal way inside the marina is owned jointly by the two parties (the Town and the Marina Owner). You cannot divide it as it is not a specific area. Right now the proposal out there is not a final proposal. Nothing will happen until it goes to the Town Commission. The proposal is just one way to divide it. Currently, the Town owns 18/19 and the Marina Owner owns 1/19. She explained that right now, where the 1/19th is not defined. Mr. Potts inquired if giving them the water rights underneath the marina and the Town maintaining the canal, gives the Town the ability to shut their access or somehow to control their actions. Ms. Mehaffey explained that the proposal by Staff would not give the Town the kind of authority Mr. Potts was asking about. The authority lies in putting in place the implementation of the site plan regulations and requirements plus any code requirements. Mr. Potts inquired about some type of agreement as to the 1/19th ownership. He wanted to know how an owner can effectively use 1/19th of a body of water. Mr. Lanata gave the scenario that if someone rented one bedroom in a house, the renter still had the use of the rest of the house. The legal issues involved in the whole split of authority, said Ms. Mehaffey, and the control issues on the split of property in that situation are extensive. She said that they can be resolved one way or the other. Ms. Mehaffey answered Mr. Graziano that through a large extent, the Town could control the marina's activities through the site plan. Mr. Graziano thought it was important to accommodate everyone but he had a few issues which include the pump out and ADA requirements. He feels this is a real problem for the Town because if this marina is for storage only, no one wants to pay a lot of money for storage. Ms. Connors said that ADA would be handled through the Building Permitting process. All the permits have to follow Federal ADA Requirements. Mr. Potts said that in regard to parking, he felt that there should be no type of charter boats allowed.

Ms. Connors recommended that she and Ms. Mehaffey go through the issues one-by-one and the Board could vote on them as they are discussed. The first was the recommendation to eliminate charter boats altogether. By voice vote, four Board Members were in favor of the elimination of all types of charter boats in the marina and one, Mr. Graziano, was not. Ms. Connors said that Ms. Mehaffey suggested that the Planning and Zoning Board might want to come up with a parking recommendation if the Town Commission was not in favor of the elimination of charter boats. Mr. Lanata recommended that there should be six parking spaces per charter boat, if charter boats were allowed in the marina. Mr. Potts was concerned that there are some 40 feet and 50 feet slips in the marina and six parking spaces might not be enough. Mr.

Potts' suggestion was one parking space for every two guests that a charter boat could hold. Ms. Connors answered Mr. Graziano that they have defined marina and it was before Mr. Graziano was on the Board. She read into the record the definition of marina as it is written in the proposed ordinance. The next vote would be on the recommendation that if the Town Commission did not eliminate charter boats in the marina, the P&Z Board recommended one parking space for every two guests a charter boat could hold. By roll call vote, four Board Members were in favor and one, Mr. Graziano, was not.

For the third recommendation requiring a pump out station, Ms. Minnet was in agreement now that this should be required and Mr. Potts said it could be in one slip which could be designated for just pump outs. Ms. Minnet felt it should be accessible to all boats and not just in one spot. By roll call vote on the recommendation to have accessibility at each slip for a pump out, five Board Members were in favor.

By roll call vote on the fourth recommendation to dock the boat stern-to (not bow-to) to help with noise, five Board Members were in favor.

Ms. Connors said the next recommendation would be for either a site plan or a conditional use. Discussion ensued about Florida Blue Water Regulations which Ms. Connors said was in the last iteration of the code. Mr. Potts spoke about some areas that needed to be complied with: Blue Water, Fire Prevention and the ability to fight a fire from the dock, and management of a Fuel Spill (e.g., a baffling system). Ms. Connors answered Ms. Minnet that these types of regulations could be either built into the code or part of a conditional use. Ms. Minnet suggested recommending building the parameters listed by Mr. Potts either into the code or into a conditional use as well as docking a boat stern-to.

By a roll call vote on the fifth recommendation of including Florida Blue Water Regulations in either conditional use or site plan, five Board Members were in favor.

Mr. Lanata said that State Code requires regulations for the fire prevention system to be on the dock itself. It also requires a marina owner to have an abatement plan and be ADA compliant. Mr. Lanata said that is why Florida Blue Water is important. Discussion ensued that the marina is already in violation of the code/violation of ADA because the marina does not have a handicap parking space. Mr. Lanata did not think additional language other than Florida Blue Water Regulations was important and already voted upon.

Ms. Connors said now was the recommendation for conditional use or site plan. Mr. Lanata said that he was in favor of a site plan. Mr. Potts felt that a site plan helped a marina owner build value which is good for the Town. By roll call vote on the sixth recommendation of doing away with the conditional use and supporting the site plan, four Board Members were in favor and one, Ms. Minnet, was not.

Ms. Connors said that now that the recommendations were voted upon, Ordinance 2015-17 needed to be voted upon.

Ms. Minnet made a motion to approve Ordinance 2015-17 with all the changes that were made just prior to this motion. The motion was seconded by Mr. Clark. The motion carried 5-0.

7. OLD BUSINESS

8. UPDATES/BOARD MEMBER COMMENTS

Ms. Minnet welcomed Mr. Graziano, the new Board Member. She thanked all the members of the public who attended tonight's meeting and thanked those who spoke.

Ms. Connors said that Ordinance 2015-17 would be on the Town Commission's January 26, 2016 agenda. The meeting starts at 7:00PM.

Ms. Connors informed the Board that there will be a February 17, 2016 P&Z Meeting.

Ms. Connors further stated that the Town Commission is going through a visioning process and the first meeting was last night. She said there is a survey on the website that she encouraged everyone to fill out to help plan the Town's future. She reminded everyone to attend a future visioning meeting.

9. ADJOURNMENT

Ms. Minnet made a motion to adjourn at 7:30PM. The motion was seconded by Mr. Clark. The motion carried 5-0.

Acting Chair Patrick Potts

ATTEST:

Date Accepted: _____

Development Services Director Linda Connors
