

APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES
Jarvis Hall - 4505 Ocean Drive
Wednesday, November 14, 2018

1. CALL TO ORDER

Chair Lanata called the Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at 6:01 PM.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL

Members present were John Lanata, William Ferrante, Jeffrey Whyte, Bernard Petreccia, Alan Bluestein, 1st Alternate Howard Goldberg and 2nd Alternate Emeline Savidge. There were no absent members. Also present were Assistant Town Attorney Kathy Mehaffey, Development Services Director Linda Connors, Planner Susan Leven, Planner Jhanelle Campbell and Clerk Kaliah Lewis.

3. APPROVAL OF MINUTES

- a. Previous Meeting Minutes – October 17, 2018

Mr. Ferrante made a motion to approve the minutes of October 17, 2018 as presented. The motion was seconded by Mr. Petreccia. The motion carried 5-0.

4. PUBLIC COMMENTS

The Chair called for general public comments not specific to the agenda items now and Mark Goldstein came forward. He wanted to know how the vacation of easement affects Marina Village. Town Attorney Kathy Mehaffey informed Mr. Goldstein that his question would be addressed after hearing the first agenda item dealing with this subject. The Chair closed public comments at this time.

5. NEW BUSINESS

- a. 2018-VAC-02 & 2018-VAC-03: Vacation and relocation of a portion of the public drainage easement and vacation of a temporary drainage easement for Silver Shores located at Garden Court/ Folio #494318270300.

Planner Jhanelle Campbell gave a PowerPoint presentation stating that the request this evening is to vacate two easements and relocate one of the vacated easements to a different location at Garden Court. The subject property is located at a multi-family construction project on Garden Court. The zoning district overlaps RM-25 and RD-10. The land use designation for this project is residential. The plan submitted is to vacate and relocate a portion of a 12' public drainage easement and to vacate an 8' temporary drainage easement for Silver Shores located at Garden Court. Public notice was given to all property owners within 300 feet of the property and the hearing would be advertised. She explained why this was being referred to the Planning and Zoning Board for a recommendation to the Town Commission who would have the final approval.

The background on this request shows that both easements were established in 2007 in the Silver Shores Section of Lauderdale-By-The-Sea. The easements run from east to west on the property and are located on the northwestern portion of the lot.

When the Sky 230 Development Project was approved for Garden Court, an 11' 6" wide pool was proposed and approved for the project but Broward County Health Department regulations require a 15' wide pool to be installed due to the number of proposed units to be constructed. The existing 12' easement is located immediately adjacent to the original 11' 6" wide pool and must be vacated in order to comply with the Broward County Health Department regulations. Staff recommends approval of the application based on the application, plans submitted and their compliance with the Town's code. The applicant's representative is present to answer any questions. This item will go before the Town Commission on December 11, 2018. Planner Campbell answered Chair Lanata that this is not a platted easement, so it is not required to go through the County.

Mr. Whyte made a motion to recommend approval to the Town Commission. The motion was seconded by Mr. Bluestein.

Chair Lanata opened the meeting up for public comment and Mark Goldstein asked about the homes within 300' across the street, Marina Village, whose pool is right next to the drainage talked about. He wants to know how this would affect them. During the construction, they lost power, parking, and not being able to get in and out. With this new project, they just want to know if there would be any issues. Development Services Director Linda Connors said that the drainage easement is necessary for the development to be finalized. In order to accommodate the larger pool required by the Broward County Health Department, the applicant is requesting to vacate the existing 12' drainage easement and relocate it so that it does not conflict with the larger pool. The drainage should not affect the Property Appraiser because it won't be seen as it is under the ground, and will help facilitate this project to move forward. When the project is complete, she informed Mr. Goldstein, that his street should be back to where it should be. Ms. Connors explained that this is why they are looking for approval of this project. As there were no other questions, the Chair closed the public hearing and called for a vote on the motion.

The motion carried 5-0.

- b. Prohibition of Short Term Tenancy Units on Lots Less Than 60 Feet in Width West of Bougainvillea Drive in the RM-25 District.

Development Services Director Linda Connors said that there were Zoning Maps and Vacation Rental Maps in the back of the room for anyone in attendance who wanted to follow along. She also thanked every member of the Planning and Zoning Board for coming tonight. There are five regular members of the Board and two alternates. They always appreciate when the alternates attend meetings as it is a good learning experience for them. Since all the regular board members are in attendance, 1st Alternate Howard Goldberg and 2nd Alternate Emeline Savidge can participate in discussions but cannot vote.

Planner Susan Leven explained that the Town Commission has asked the Planning and Zoning Board to evaluate and recommend to them if short-term tenancy units on lots less than 60' in width in the area west of Bougainvillea Drive in the RM-25 District should be re-evaluated. From the slides in her PowerPoint presentation, she pointed out where the RM-25 District is located and then showed the exact area that would be discussed at this meeting. In the Code, RM-25 is discussed in two different sections. One section discusses RM-25 on its own and one section discusses lots within RM-25 that are 60' or less in width and are located west of or fronted on

Bougainvilla Drive. If you are east of or fronted on Bougainvilla Drive, you can apply to have a vacation rental or short-term rental. If you are west of or fronted on Bougainvilla Drive, short-term tenancy is not permitted in any form (no vacation rentals and no short-term rentals). Ms. Leven pointed out these areas and where there are lots 60' or less in width. The Board was asked by the Town Commission to discuss and recommend whether or not the distinction between over or under 60' width lots should be kept or anything else within Section 30-242. She said that it does not need to be decided tonight, if the Board requests more research, etc. Chair Lanata opened the meeting up to public comment.

Attorney Drew Melville said that he was here for one of the owners on Poinciana Street who has been subject to enforcement under Section 30-242(a)(3). He explained that under Section 30-327 (vacation rental, short-term rental), as long as the licensing requirements are met, you can get a license for short-term rentals in all of the zoning districts in Town except for this one little section within RM-25. Section 30-242 deals with redevelopment within the RM-25 District and was written in 2002. He felt that by blocking the lots that are 60' or less in width only in the RM-25 District west of Bougainvilla is arbitrary and burdens the people who bought these properties. He was asking the Board to recommend deletion of Section 30-242 (a)(3) to solve this problem. Chair Lanata asked the attorney to explain and Planner Susan Leven said that Section 30-242(a) is the density section and then she read subparagraph (3) into the record. Attorney Melville said that his clients are facing enforcement action and that was why he is here and that neighbors in this area have been advocating for a change.

John Graziano said that he is here tonight only as a citizen who is concerned about the wellbeing of the Town. Lauderdale-By-The-Sea was voted as one of the best places, in fact one of the top five, in the country for vacations. He wants to keep it that way and he believes a stable environment would do that by leaving the rules alone. He felt that transient populations in condensed areas cause people issues. We are in favor of people renting here but not in such a condensed area and thinks this is why this was established in 2002. The only interests served by this change would be for the economic interests of the people asking for the change and not for the benefit of the Town.

Ron Piersante said that whenever this topic came up in front of the Town Commission, he spoke against it and wanted to know who is behind this request. Eventually, he found out that it was real estate people who had clients who wanted to invest in our Town and the other ones interested were management companies. He wanted to know how allowing vacation rental and short-term rentals for the approximately 115 properties that are affected by this, could be beneficial to the Town. He can foresee problems and heard complaints from citizens about speeding cars, all-night partying, etc. He wanted to know if they pay the 12% tax and does the Town get part of this tax money? If the 115 properties are allowed to rent, how can the Town enforce the regulations on more rental units? He is totally against it. As there were no more public comments, Chair Lanata called for board questions.

Howard Goldberg asked about a State law that allows vacation rental that overrules the Town and he was told by Ms. Connors that there is if legislation was not already in place from a municipality prior to that State law. The State put in restrictions in 2011 but the Town approved our vacation rental regulations in 2009. Therefore, the State does not supersede. The Town Attorney said that if the restrictions in Section 30-242 are repealed, then the current restrictions for the vacation rental properties located elsewhere in the code would regulate those properties 60' wide or less in the subject area in RM-25. Mr. Goldberg said for the record that he is a real estate agent and wanted to know if the Town has any indication of how many vacation rentals there are in the Town. Ms. Connors answered that in the Town there are 86 licensed vacation

rental properties to include active vacation rentals and short-term rentals for single-family and two, three and four unit properties. She pointed out on the map where those 86 properties are located and Mr. Goldberg said they are not in one area but all over Town. Emeline Savidge said that it shows there are a couple of rentals in the subject area and Ms. Connors explained that there are about a dozen properties that were granted licenses that would not have otherwise been granted licenses following these regulations. They were granted in error. Ms. Leven spoke about several in that area which were subdivided after 2000 and the way that the code is written depicts that if they were subdivided after the law took place, they could be rented short term. Ms. Connors said that Exhibit 2 is the code language and encouraged everyone to look at it. Mr. Goldberg said that supposedly they pay taxes but there is no way to verify.

William Ferrante made a general comment about restrictions. He feels Lauderdale-By-The-Sea has excellent restrictions dealing with the number of people in the unit, house has to be inspected, has to meet code, log book of people, number of people in the house, who the agent is, etc. Also, all the cars have to fit on the driveway and they cannot leave any cars in the street. However, in his neighborhood cars are on the street and twice knocked down his mailbox. Enforcement becomes a major issue and more units in Town would become a bigger issue. Ms. Connors said that citizens should not hesitate to contact Code Enforcement. That is why they are there and the Town also works as a team with the police department. She encouraged citizens to call BSO non-emergency number after hours. She explained that the Town Commission added extra hours to the Code Enforcement budget so that they could efficiently respond to code violations regarding short-term and vacation rentals. Mr. Goldberg asked how much a vacation rental license is and Ms. Connors answered \$750 and the renewable fee is \$500. There is a reduced rate for renting multiple properties.

Ms. Connors answered Bernard Petreccia about the definition of short-term rental and the difference between vacation rental and short-term rental. She also spoke about transient rental in the code. Alan Bluestein clarified that the minimum amount of stay to rent a single-family house is seven days. Ms. Connors then explained the difference when renting a duplex, triplex, and quad. Mr. Ferrante wanted to know what happens if people only stay three nights when they rented for seven and Ms. Connors answered that it is hard to regulate if someone has to leave early but the property owner cannot re-rent the days that the renter left early. That is why the community needs to help the Town when they notice something like this.

Mr. Ferrante asked for the map to be brought back onto the screen. Ms. Connors explained that if you had a lot wider than 60' in the subject area and then you subdivided the lot and it is less than 60' wide after the ordinance was passed, then you could have short-term tenancy on those. To answer Chair Lanata's question, Ms. Connors gave an example using Sky 230 because they subdivided after the ordinance passed and can have short-term tenancy. Mr. Goldberg said that you have to consider the lifestyle of Lauderdale-By-The-Sea and the quiet enjoyment of people who own properties. There is no quiet enjoyment with vacation rentals. Mr. Ferrante said that Lauderdale-By-The-Sea is a beautiful area and he does not want more vacation rentals. He was picking up garbage for the house next door to him when it was a vacation rental. He wanted to know how many duplexes and triplexes there were renting in the area affected and Ms. Connors said they are not allowed short-term tenancy in the affected area in lots that are 60' wide or less. He then wanted to know how many duplexes and triplexes there are in the affected area and Ms. Connors did not have that number. Town Attorney Kathy Mehaffey said that the restriction they are talking about is separate from our vacation rentals and our short-term rentals which are based on types of units. This restriction in the affected area in the RM-25 District applies to every type of unit that is 60' wide or less. If you remove the restriction, you will have the single-family and the townhomes subject to vacation rentals and duplexes, triplexes, and quads subject to the short-

term rentals. We can figure out how many duplexes, triplexes and quads would be affected but we do not have that number right now. Ms. Connors said that the single-family and townhome would be subject to the week rental and everything else could be rented by the night. Ms. Leven added that there are also buildings with over five units on lots 60' or less in width in the affected area. Mr. Bluestein wanted to know if Staff was making a recommendation and Ms. Savidge wanted to know if there has been Code Violations reported on the twelve units that were mistakenly granted licenses. Ms. Connors said that they could research and find that information out.

Ms. Connors summarized what the Board wants researched but after stating the 2nd below, Mr. Graziano was granted more time to speak:

1. How many single-family and townhome properties are there in the affected area.
2. Have there been code violations on the properties west of Bougainvillea on lots 60' wide or less.

Chair Lanata said that John Graziano was open for questions and wanted clarification and without objection the Chair re-opened the public speaker's portion of the hearing. Mr. Graziano said that vacation rentals are already established in the Town and there are good rules to monitor them. However, there are always problems when you have to manage something. He feels the issue tonight is density. He was told that it was the same definition for both short-term rental and short-term tenancy and he said that it would mean one-night stays.

Chair Lanata felt that the Board was really being asked to open up the density for 115 properties to be able to be used for vacation and short-term rentals. Ms. Connors said that density is not controlled by this regulation. Density is controlled by zoning. The density would remain the same. The question is not about density but rather about transiency and whether or not the Board wants someone to be able to have overnight stays in that area and in the case of a townhome or a single-family home it would be weekly stays. It is about if you want the turnover of people on properties 60' wide or less in the affected RM-25 area (west of Bougainvillea). Chair Lanata said that he misspoke before about density but he really does not want to add more short-term or vacation rental units. Mr. Ferrante feels the same way and thinks we need to restrict more even in the areas where it is permitted now. Ms. Savidge feels that property owners would rent "under the table" if we would become more restrictive and regulations would not be followed (e.g., house inspection). Mr. Goldberg feels that we are able to police this now because of the regulations. Chair Lanata does not want 115 more rental units legally renting. Mr. Whyte feels that we would have more control, if renting was done legally. We came to Lauderdale-By-The-Sea to enjoy the community. Mr. Bluestein wanted to know if there are fines for people who rent illegally and Ms. Connors answered that the first fine is \$250/day and if it is a repeat violation, it could be \$500/day and the Town has the ability to revoke their license.

As the public hearing is still open, Attorney Drew Melville spoke again. He said that under Section 30-327, the police can kick people out of their rental that night if there is a problem. He spoke about the regulations and that rentals are allowed all over the Town except for the affected area and it is not fair to those property owners to be subject to prohibition. Chair Lanata said that the affected property owners should have done their due diligence before they bought their property. Mr. Goldberg commented that if you ask anyone who lives next to a vacation rental or short-term rental property, they would say no to this. As there were no other questions or comments, Chair Lanata closed the public hearing.

Mr. Petreccia made a motion to recommend not changing the prohibition that currently exists for the 60' wide or less lots west of Bougainvillea Drive in the RM-25 District to the Town Commission. The motion was seconded by Mr. Ferrante.

Upon Discussion: Ms. Savidge was told that the people who already have permits would not be able to keep them and an attorney representing an affected property owner was in attendance this evening.

The motion carried by roll call 5-0.

c. Peril of Flood

Development Services Director Linda Connors said that Planner Susan Leven would introduce the Town's guest speaker. Ms. Leven started out by saying that several months ago she was contacted by the South Florida Regional Planning Council to see if there was interest in participating in a project for which they were requesting a grant. The project was to assist several towns in updating their coastal management element in their comprehensive plan to better address the peril of flood amendments. This is an amendment to existing State law about requirements to harden places against storm surge and sea level rise. They received the grant and are working with the Town. The purpose of this presentation is to introduce the project and the concept of Peril of Flood. She introduced Corey Aitken who works for South Florida Regional Planning Council in the capacity of Resiliency and Economic Development Coordinator. His council works with Broward, Dade and Monroe Counties. He gave a PowerPoint presentation going through what is the Flood Peril Amendment, Definitions, Coastal High Hazard Area, What Needs to Be Done To Conform to the Peril Of Flood, An Outsider's Perspective of Lauderdale-By-The-Sea's Preparedness through reviewing their Comprehensive Plan.

Mr. Aitken explained that Peril of Flood is an amendment to the State's Statutes recognizing that future flood risks are increasing due to sea level rise and storm surge. He spoke about what municipalities could do and explained definitions starting with the definition of sea level rise and what are some of its contributing factors. He then defined storm water surge, coastal high hazard area, etc. He explained what needed to be done to conform to the Peril of Flood in general terms because it has not been specifically designed yet for Lauderdale-By-The-Sea. All decisions should be done based on science and research.

He discussed where the water would go from a rain storm and spoke about looking at the Town's Comprehensive Plan more closely and what he may have to do. He spoke about national as well as private flood insurance as well as shore line erosion, shelters, areas of concern in the Town (e.g., evacuation routes), infrastructure, etc. Mr. Aitken opened his presentation up to comments, thoughts or questions. Mr. Ferrante said that during the last King Tide there were several houses on Terra Mar Island where the water flooded over their seawall. Mr. Aitkin elaborated that Broward County was working on an ordinance. Ms. Connors said there is a meeting on Friday and anyone can go to the meeting place or watch it online and she would send the link. Ms. Connors also stated that the Town could give the Board an update on this meeting during the December P&Z Meeting. Ms. Leven said that the meeting on Friday is a municipal workshop for Regional Resilience Standards for Seawalls.

Mr. Petreccia asked if height is taken into consideration when a seawall is re-built. Ms. Connors stated that Lauderdale-By-The-Sea does not have a regulation for the height of a seawall. She explained why it would be so important to follow Broward County's lead on this subject. Chair Lanata asked about King Tide and Mr. Aitken said he does not know when they started using that term but there were other terms used before like fair weather flooding and nuisance flooding. The Chair also wanted to know why King Tide is different than Moon Tide. A King Tide occurs toward the latter half of the year when we are further away from the sun and closer to the moon. This pulls the tides higher lifting the water table. He also answered Mr. Petreccia regarding protecting the beach by the coastal construction line and protecting the mainland by adding more sand. Ms.

Connors said that Lauderdale-By-The-Sea's coastal construction line runs along the right-of-way along El Mar Drive on the east side of El Mar Drive. Ms. Savidge stated that she saw a lot of flooding on East Terra Mar. Mr. Aitken said he would comprise a list of these places that have public concern. Jeffrey Whyte wanted to know about the 500 Year Flood and discussion ensued about every location having its own rate of sea overrise. Even though Mr. Aitken works with other municipalities, what would be written in Lauderdale-By-The-Sea's Comprehensive Plan would be tailored for our Town.

6. OLD BUSINESS

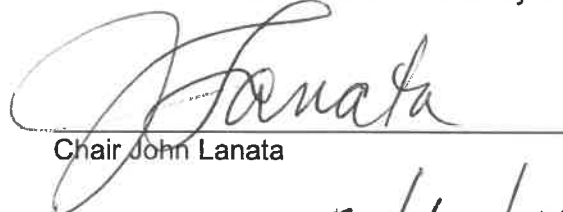
Ms. Connors gave an update of some of the Town Commission's decisions disclosed at the meeting last night for items this Board previously reviewed. They recommended approval of the Administrative Adjustment for the air conditioning unit at 227 Avalon. They approved the ordinance at second reading for the non-conforming uses. They approved the marina mooring area. It was reduced from 22,000 sq. ft. to 19,000 sq. ft. but the boat slips remain the same size. The site plan amendment was approved and they approved the use of the marina as a conditional use.

7. UPDATES/BOARD MEMBER COMMENTS

Ms. Connors said that December 5, 2018 is the next meeting. There tentatively are a few agenda items but since that is the date for the Christmas By The Sea event, they will poll the Board to see if they can get another date (December 6th or December 12th). Howard Goldberg invited the Board to the Lauderdale-By-The-Sea's Chamber of Commerce Christmas outing on December 12th. Ms. Connors will poll the board for a good December meeting date.

8. ADJOURNMENT

Mr. Whyte made a motion to adjourn at 7:45PM. The motion was seconded by Mr. Ferrante. The motion carried 5-0.


Chair John Lanata

ATTEST:

Date Accepted: 2/6/19

Development Services Director Linda Connors


Linda Connors