

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, August 17, 2011

6:30 P.M.

I. CALL TO ORDER

Chairman Alfred Oldaker called the meeting to order at 6:30 P.M. Members present were Chairman Alfred Oldaker, Vice Chair Yann Brandt, Ben Freeny, Patrick Murphy and First Alternate Eric Yankwitt. Also present were Jeff Bowman, Zoning/Code Supervisor, Bud Bentley, Assistant Town Manager, and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of allegiance was recited.

III. APPROVAL OF MINUTES - Planning and Zoning Meeting of July 20, 2011

There being no additions, deletions or changes to the minutes, all voted in favor to approve the July 20, 2011 minutes as presented.

IV. PUBLIC COMMENTS

There were no public comments.

V. NEW BUSINESS

- Item #1: Architectural Review Standards presented by Cecelia Ward**
Priority No.1: Proposed changes to Code Section 30.9 Architectural Standards.

Chairman Oldaker asked Cecelia Ward to proceed with her comments on the Architectural Review Standards.

Planner Cecelia Ward of JC Consulting Inc. is acting on the behalf of the Town for this agenda item and gave some background information that resulted in the proposed changes to Section 30.9 Architectural Standards. Ms. Ward said that she had prepared an analysis of the Town's Comprehensive Plan and the Land Development Regulation and the intent of that analysis was to determine if changes were needed either to the Land Development Regulation or the Town's Land Use Plan to be consistent with other. One of the key provisions of the Town's Comprehensive Plan is preserving the community character that exists in Lauderdale-By-The-Sea. Ms. Ward said that there were several items that should be addressed by the Town specifically in relation to the Land Development Code. One of those items is the mandatory requirement in the code that requires Mediterranean style of architecture. Currently this section of the code states that if you are going to redevelop or make certain improvements that trigger a site development review by the Town, that the only requirement applied to the architecture is Mediterranean or Spanish style. This does not give very much flexibility as to alternative styles that may be more appropriate. Ms. Ward said that in March 2011, there were several visioning and planning exercises performed by other consultants and by the University of Miami, etc. that indicates that there is a more prevalent style of architecture in the Town that is not Mediterranean but is more reflective of the Mid-Century Modern or Miami Modern or MiMo. Ms. Ward said that what her company proposes is to remove the Mediterranean or Spanish style as the mandatory style and replace it with a preference for Mid-Century Modern. Also, they have also provided a little flexibility to say that if you do not really want the Mid-Century Modern and if a project has the Mediterranean Style on one side or the other, maybe that style would work for that particular site. The proposed changes removes the mandatory restriction on style and provides a

leaning towards Mid-Century Modern and provides alternatives like stability to other architectural designs that may be appropriate in certain locations and it also cleans up a process that is in the code that does not really exist which is an Architectural Review Board. Today the code says that if you get triggered into this architectural review, you need to go to an Architectural Review Board for this review and that board really doesn't function. Ms. Ward said that she proposes to remove that and replace it with a Development Review Officer and that person would be the one that makes the determination that the style complies with code. To assist the Development Review Officer, the Town may employ an outside professional and state licensed architect at a cost recovery base. To summarize, this particular amendment is proposing to do the following:

- Remove the mandatory Mediterranean style as the architectural style of the Town.
- Provide Mid-century or MiMo or Modern as the preferred style for the Town.
- Give flexibility for alternative architectural styles
- List some criteria for the different elements that the Town would be looking for in reviewing architectural elements in a building.
- Remove the Architectural Review Board which currently does not function and replace that with the Development Review Site Plan process that the Town is currently using.
- Possibly give the Town the ability to hire an outside professional architect at a cost recovery basis so that there is no cost to the resident but would go back to the developer.

Ms. Ward closed her comments and asked the board if they had any questions.

Mr. Yankwitt asked what were the economic benefits to changes the architectural style.

Ms. Ward said that from the planning and zoning prospective, there is currently a constraint on the possibility to renovate some of these existing buildings which are for the most part mostly Mid-Century Modern in style. So that if you have an existing building such as a resort/motel and you want to make some renovations, the current code would require them to convert to the Mediterranean style that would change the entire demeanor of the building. So, from an economic standpoint, they are actually providing more relief to the existing property owners especially those who may want to make changes and bring their building to code from an architectural standpoint and cannot do that under the current code.

Mr. Yankwitt said that would benefit the individual and asked how it would benefit the Town as a whole?

Ms. Ward said that she has not done an economic analysis on the Town as a whole. Ms. Ward said that the study that the University of Miami had done for the Town, was looking at what were some of the characteristics that make Lauderdale-By-The-Sea unique. Ms. Ward said that they are basically preserving those characteristics with this ordinance. So, from an economic development standpoint, she thought this would make us stand out more than other beachside communities.

Mr. Brandt asked which zoning districts were currently enforcing the required Mediterranean Style.

Ms. Ward read the code section, **"all development including new construction, reconstruction, alterations and additions within the B-1A, B1, R5, RD10, RM25 and RM50 zoning districts"**. Ms. Ward said that they were not changing that and this ordinance would only be applicable to the same zoning districts where the architectural review is applicable.

Mr. Brandt asked Ms. Ward what is the benefit of having a style listed in the Town's review process at all.

Ms. Ward said that to go from mandatory Mediterranean to nothing would be a significant change and she thought there would be some benefit to give the proposed developer some indication of what the Town is trying to achieve. Ms. Ward said that she thought there had been enough analysis performed for the Town that shows that the Town has come characteristics and some pattern of architectural style. Ms. Ward said that the Comprehensive Plan actually directs the Town to preserve the character of the community. Ms. Ward said that they are fulfilling the objective of the Comprehensive Plan by making this change. The flexibility provisions they provide would give the opportunity for someone to propose something else.

Mr. Brandt asked Ms. Ward if she was aware of any studies that were done for the Town that says that MiMo is the style.

Ms. Ward said that a field study was done around the same time that she was doing the comparative analysis for the Town. That field study indicated that there is a greater predominance of the Miami Modern and Mid-century type of architecture than any other type of architectural style in the Town.

Chairman Oldaker asked if this would discourage certain businesses in Town.

Ms. Ward said absolutely not and by keeping the Mediterranean style, the Town could potentially discourage the redevelopment of property.

Mr. Brandt said that he was not a big fan of the MiMo style of architecture and said that he lives in the Silver Shores area and said that he could name one house that really has a MiMo standard. Mr. Brandt said that developments that had followed the Mediterranean style might feel out of place at this point if the Town went into something different. Mr. Brandt said that it has been a few months since he read the Comprehensive Plan, and he did not believe that MiMo is mentioned. Mr. Brandt said that there was also discussion of not making MiMo the standard because it might create some sort of art deco or let's keep it old kind of feel. Mr. Brandt said that he heard both sides of that coin when the Town had all those resource speakers doing their study. Mr. Brandt was hesitate to go to this drastic change from mandatory Mediterranean to MiMo and then put the burden on the developer or the person trying to renovate a property as to why they shouldn't do MiMo.

Ms. Ward said that she wanted to clarify that there is no specific architectural style in the Comprehensive Plan and that Mr. Brandt was correct. Ms. Ward said that the change that they were making in addition to making it not mandatory is saying that it is preferred and that is why they specifically did not say it is a mandatory architectural style.

Mr. Brandt said that he would be more in favor of making what the Town has already "preferred" and letting it go through the new process that Ms. Ward is recommending. Mr. Brandt said that he would go with the speakers that said that MiMo wouldn't and shouldn't be the standard for the Town.

Ms. Ward said that this ordinance only says that MiMo is the preferred and does not make it the required standard.

Mr. Freeny commented that he thought it was very important for the Town to provide some direction to the developers. A prime example of zero direction or every direction - if you drive west across the intra-coastal on Commercial Boulevard and if you look at the buildings, there is no real cohesiveness between any of the buildings and he thinks it is very unattractive. Because the area being discussed is very small, some kind of guidance needs to be provided. Mr. Freeny also agreed that the architectural styles have to be somewhat flexible and not a total requirement or we could end up with some kind of Japanese Pagoda next to a Russian onion-top building next to a Southwest Ranch style structure. Mr. Freeny said that all of the work that everybody has been doing has been aimed at merely trying to get the feel of the beachside community and to have some cohesiveness. Mr. Freeny said that probably out of most of the architectural styles, the Mediterranean style would be one of the most expensive to try and develop or renovate. Mr. Freeny said that he knew that the Town was trying to remove the impediments and he hopes that the board thinks about all that the Town would achieve with these proposals. Mr. Freeny said that he was not a big Mid-century fan either but he was a fan of moving forward.

Mr. Brandt said that he thought it was important to note that the Town has had a standard for all these years and that is why some things are coming together in a cohesive fashion and thought that the proposed changes would give the Town less of a standard.

Chairman Oldaker asked Ms. Ward what degree of power would this review concept have when an outside consultant is hired.

Mr. Ward said that in her experience, you would hire an outside professional that is certified and licensed in the State of Florida for that specific type of work and she did not think that the Town wanted to go through the expense of hiring an full-time architect to do these reviews and it gives that alternative on a cost recovery basis. A short list of professional architects would be created and they would be rotated.

Mr. Freeny said that the decision would still be upon the Development Review Official and the Town Administration.

Ms. Ward said that the architect would make a recommendation to the Town's official.

Mr. Brandt asked who the Development Review Official would be?

Ms. Ward said that currently the Development Review Official is Bud Bentley the Director of Development Services.

Chairman Oldaker asked for a motion from the board.

Mr. Brandt made a motion to approve the proposed changes to Section 30.9 Architectural Standards with the premise to incorporate some of the recommendations such as getting rid of the Architectural Review Board and to get rid of the Mediterranean architectural style requirement but not to move to the MiMo architectural style. Mr. Brandt said that they are not the Town Commissioners and they are not the mini Town Commission and that these were policy decisions and if the board is going to make a recommendation to do something that is MiMo and spend a lot of staff time, he would rather have the real Town Commission do that as opposed to this board. Mr. Brandt said that he thought it was a good recommendation to get rid of the requirement for the architectural style, whatever that may be, and to get rid of the Architectural Review Board which the Town does not have on hand at this time.

Town Attorney Kathy Mehaffey commented that the ordinance that is in front of the board already eliminates the Architectural Review Board. Attorney Mehaffey said that she understood Mr. Brandt's motion to recommend approval without the recommendation for the MiMo architectural style.

Mr. Brandt responded, yes. The motion is for approval but leave it for Mediterranean and get rid of the requirement and get rid of the Architectural Review Board. Mr. Brandt said that the architectural standard is a policy decision and is in his opinion should not be up to the Planning and Zoning Board. Mr. Brandt said that he has not seen any concrete studies that indicates that the Town should go to a MiMo architectural style nor have they seen a Comp Plan adjustment.

Mr. Murphy referred to line 123 of the draft ordinance that states **"While the Mid-Century Modern (MiMo) architectural style is the preferred architectural style, it is not intended to be the exclusive architectural style of the Town"**. Mr. Murphy said that was relatively clear and said that it was a preferred suggestion.

Mr. Freeny made a motion to accept the proposed changes to Section 30.9 Architectural Standards as written and provided by Town staff.

Mr. Brandt said that he would second Mr. Freeny's motion with further discussion.

Mr. Brandt responded to Mr. Murphy's comment and said that if you read further it says **"However, it shall be the applicant's burden to show that the proposed alternative architectural style and design concepts, to the maximum extent practicable, are compatible with the architectural style of adjacent existing or approved development on the same or abutting properties and street frontages"**. Mr. Brandt said that this automatically puts the burden on the person renovating the property to go away from MiMo and if the Town decides to hire an architect to review this, it becomes the developers responsibility to pay for that architect to change that style which he thinks is completely over burdensome to the person trying to renovate the property.

Mr. Murphy said that he agreed to a certain extent but you would have a contiguous property that wants to meet the same style and if in fact you are trying to achieve a style and that style doesn't meet MiMo, why would you not do that. Mr. Murphy said that the purpose and the intent of this document is to try and create flexibility and move forward in the Town.

Mr. Brandt said that the problem is that there is not that much MiMo in Town. There are bits and pieces of old properties that exhibit some signs of MiMo. Mr. Brandt said that if you go into Silver Shores and the Surf and Yacht Club, it is not MiMo. All and all this Town is way more Mediterranean than it is MiMo.

Mr. Murphy said that he had a hard time thinking that we are trying to make some dramatic change from building to building. Mr. Murphy said that he thought it could be a common sense thing that we could look at each individual renovation on a case-by-case situation.

Mr. Brandt responded that there really was no need to jump into this giant change from Mediterranean to MiMo. Mr. Brandt said that this thing is being pushed on the board and on the residents of the Town because two resource speakers came in and said that MiMo is here and we are being lobbied for this MiMo thing when there is no real giant desire to create it.

Mr. Murphy said that was Mr. Brandt's opinion and he thought that it created more flexibility.

Mr. Bowman, Supervisor of Zoning and Code, commented that the residential sections RS4 & RS5 are not included in this ordinance and it was just the business district and the multi-family.

Mr. Brandt commented that one part of the Town would be MiMo and the other part of the Town whatever they want.

Mr. Yankwitt said that back in the day the board required the Mediterranean style and why in their infinite wisdom did they do that and what was their reason for doing that?

Mr. Bowman thought it was around the year 2000 when they put in the required Mediterranean style and did not know what the rationale was for choosing that style.

Mr. Yankwitt asked if it was common for Town's to change style every decade or every fifteen years or so or every new generation.

Mr. Bowman responded that he did not have an answer.

Mr. Murphy said that he had a hard time thinking that in this current environment that if a developer comes in and wants to do something, his inability or not wanting to hire an architect to make sure that it would comply with everything in order to get a project off the ground, that person is probably going to do it. The ultimate decision would be, whether we as individuals and as a group would make that decision to pass it on to the Town Commissioners to make that decision.

Mr. Freeny said that the board was given this item to review and discuss and one thing the board does provide to the Commission, is the minutes of the meeting so that they could go through and look at the points the board brought up and discussed and see what the board's responses were and hoped that they would be beneficial in any decision the Commission would make when they go through their process. Mr. Freeny referred to his previous statement regarding the cost and there were comments made that most of these people did not have the funds to do renovations and were not able to maintain the property that caused so many of the properties to go down hill. If a small motel on the beach were to convert to a Mediterranean style, it would cost them a lot more than to convert to this MiMo style. Mr. Freeny thought this was one thing that was good about this change and the ordinance says preferred and it is not mandatory. Mr. Freeny said that currently with the mandatory Mediterranean style, the Holiday Inn would have to be renovated in the mandatory Mediterranean style.

Mr. Brandt withdrew his second to Mr. Freeny's motion.

Chairman Oldaker said that Mr. Brandt still had a motion on the table and it needed a second. The motion failed due to a lack of second.

Mr. Brandt made a motion to defer until the November 16, 2011 Planning and Zoning hearing. Mr. Yankwitt seconded the motion with direction to Staff regarding the information he would like provided at the November meeting.

Mr. Yankwitt would like to see economic numbers as to how this change would improve upon the value of properties in Town and the value of his home; the cost to others in the neighborhood and what the benefit is to having a Mediterranean style versus a MiMo style.

Chairman Oldaker said that this ordinance would not affect the residential areas.

Mr. Yankwitt responded that he lives in a Town where there are some businesses and said that he is in walking distance to the Pier and thought that this could affect him.

Mr. Brandt accepted Mr. Yankwitt's friendly amendment.

In a roll call vote, the motion passed 3 to 2 in favor of deferring this item to the November 16, 2011 Planning and Zoning meeting. Mr. Freeny and Mr. Murphy voted in the negative.

Mr. Bowman asked for direction from the board so that he would know what information the board was looking for regarding this ordinance so that it could be prepared and provided at the November meeting.

Mr. Yankwitt would like to see what the value would be to having MiMo verses Mediterranean style and how that affects the value of the tax base; would it attract or not attract more tourism. Mr. Yankwitt said that basically he would like to see some economic numbers so that he could see why it would benefit the Town to change from something the Town has had established for the last 15 years. Mr. Yankwitt said that every time we come into something that is aesthetic, it seems like whatever board is in power at that time comes up with a new standard of aesthetics without any mention of the economic benefit.

VI. OLD BUSINESS

Item #1: Conditional Use Application for Outside Seating in the B-1 and B-1-A Zoning District. Tabled from the July 20, 2011 Planning and Zoning meeting.

Chairman Oldaker asked Jeff Bowman to address the Conditional Use Application.

Mr. Bowman said that this item was presented at the last Planning and Zoning meeting and the board deferred it to this meeting and requested that Staff provide the board with additional information. Mr. Bowman referred to page 3 of his Staff report and at the bottom listed the board's questions and Staff's responses.

Chairman Oldaker requested that Mr. Bowman go through the questions and answers for the board.

Mr. Bowman stated each question –

1. Question: Are the service areas calculations correct?

Answer: The customer service area has been modified. The entire deck area will now be used for Customer area. The original application was for 266 sq. ft. and that has been revised to 676 sq. ft. as shown on Exhibit #1.

Mr. Bowman said that the applicant decided to make the entire area customer service area to make it easier for staff to not have to guess how much customer service area would actually be occupied on the deck at any given time.

2. Question: What are the calculations for the number of required bathrooms? Does the additional seating require additional bathrooms?

Answer: The Florida Building Code (Section 403) requires restaurants to provide restrooms based on the occupancy load and shall be composed of 50% of each sex (36/36/).

Restaurants are classified as A-2 Occupancy and require 1 facility per 75 for female and 1 facility per 75 for male. Currently the Pier provides 1 facility for each sex.

The Pier Café has two bathrooms, which is sufficient for 150 people and the total occupancy load with the additional outside seating is indicated by the architect to be 76 people.

Mr. Bowman said that the applicant has the two bathrooms that he needs for the occupancy load that the application is proposing.

3. Request: Revise the plans to include the distance from the decking to the residential dwelling units to the south.

Response: The plans (Exhibit 1) were revised to include the distance, which is approximately 70 feet.

4. Request: Have the applicant provide a copy of the State approval for the decking.

Response: The applicant was out of Town and was unable to provide the document prior to the agenda packet being sent to the board members. They have been asked to provide it for the board meeting.

Mr. Bowman gave the board members a copy of the State approval document for the decking.

Mr. Brandt said that at the last meeting Staff noted that the application for the Conditional Use mentioned the hours between 8 AM and 10 PM and that would be the rule imposed once it was approved and he wanted to make sure Mr. Bowman was aware of that.

Mr. Bowman remarked that in Staff's recommendations, a condition was added that was approved by the board. Mr. Bowman referred to page 3 Condition #3 that states that the hours of operation are not limited to the hours specified in the application but by Section 12-10 of the Town Code which is 6 AM to 2 AM.

Mr. Brandt made a motion to approve the Conditional Use application as presented by Staff.

There was further discussion.

Mr. Freeny asked how many additional parking spots are required for the addition that will come out of the allotment for the exempt parking program.

Mr. Bowman said if it is based on the 676 sq. ft., the applicant would need about 13 parking spaces. Mr. Bowman said that the applicant has applied for parking exemption and if approved would not require him to provide parking.

Mr. Freeny asked if Mr. Bowman was just talking about the additional decking that is to be constructed and said that the prior decking was constructed before the parking exemption program.

Mr. Bowman said that the application for the parking exemption program was just for the increased customer service area which is the decking.

Mr. Freeny said that he was talking about the new decking not the old decking.

Mr. Bentley asked Mr. Freeny to restate his question so that Staff would answer the correct question.

Mr. Freeny said that his question is applicable to the new deck as to how many parking spaces would be added and applied to the limit of the parking exempt program.

Mr. Bowman explained that there is a proposed smaller deck that will be constructed next to the existing deck. The existing deck was approved as waiting area not customer area. So the applicant's application is including the existing decking on the west side of the property and a future adjacent decking that is indicated on the site plan.

Mr. Freeny said that basically what the exempt parking application does is apply for exempt parking for the deck that was built prior to the exempt parking regulations passed by the Commission.

Mr. Bowman said that Mr. Freeny was correct.

Mr. Freeny said that with the 6 new tables on the new deck, he would still like to know what the number would be.

Mr. Bowman said that he would need 3 parking spaces.

Attorney Mehaffey said for clarification the purpose of the parking exemption is to use that for the parking for customer service with tables and it is the addition of those tables through this application which triggers a new parking requirement that will be part of the parking exemption application.

Mr. Bowman said that Attorney Mehaffey was correct because it is an expansion of the restaurant for customer service area.

Attorney Mehaffey said that for both of those areas, the applicant would need approximately 13 spaces.

Mr. Bowman responded yes. Mr. Bowman said that the two decks added together comes out to the 676 sq. ft. which calculates to approximately 13 spaces.

Mr. Brandt asked if this could be considered a sidewalk café?

Mr. Bowman responded no.

Mr. Brandt commented that we are going to be using a bunch of the parking allotment out of the parking exemption program that would be more than the 5 spaces that was indicated in the application.

Mr. Bowman said that the 5 parking spaces indicated on the application were based on the original square footage before it was revised to include all of the decking.

Chairman Oldaker said that there was a motion on the floor by Mr. Brandt and asked for a second.

Mr. Yankwitt seconded Mr. Brandt's motion to approve the Conditional Use Application for outside seating in the B-1 and B-1-A Zoning District with Staff's Conditions:

1. The outdoor café use will be maintained and operated as provided in the applicant's application received by the Development Services Department on June 28, 2011, as later revised, except as modified by the conditions established by the Town Commission.
2. The deck service area shown on the revised site plan is approved for a customer service area of 676 sq. ft.
3. The hours of operation are not limited to the hours specified in the application but by Section 12-10 of the Town Code.
4. The Conditional Use Permit is specific to the applicant and is not transferable.
5. The outside seating area shall be kept clean at all times so as not to attract rodents, vermin, and pests.

In a roll call vote, all voted in favor of the motion. The motion passes 5 – 0.

VII. UPDATES/BOARD MEMBER COMMENTS

There were no updates or board member comments.

VIII. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:30 p.m., August 17 2011.

ATTEST:

Chairman Alfred Oldaker

Date Accepted: _____

Colleen Tyrrell, Board Secretary