

APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES
Jarvis Hall - 4505 Ocean Drive
Wednesday, June 6, 2018

1. CALL TO ORDER

Chair Lanata called the meeting to order at 6:00P.M. Members present were John Lanata, Cari McCormack, William Ferrante, Jeffrey Whyte, 1st Alternate Alan Bluestein and 2nd Alternate Bernard Petreccia. The absent member was Helene Wetherington. Also present were Assistant Town Attorney Kathy Mehaffey, Development Services Director Linda Connors, Planner Susan Leven, Planner Jhanelle Campbell and Clerk Kaliah Lewis. Ms. Connors explained that since one of the board members is absent, the two alternates can participate in discussions but only 1st Alternate Alan Bluestein can participate in motions and can vote.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Previous Meeting Minutes – May 16, 2018

Ms. McCormack made a motion to approve the minutes of May 16, 2018 as presented. The motion was seconded by Mr. Ferrante. The motion carried 5-0.

4. PUBLIC COMMENTS

The Chair called for public comments but no one came forward at this time. He closed public comments at this time and turned the meeting over to Development Services Director Linda Connors to present New Business.

5. NEW BUSINESS

a. 2018-L2-SPM-04 Site Plan Modification 4625 N Ocean Drive (Sea Garden),
Linda Connors, Development Services Director

Development Services Director Linda Connors explained that Sue Leven was the planner in charge of this project and would present this agenda item this evening. In advance of that, Ms. Leven would give a brief presentation on density and the requirements of density. Ms. Leven gave a PowerPoint presentation explaining that when Lauderdale-By-The-Sea (LBTS) was newer, people used to rent one bedroom apartments to winter here. She explained how one-bedroom units transitioned to two units and then more units. For example, a 13-unit building became a 25-unit building in LBTS. This was accomplished by adding bathrooms and sometimes kitchens but exteriors of buildings did not change. The Town found this out in many ways but especially with new BTR (Business Tax Receipt) applications. There is now a Vacation and Short-Term Rental Code Section as well. When these applications come in, the Town looks at the buildings. If a one-bedroom apartment is changed into two separate units, there may not be a firewall between the units. Anything done has to be done with permits so the Town could check that electric, plumbing, etc. is done correctly. If the Town finds work without permits, they meet with the owners and give them options like just restoring the unit to

the approved original plans, etc. She explained other ways to legalize changes, if applicable. Those that do not do anything to correct the issues, are turned over to Code. She explained how density in certain zoning districts is limited by the County.

She spoke about Site Plan Modifications and that Level 2 Site Plan Modifications would come before this Board. Ms. Connors answered that a Level 1 Site Plan Modification is a site plan project that does not have a significant impact to the Community (e.g., changing configuration of parking lot but not adding intensity to the project). This could be approved administratively. A Level 2 Site Plan Modification is when there is added intensity or adding a number of units above the density that was already there increasing density, increasing square footage, etc., then the Site Plan review must be by the Planning and Zoning Board. After the board's review and recommendation, then there is a review and approval by the Town Commission. For example, tonight's agenda item, Sea Garden, is increasing the intensity of the site by adding units, which increases the density. This is a Level 2 Site Plan Modification to be heard by the Planning and Zoning Board and then goes to the Town Commission.

Planner Susan Leven said that this property was originally composed of two lots, 4625 and 4633 N Ocean Drive. A recent unity of title application combined them into a single lot now known as 4625 N Ocean Drive allowing more flexibility to the number of units allowed. The building started out with 16 units on two separate lots. When the Town found it, there were 17 units. In 2017, Sea Garden by the Sea, applied for a BTR for 17 residential units. As part of this application review, Development Services Staff reviewed historical files which did not match. There was a site inspection which confirmed that the 16 (13 on 4625 and 3 on 4633) units for which the property had permits were illegally converted into 19 units (17 on 4625 and 2 on 4633). Per Town Code, the total number of units exceeded the density allowed on the site. After several meetings with the owner and representatives, this application was filed for the now combined properties to have a total of 18 units (11 without kitchens and 7 with kitchens). They provided a plan that shows updates to the building (e.g., firewalls, creation of an ADA unit, etc.). They showed a re-configuration of parking for the whole complex to include a handicap accessible space, bicycle racks, landscape, etc. She said that the architect for the project is in attendance and would take questions.

Mr. Ferrante wanted to know if this submittal meets current requirements. Ms. Leven explained how the code calculates density in the RM-25 zoning district. For every hotel room (without a kitchen) you are required to have 871 square feet of lot area and for every unit with a kitchen you are required to have 1,742 square feet. In this respect, they are in compliance. Ms. Connors added that for existing buildings, they are for the most part, considered grandfathered for setbacks, but she explained what happens when there are substantive improvements. She said that the Town was looking to see if they improved any of the non-conformities as we don't want to make anything worse. We just want to move toward better. They must meet density. For parking, they want to get as close to compliant without losing any parking spaces and look into health and safety issues (e.g., safely backing out, etc.) for renovations of hotels. Ms. Leven explained that because the Town asked for landscaping at the end of the parking area, they ended up one parking space short but added bicycle racks. Ms. Leven explained that the history of this property spanned 40 to 50 years. She answered Chair Lanata that the existing owners bought the property in July 2017. Mr. Petreccia congratulated Town Staff on how nicely this was presented tonight. He wanted to know if they would qualify for the number of parking spaces if this was new construction. Ms. Leven explained that the configuration would not qualify because they would not be able to back out onto the street. Ms. Connors clarified that the code did not allow backing out onto A-1-A. Ms. McCormack asked about street drainage. Ms. Connors said that they would be keeping their water onsite and that was their only

responsibility. Mr. Whyte wanted to know if Sea Garden is regulated by the State. Ms. Connors said that they are not required to review the Site Plan process. He inquired about the pool capacity and the ADA lift. Ms. Leven clarified that they met with Building Official Jack Morell who asked them to add a handicap parking space and to create an accessible unit. Chair Lanata asked if the manager's office is considered in any calculation and Ms. Connors answered that it was not. As there were no other board questions/comments, Chair Lanata opened the meeting for public comments. As no one wished to speak, Chair Lanata closed the public portion for this agenda item.

Mr. Ferrante made a motion to recommend for approval the Site Plan Modification for 4625 N Ocean Drive (Sea Garden) to include Staff's recommendations and conditions for the site plan. The motion was seconded by Ms. McCormack.

For Discussion: to ensure the motion included Staff's recommendations/conditions.

The motion carried 5-0.

6. OLD BUSINESS

- a Review of Town's Regulations Regarding Rooftop Uses,
(Linda Connors, Development Services Director)

Development Services Director Linda Connors gave a brief overview explaining that the board started discussing rooftop uses at their last meeting and the board asked for clarification. So information given to the former Planning and Zoning (P&Z) Board was given to this new P&Z Board. It includes Staff's research. Staff also contacted Pompano Beach, Wilton Manors and Oakland Park to determine if they have rooftop regulations and was told that Pompano Beach and Oakland Park do not currently regulate. For tonight's meeting, Staff has provided a table that identifies the issues that were addressed at the last meeting of this board and the zoning districts in the Town. The only unanimous decision from the last meeting was that rooftop uses should not be allowed in the Town's single-family and duplex zoning districts (RS4, RS5, and RD10). In the board's packet, it will show that Fort Lauderdale, Pompano Beach, Wilton Manors and Oakland Park were asked again regarding rooftop regulations and the Town was told by three that they do not have regulations but would be interested to know what LBTS does. Ms. Connors went over what the board members should take into consideration like there are no complaints in the RM-25 zoning district, people are glad that there are rooftop uses allowed in the RM-25 zoning district but it would need shade through a permanent structure, much of the Town's commercial zoned areas do not have the same issues of rooftop uses next to residential properties, and height limitations need to be accounted for. Staff will review the discussion from tonight's meeting and will, if advised by the board, draft an ordinance for the board's consideration. She suggested opening up to public comment now and Chair Lanata did that.

Jay Flynn read his prepared letter into the record (see below).

"First I would like to say that Kim and I love this Town...this is where we live and work and this is where we will retire...we do not plan on moving...we understand the Town has certain ordinances in place to insure we have smart and responsible growth and development. As many of you know or may not know, we own the building at 241 Commercial Blvd...our engineering office is on the ground floor and our residence is above. I feel mixed use is great for the Commercial Blvd corridor b/w A1A and the Bridge...the buildings that do have mixed use, where the owner of the building lives in the building ...they tend to have an elevated pride of ownership in the property vs what I will call a more typical landlord/tenant relationship...mixed use is good for the Town and we need to massage the current ordinance and regulations to encourage more of this type of Use. Just look at the 3 buildings that I am aware of where the

building owner lives upstairs and you can see the difference in how the properties are maintained...look at our building, Interior Digs and also 239 Commercial.

In your current code, residential use is allowed on the third floor of the B 1 district as long as you meet the height restrictions. The current code also does not allow a commercial use above a residential use...for example at my building we could not have a 3rd story commercial use over our 2nd story residential use, but we could have a 3rd story residential use. What I would like to see added to the code is your allowing the resident to use the roof for their own enjoyment, much like we would use our backyard if we were in a single family residence...this roof top use would become our backyard...our outdoor space. I feel the Town should allow the owner to have the option to use the roof and to use it under covered space if they like...any covered structure would have to meet the height and architectural requirements already stated in the Code. Your current code states the Purpose of encouraging mixed use development is to accommodate mixed use buildings with neighborhood serving retail, service and other commercial uses on the ground floor and residential units above the non residential space; Encourage development that exhibits the physical design characteristics of pedestrian oriented storefront style shopping streets, and finally the code states to promote the health and well being of residents by encouraging physical activity, alternative transportation and greater social interaction. The Town had the forethought to state in the Code that they ENCOURAGE mixed use development...Kim and I enjoy and promote that lifestyle...we walk and support the local businesses...our dentist, our dermatologist, our alteration lady, our hardware needs, our 3 or 4 go to restaurants and best of all the Beach are all within 3 or 4 walking blocks of our mixed use building.

I was not at the last meeting but I heard that concerns were raised about life safety and also about the roof top uses turning into South Beach type bars with noise, lights, etc. Regarding life safety, that is an item that your building department controls... regarding roof top bars, I do not think anybody is envisioning that nor do I think they would be able to accomplish that thru the Current code because they would never be able to meet the parking demands for such a use. I would like to encourage you to add a provision to your code that allows covered roof top use in the B 1 district...I strongly believe this will further strengthen the Town's prior vision to encourage mixed use development in Lauderdale by the Sea."

David Gadsby testified that he owns and operates the Beachside Village Resort. He said that there are four parcels and the parcel he wants to put an awning on the rooftop deck is 4553 El Mar Drive. He bought the property with the existing rooftop deck use. He needs a shade structure up there. He feels that what is in the code now, umbrella or pop-up canopy, is dangerous due to ocean breezes, etc. He owns the property for about eight years and the rooftop deck was there about twenty years and he does not believe there were ever any noise issues. He needs shade up there but not from something that could be blown away and become dangerous. He would like a permanent structure for shade. He is in the RM-25 zoning district.

Ron Piersante said that the next block over from him is a huge building. When they came in with their plans, there was no mention of rooftop uses, as he recalls. He was against this because of parties. He asked the board members to look at the zoning map and especially RD-10. Then he pointed out RM-25. Since they have completed the building on the canal, there has not been a problem. However, he worries about next door and across the street from him, that the developer would do the same thing. He is not happy about this because of the zoning. He proposes that everything east of A-1-A should be approved with the rooftop. He would like

to see rooftop uses kept out of the residential area. As there were no other members of the public wishing to speak, Chair Lanata requested comments from the board.

Chair Lanata said that he drove around Town since the last meeting to understand what situations exist or have the potential to exist through rooftop uses. He believes it would be absolutely appropriate to allow rooftop decks anywhere east of A-1-A. He is just concerned if it surrounds residential areas. He does not want it so close to residential districts. Mr. Petreccia said that he tends to agree with what Mr. Flynn said. When we look at rooftop, we need to look at two things. One is a commercial rooftop and one is for personal use and the board should be able to differentiate. Mr. Flynn talked about not having a backyard and his rooftop could be used for that purpose. Mr. Ferrante wanted to know if there was a way to accommodate the limited number of people who work and/or live in the building along Commercial Boulevard to have a rooftop where it would not infringe upon the residential property owners behind them. Ms. Connors replied that they could always find a way to draft a code. He then asked if she knew how many people lived and/or worked along Commercial Boulevard like Mr. Flynn. Ms. Connors answered that there were not a lot. However, there are apartment buildings where people might live and work and that would give a different number. He felt that since it is a limited number, maybe this board could make an accommodation. Mr. Whyte commented that owner occupied makes a big difference and agrees with what Jay Flynn said. He would support owner occupied in the B-1 district east of A-1-A. Ms. Connors said that as a point of reference, Jay Flynn's building is west of A-1-A as well as all the other owner occupied buildings. She put the zoning map of the B-1 district on the screen.

Ms. Connors spoke about the B-1 district, for residential or owner occupied rooftop uses in mixed-use properties. Mr. Bluestein wanted to know if there are also rentals in mixed use properties because it would not be fair to just allow owners. Ms. Connors answered that there are currently mixed use properties that are not owner occupied and have renters for which she gave examples. Mr. Petreccia gave an example of a property he owns where there is business downstairs and rental upstairs. He does not allow access to the roof to the owner of the business. Ms. McCormack said that as the building owner, even if the code allowed rooftop uses, it would be up to the landlord to allow it on his building. Ms. McCormack spoke about inequity if you deny an owner the right to choose about rooftop uses. For example, if you allow Jay Flynn rooftop uses because he is owner occupied but do not allow a property right next door just because the owner does not live there. She spoke about a wall directing noise to the commercial side away from residential. This would allow equity among all the owners to have the ability to develop rooftops. Ms. Connors felt that there was a consensus that mixed use should be able to have rooftop uses. She wanted to know if it is owner occupied only or is it for everyone. Ms. Connors pointed out on the zoning map the red and pink areas are where the Town allows commercial properties and the area where the mixed use scenario is being discussed. Chair Lanata spoke about the red area around the yacht basin and felt that it should not be allowed there. For clarity, Ms. Connors said that all the brown properties right next to the red properties are allowed rooftop use. Chair Lanata suggested repealing what the P&Z Board did previously and make a new recommendation to not allow rooftop decks in the brown area. Ms. Connors said that now she hears that some want mixed use but only owner occupied, some want mixed use but for everyone and some want mixed use but not for the waterfront.

Mr. Whyte made a motion to approve rooftop usage in owner occupied mixed-use buildings in the B1 and B1A (pink) zoning districts. The motion was seconded by Chair Lanata.

For Discussion: Mr. Petreccia asked if the motion included residential or just commercial and he was answered that this is just for residential use. Chair Lanata asked about a permanent structure but that would be handled later. Ms. McCormack felt that owner

occupied is not equitable for the motion. Also, an owner can move out. This also puts a big burden on staff. Mr. Ferrante also believes it is too complicated plus an owner could move out. Chair Lanata also feels it is too restrictive. It was suggested to change the motion to drop the owner occupied and allow residents and the whole group agreed with the maker and second for this change.

Ms. McCormack made a motion to allow rooftop usage for the residential components of mixed-use properties in the B1 and B1A (pink) zoning districts. The motion was seconded by Mr. Ferrante. The motion carried 4-1 (Mr. Bluestein opposed).

Ms. Connors said that mixed-use was decided in B1, we will stay with B1 and B1A but this time regarding commercial properties (restaurants, offices, etc.).

Ms. McCormack made a motion to allow rooftop usage for the commercial properties in the B1 and B1A (pink) zoning districts with provisions from the bridge to the ocean and then a little part of A-1-A that it includes provisions for any walls or sound barriers or direction away from residential when there is a conflict in uses. This motion failed for a lack of second.

Chair Lanata made a motion to prohibit rooftop usage for the commercial properties in the B1 and B1A (pink) zoning districts. The motion was seconded by Mr. Bluestein.

For Discussion: Mr. Ferrante asked if there was any inquiry for rooftop dining. Ms. Connors said there were people who talked about it but no one has formally requested it. Ms. McCormack feels that rooftop dining is the future. She feels that without rooftop uses, the Town is limiting businesses especially in the square. This is being shortsighted. Chair Lanata does not feel that a rooftop bar or dining would add to the character of the Town. Mr. Ferrante said that we do not have a lot of the problems like in downtown Fort Lauderdale. If we add something like this, we may be opening up problems. Ms. McCormack felt that a rooftop bar could go along with the charm of our Town. Ms. Connors reminded the board members that if we added a restaurant it would increase parking requirements and she explained how an owner would have to handle this. The motion carried 4-1 (Ms. McCormack opposed).

Ms. Connors said that we need to talk about if the board wants to require setbacks or any other limitations for these mixed-use properties with rooftop usage. She said that setbacks in the RM-25 zoning district allow rooftop use not to infringe upon the surrounding duplex units. She explained that there could be limitations that push the rooftop back and not allow items like towels to hang on the edge of the rooftop. Because the mixed-use properties are in the B-1 district, there isn't close proximity to another residential area and conflict may not be an issue. Ms. McCormack felt that setbacks and other limitations to rooftop uses should be deferred to Staff to come back with recommendations. They would be the most equitable. Mr. Petreccia believes that Ms. McCormack is correct and spoke about parapet walls. If there is a parapet wall, then a setback may not be required but no parapet wall, then he felt that there should be a setback.

The next item to discuss was permanent structures which would be a policy issue. Ms. Connors reminded the board members that in the RM-25 zoning district, the Town does not allow permanent structures on rooftops except for 30 sq. ft. for an outdoor kitchen. She explained that in the exhibits in the packet, there is an area regarding structures for transient and non-transient uses. In the B-1 and B-1A zoning district, there are no transient uses just non-transient uses. The question is if the board wants to prohibit permanent structures in the B-1 and B-1A zoning district. As an example, being able to install a permanent awning instead of an umbrella for shade. Mr. Petreccia was in agreement with allowing a permanent structure so

that the Town could ensure that what is up there is per code and safe. Mr. Ferrante suggested doing something with the size of the roof so that there would be size control. Chair Lanata said that there is a checklist of permanent structures, not just permanent awnings and that the board should go through the checklist. Ms. McCormack asked the difference between permanent attached to the building and permanent not attached to the building. Ms. Connors explained that one is attached to the building and the other is attached to the deck flooring.

Ms. McCormack made a motion to allow permanent structures in the B1 and B1A (pink) zoning districts that are 75% of the roof allowing permanently attached awning, no pool, no hot tub, yes to outdoor cooking facility, no to outdoor restaurant, and yes to time restriction. The motion was seconded by Mr. Whyte. The motion carried 5-0.

Ms. Connors wanted to discuss the RM-25 zoning district existing regulations and if the board wanted to make any changes. Chair Lanata's changes would be yes to an awning, yes to permanent attachments, yes to permanent unattached to building, no to pools, no to hot tubs, outdoor cooking transient and non-transient yes, outdoor service no, outdoor restaurant no, and yes to time restrictions. He would also like to restrict it to anything east of A-1-A.

Chair Lanata made a motion to recommend the following for the RM-25 zoning district existing regulations: the area of the roof to be used and the setback remain the same, yes to allow awning, yes to permanent attachments transient and non-transient, yes to permanent unattached to building, no to pool, no to hot tub, outdoor cooking transient and non-transient yes, outdoor service no, outdoor restaurant no, and yes to time restrictions. Chair Lanata also restricts it to anything east of A-1-A and adds anything spoken about for clarity during discussion. The motion was seconded by Ms. McCormack.

For Discussion: Ms. McCormack said that in the RM-25 zoning district, restricting it to anything east of A-1-A makes sense to her. Ms. Connors asked about the percentage. Chair Lanata and Ms. McCormack agreed to leave it at 75%. They also want to maintain the setbacks to the roof. Ms. Connors asked about outdoor restaurant service area and limiting restaurants from having rooftop use. Ms. McCormack agreed that it is quite okay to bring up a snack to the rooftop but the person has to do it and it cannot be brought up via outdoor service. Discussion ensued about a property owner having contiguous properties on adjoining property lines. Ms. McCormack felt that this is a policy decision best left to the Building Official. The motion makers were in agreement with all clarifications.

The motion carried 5-0.

Ms. Connors asked that for RS-4, RS-5, and RD-10 which are single-family and duplex properties that we agreed last time no rooftop uses and nothing has changed on this. Ms. Connors clarified that there was a consensus tonight that nothing has changed in these three zoning districts regarding no rooftop uses.

Ms. Connors spoke about RM-50 properties which is right across from Village of Sea Ranch Lakes.

Chair Lanata made a motion to prohibit rooftop uses in the RM-50 zoning district, leave it as it is in existence now. The motion was seconded by Mr. Ferrante.

For Discussion: Ms. McCormack felt that if they wanted to go out and have an overlook, why would the Town not allow that. For clarification, Ms. Mehaffey explained that the existing buildings are over the height, however, if they have a structure that is lower and underneath the height limit, is the board prohibiting it there as well or does the board want to

make a distinction. Mr. Petreccia lives in Sea Ranch Lakes and would not want to see anyone using the rooftop.
The motion carried 4-1 (Mr. Bluestein opposed).

Ms. Connors spoke about RM-15, RM-16, RS-5, and PUD. She showed where they are located on the zoning map. They are all west of A-1-A. Ms. Connors answered that currently rooftop use is prohibited because it is not mentioned in the code. The Chair called a five minute recess and then the meeting re-convened with everyone back in attendance. Chair Lanata decided to call for one motion for the remaining districts.

Ms. McCormack made a motion to vote for all four districts as a block and to prohibit roof top uses in the RM-15, RM-16, RS-5, and PUD zoning districts, as it is in existence now. The motion was seconded by Mr. Bluestein.
The motion carried 5-0.

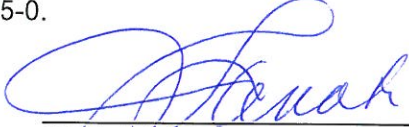
- b Review of Town's Regulations Regarding Generators and Accessory Uses (Sec. 30-313 of the Town Code) – THIS ITEM HAS BEEN ROLLED TO THE JUNE 30, 2018 PLANNING AND ZONING MEETING.

7. UPDATES/BOARD MEMBER COMMENTS

Development Services Director Linda Connors said that Assistant Town Attorney Kathy Mehaffey and Staff will take all the information from tonight and will draft it in an ordinance which would be brought back to the board probably for the August 2018 meeting.

8. ADJOURNMENT

Chair Lanata made a motion to adjourn at 7:56PM. The motion was seconded by Ms. McCormack. The motion carried 5-0.



Chair John Lanata
Date Accepted: 6/20/18

ATTEST:

Development Services Director Linda Connors



Kaliah Lewis
Board Secretary