

**CITY OF TREASURE ISLAND, FLORIDA
PLANNING AND ZONING BOARD
May 17, 2007**

1. ROLL CALL:

Ron DiBiase	Present
Stephen Gingrich	Absent
Susan Givens	Absent
Daniel Helton	Present
Heidi Horak (Vice-Chair)	Absent
Parker Lilya	Absent
Harry Long	Present
Pam MacIntyre	Present
Joel Manings	Absent (arrived 2:20 pm)
Kathy McCreary	Present
Frank McConnell (Chair)	Present
Joe Roberts	Present
Robert Shogren	Present
Christopher Sierra	Present
Ruthie Starkey	Present

Chair Frank McConnell called the meeting to order at 2:02 pm and noted that the City Planner, Lynn Rosetti and the Planning Associate Steve DeMerritt were present and that the City Attorney was absent (arrived at 3:00 pm).

2. APPROVAL OF MINUTES:

Minutes of the meeting of April 19, 2007 were approved as printed and passed by unanimous consent of those present.

3. EXPARTE DECLARATIONS & ADMINISTRATION OF OATH:

Exparte Communication was reported by Ms. MacIntyre. She stated that she visited Foxy's Restaurant to view the area of the proposed addition but that no conversation took place.

All applicants, witnesses, members of staff or other persons wishing to address any item before the Board of a quasi-judicial nature were duly sworn at this time.

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3. ITEMS OF BUSINESS:

[PZ-2004-20-SR-M – Site plan Modification] -K & P Clearwater Estate II, LLC, 10095 Gulf Boulevard is requesting a one year extension relating to an approved Site Plan that expires on May 18, 2007. *Resort Facilities Medium (RFM-30)*

The City Planner offered a brief verbal history of this case and a video presentation and answered questions of the Board.

The applicant, Mr. Kirit Shah, addressed the Board. During questioning from the Board regarding the status of vacant lots, Mr. Shah stated that the property will be cleaned up within the next ten days according to City Code standards.

The Board discussed the new provisions of the Community Appearance code as it pertains to vacant lots.

The City Planner clarified the code enforcement process for the benefit of the Board.

The Board continued to discuss the conditions of approval.

There were no public comments.

Mr. Manings arrived at 2:20 pm.

ACTION:

Motion was made by Mr. Sierra and seconded by Mr. Roberts to approve the one year extension with the following conditions; 1) applicant comply with current Community Appearance Code; 2) formal Code Enforcement action will void the extension; 3) a sign indicating the historical address be placed on the property.

Clarification regarding the second condition was requested by Mr. Long.

An amended motion to the second condition was made by Mr. Sierra and seconded by Mr. Roberts to read; 2) any formal notice by Code Enforcement not cured in ten days of date of notice will void the extension.

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Upon roll call the vote to approve the one year extension with condition number one (1) and three (3) and amended condition number two (2) was approved by unanimous consent.

[PZ-2004-08-SR-M – Site Plan Modification] –Bahia Mar, LLC, 10133 Gulf Boulevard is requesting a Site Plan Modification of a previously approved site plan for a revised parking plan. *Resorts Facilities Medium (RFM-30)*

The City Planner offered a verbal and video presentation and answered questions of the Board.

The applicant's representative Lee Hennessy addressed the Board. She explained that the applicant was unable to attend and he requested that she attend to answer any questions.

A point of order by Mr. Sierra addressing the lack of official documentation designating Ms. Hennessy as the applicants' representative resulted in her speaking as a member of the public.

There were no other public comments.

ACTION:

Motion was made by Mr. Sierra and seconded by Mr. Long to approve the site plan modification as presented.

Upon roll call the vote to approve was by unanimous consent.

[PZ-2005-27-SR-M-2 - Site Plan Modification] – Ronald Orzechowski, 160 107th Avenue, is requesting a site plan modification to allow the construction of additional storage space for an existing restaurant (Foxy's). *Commercial General (CG)*.

The Planning Associate offered a verbal and video presentation and answered question of the Board.

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Upon a question by Ms. MacIntyre regarding the condition of the asphalt in the area of the proposed construction, a response from the audience indicated that a concrete slab will be poured.

The applicant Mr. Ron Orzechowski addressed the Board.

There were no public comments.

ACTION:

Motion was made by Ms. McCreary and seconded by Ms. MacIntyre to approve the site plan modification as presented. Motion was passed by unanimous consent.

[PZ-2007-08-VR-D - Variance] – Capri Isle Hospitalities Strategies, Inc., 286 107th Avenue, is requesting a variance to construct a dock that exceeds the allowable length as well as height above the seawall cap in order to protect sea grasses. (Deferred from April 19, 2007 hearing) Resort Facilities Medium (RFM-30)

The City Planner informed the Chair that the City Attorney phoned to advise the Board that she will arrive at the meeting in approximately twenty minutes. She explained her delay was due to a family emergency.

The Chair began discussion regarding this case and he spoke of his interpretation of the applicants' comments from the last meeting in regard to a withdrawal of the special exception. He also indicated his confusion upon viewing the memo addressed to the P & Z Board from the City Planner and the City Attorney dated May 8, 2007 regarding the special exception and indicated that previous action in regard to a withdrawal was null and void.

Due to the absence of the City Attorney, the Chair requested consent of the Board to change the order of the case presentation. The Board decided to hear case PZ-2007-11-SE first to allow time for the arrival of the City Attorney.

[PZ-2007-11-SE – Special Exception] Sunset Bay Properties, LLC, 11125 Gulf Boulevard is requesting a special exception to allow the construction of a

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new commercial dock for a Condo-Hotel (Treasure Bay Condominium Resort). *Commercial General (CG)*

The City Planner offered a verbal and video presentation and answered questions of the Board.

During her presentation the City Planner stated that the use of the proposed dock would be as a private dock. It was a consensus of the Board that they preferred to have the dock use transient to conform to the intended use of the Condo-Hotel.

The City Planner continued her presentation.

Ms. MacIntyre referred to and read the code for special exception uses of a commercial dock. In her opinion if the special exception was approved for a commercial dock, then all the uses described were allowable.

The City Planner stated that no they were not allowable uses and this had been clarified at a previous meeting. She stated that the particular uses described under commercial docks would have to come before the Board for special exceptions. Ms. Rosetti referred to the dock code and read the definition of a commercial dock. She explained that it is required that the dock be designated as commercial because the upland use is commercial.

Mr. Sierra expressed a concern with the docks becoming private rather than transient in conjunction with the condo-hotel.

Mr. Long requested clarification on the issue of parking spaces.

The City Attorney arrived at 3:00 pm.

The owners' agent, Terry Skapik of Woods Consulting, addressed the Board. She indicated that the project was in a gray zone due to the multiple agencies that have been dealt with and their recognizing the commercial designation differently. Ms. Skapik offered a brief history of the hotel as it pertained to the process of designing, and permitting for a new commercial dock. She explained that the intent is to have the dock as an amenity to the hotel. Ms. Skapik stated that at present they have a condominium approved by the State and a condo-hotel approved by the City and that a special exception is necessary to construct a dock. She then answered questions of the Board.

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The City Attorney referred to a letter from Woods Consultants dated April 30th which in her opinion reflects the presentation as given and asked for clarification from the Board as to why they feel the verbal presentation contradicts the application.

Harry long left the meeting at 3:50 pm.

The Board continued discussion and expressed a concern with the applicant's request not being consistent with the applicants' presentation. The fact that the staff report stated that the 13 docks would be exclusive to 13 of the unit owners was also a concern.

Mr. Sierra referred to a letter from Mr. Rick Pierzchajlo dated April 26, 2007 which also stated that the docks would be exclusive to 13 unit owners. He expressed concerns with the operation of the dock and if it would be in compliance with the Community Appearance Codes. Mr. Sierra suggested that perhaps the applicant meet with City officials for clarification before a vote is taken.

The City Attorney agreed with Mr. Sierra's suggestion but also suggested that the Board give the applicant some feedback as to what type of dock use the Board prefers.

Public Comments:

Ms. Allison Hardidge, manager of The Limited Liability Company (Waffle House) which is north of the case property addressed the Board. She objected to this dock request due to the allowable boat lifts that may be installed which will affect water view and she also had some waterway navigational concerns.

Mr. Robert Johnson, 11100 First Street East, a resident of Isle of Palms addressed the Board. He declared that he had been elected to be the spokesperson for the thirteen residents across the water from the case property who objected to this dock request. Mr. Johnson presented the board with a notarized Affidavit of Objection which included signatures of the thirteen residents.

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ACTION:

The Chair conducted a poll of the Board in order to form a consensus of their preference for the use of the dock.

Mr. DeBiase stated that he would like a clearer picture of what they are proposing.

Mr. Helton stated that he would like to approve the dock request with the condition that it be used as an amenity for all hotel guests.

Mr. Sierra stated that he would prefer that the dock be used as an amenity for hotel guests and that clarification of the dock request is necessary.

Ms. McCreary stated that she prefers a transient use and that the boat lifts be omitted from the dock request.

Ms. MacIntyre stated that she feels the hotel can operate as it always has with the present dock and that 13 docks are entirely too many docks for that waterway.

Mr. Shogren stated that he agrees with all that has been stated thus far.

Mr. Roberts stated that there is much controversy involved with these docks and expressed his annoyance with the advertisement indicating that the docks were for sale.

Ms. Starkey stated her concern with deeded docks and suggested a reconciliation with owner and guest usage and she feels that the boat lifts are unnecessary.

Mr. Maning stated he preferred transient use, the boat lift situation should be examined and that he would like to hear what objections the thirteen residents have to the dock.

Mr. McConnell stated that not every applicant should expect the amount of time just spent on this case and that there was a considerable amount of input given for the benefit of the applicant.

The applicants' representative Ms. Skrapik, again addressed the Board in an attempt to clarify some of the concerns of the Board.

The Board continued discussion regarding the preferred use of the dock and suggested the special exception request be withdrawn and resubmitted with the

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input from the Board taken into consideration.

The City Planner suggested that a deferral would be preferred and that the request be resubmitted to staff to be brought before the Board.

The City Attorney requested clarification from the applicant pertaining to her agreement to a deferral and to resubmit the dock request.

Ms. MacIntyre left the meeting at 4:27 pm.

The applicant agreed to the deferral and will resubmit the request at next meeting.

The vote to defer was passed by unanimous consent.

[PZ-2007-08-VR-D - Variance] – Capri Isle Hospitality Strategies, Inc., 286 107th Avenue, is requesting a variance to construct a dock that exceeds the allowable length as well as height above the seawall cap in order to protect sea grasses. (Deferred from April 19, 2007 hearing) Resort Facilities Medium (RFM-30)

The Chair began discussion of the memo dated May 8, 2007 from the City Attorney and the City Planner. Again Mr. McConnell stated that he was under the impression that the special exception that was granted last meeting had been withdrawn.

The City Attorney began a review of the memo and she stated that in the first sentence the language *stands as approved* is a little strong because that is up to the Board and that it should really read *the special exception granted as discussed* which is truly the end result. She indicated that she had met with the City Planner and their discussion is reflected in the memo. Ms. Kiefer continued with some comments stating that her concern was with the way the section in the Ordinance read, it said a *Commercial Enterprise whatsoever*, so she questioned the meaning of *whatsoever*. She indicated that there was no language in there connected with the upland use or accessory to the upland use. Ms. Kiefer referred to the City Planner's assurance that in the past the City has always interpreted the commercial dock special exception for a property to be accessory to the upland use. She explained that this means that they cannot do anything that the principal building can't do. The City Attorney explained that the purpose of the memo is to clarify the uses allowed.

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Discussion continued regarding the supposed withdrawal of the special exception and it was noted from the minutes of the previous meeting that the applicant did not withdraw the special exception but agreed to have the special exception reconsidered.

Ms. Kiefer advised the Board that because nothing has changed from the original special exception application and the fact that it has already been granted, a denial now would not be legal. She further explained that the Board's concerns regarding the use of the dock was addressed in the memo and reiterated that the use of the dock is designated by the allowed use of the upland building.

Upon a question from Mr. Sierra pertaining to a change in the application, the City Planner explained that the special exception that was granted last meeting was tied to the variance request. The variance request was heard and then a deferral of the variance was requested by the applicant due to the Board's concerns with the size of the dock. The changes pertain to the variance, not the special exception.

The City Attorney advised the Board to continue to hear the variance request and that there is no need to hear the special exception. Ms. Kiefer went on to explain that she initially raised the question regarding the use of the dock when she questioned the language any *commercial dock whatsoever* and reminded the Board that the City Planner explained that the use is restricted by the upland use of the building.

The Chair, upon receiving clarification that the special exception was not withdrawn, but that the applicant agreed to allow it to be reconsidered, requested a determination by the Board as to their choice to reconsider the special exception.

Mr. Sierra felt that the special exception should be reconsidered and questioned the City Attorney regarding placing conditions pertaining to the use of the dock. He asked if the conditions should be placed on the special exception or the variance.

In response, the City Attorney stated that research would be required to determine if any conditions of use could be placed on either a special exception or a variance.

Upon a poll of the Board to determine what members were present at the last meeting, it was determined by the Chair that because of the time some Board members would be leaving which would cause a loss of a quorum and the unanswered legal questions, perhaps the case should not be heard.

The City Attorney suggested that the record reflect that due to lack of a quorum the case cannot be heard.

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The City Planner explained that historically the use of the dock is restricted by the upland use and in an RFM-30 all uses require a special exception.

The Chair stated that due to lack of a quorum PZ-2007-VR-D will not be heard. He then referred to a memo from Ms. Starkey regarding Rules of Procedure.

6. ADJOURNMENT:

The Chair declared the meeting adjourned at 5:54 pm.

The next meeting of the Planning and Zoning Board will be Thursday June 21, 2007 at 2:00 pm.

A J. Sarko
Recording Secretary

Frank McConnell
Chair