



PLANNING AND ARCHITECTURAL REVIEW BOARD MEETING MINUTES

Tuesday, August 06, 2024 at 5:30 PM

City Commission Chambers – 105 S. 2ND Street, Flagler Beach, FL 32136

ALL MEETING ITEMS WILL BE CONTINUED UNTIL MEETING IS COMPLETE.

1. Call the meeting to order

Chairman Joseph Pozzuoli called the meeting to order at 5:30pm.

2. Pledge of Allegiance

Lisa Smith led the Pledge of Allegiance.

3. Roll Call / Determination of Quorum

Present: Chairman Joseph Pozzuoli, Vice-Chairman Marshall Shupe, Brenda Wotherspoon, Lisa Smith, Joann Soman, Scott Chappuis

Absent: Paul Chestnut

Staff Present: City Attorney Drew Smith, City Planner Lupita McClenning, City Clerk Penny Overstreet and Secretary Michele Ficocello

4. Approval of Meeting Minutes

a. July 2, 2024

City Attorney read into the record as part of statutory process, the previous meeting's voting conflict on behalf of Chairman Joseph Pozzuoli as applicant for Flagler Fish Company (form attached to minutes). Vice-Chairman Marshall Shupe motioned to approve minutes, Lisa Smith seconded. Motion passed unanimously.

5. New Business

a. Application OE-24-08-01 – 105 N. Ocean Shore Blvd, Unit E. - Annual Outdoor Entertainment Permit, Flagler Sun and Seed, Applicant Truly Gil.

Request was made to move Item 6a ahead of item 5a. Applicant was present. City Clerk presented item to the Board. Applicant is seeking to play ambient music throughout the year and occasionally acoustic guitars which may or may not be amplified. The music would be played in the outdoor area in the back of property which faces North 2nd Street. City Clerk reported Staff does not make recommendations anymore on these permits and there are fourteen (14) criteria based on the Land Development Regulations. The Applicant's business is located in the Downtown Business Overlay District and the parking requirements are different. City Attorney inquired if the notices were mailed out to surrounding property owners and if complaints were received. City Clerk advised notices were mailed and no complaints were received. Two (2) notices were returned undeliverable. Chairman Pozzuoli inquired if there were any questions from the Board. Brenda Wotherspoon stated she did visit the business location and had discussions with residents to quell any concerns. Ms. Wotherspoon further stated a little music would add to the atmosphere and wished the Applicant the best of luck. Vice-Chairman Shupe inquired about the parking. City Clerk stated the business has parking in

front of the location and on-street parking as well. Applicant Truly Gil spoke before the Board. Ms. Gil stated the permit is desired to assist with drawing in clientele. Chairman Pozzuoli inquired as to the type of business Flagler Sun & Seed is and times of operation. Ms. Gil stated they sell tropical and sub-tropical plants. Ms. Gil added the outdoor courtyard would likely fit ten (10) - fifteen (15) people. Ms. Gil explain their business hours are flexible. Chairman Pozzuoli opened public comment. No comments were received and public comment was closed. Joann Soman made a motion to approve the application. Lisa Smith seconded. Motion passed unanimously. City Clerk advised the Board this is now the time of year when Annual Outdoor Entertainment Permits are reviewed. City Clerk advised that the Finn's Restaurant & Bar has received noise complaints and warnings. Therefore Finn's will be coming back before the Board in regards to their permit. There is also another new permit application for Cajun Beach Boil on behalf of the new owner. Both will be on the agenda for September.

6. Old Business

- a. AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING APPENDIX A, LAND DEVELOPMENT REGULATIONS, ARTICLE II, ZONING, SECTION 2.05.06, "HEIGHT REGULATIONS," OF THE CODE OF ORDINANCES; AMENDING THE ALLOWED EXCEPTIONS TO THE THIRTY-FIVE FOOT HEIGHT LIMITATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Item 5a. was moved after Item 6a. City Attorney presented the proposed amendment to the Height Regulation Ordinance only changing the Code and not the Charter. The latest draft went before the City Commission at their last meeting for discussion. There were generally positive comments, a couple corrections in regards to mathematical errors. The goal is to define the exceptions using hard numbers, breaking down the exceptions into three (3) basic categories; architectural elements with no human occupancy (10ft. limit), mechanical elements (8ft. limit) and screening for mechanical elements (6ft. limit). A forty-five (45) degree plane is utilized as another form of measurement to all the exception categories in order to preserve the thirty-five (35) foot height limit pedestrian view. Rooftop uses were also clarified. Board discussion was opened by Chairman Pozzuoli.

Brenda Wotherspoon:

Line 61 (c) The highest allowable grade, defined as the average grade of adjacent developed lots or the minimum grade necessary to provide positive drainage. "Who in the City is responsible for ensuring this? Is it the Engineering Department?" City Attorney responded from his point of view, "yes and there is an Engineer on staff now."

Line 72 human occupancy. "How do we define this term?" City Attorney explained the previous term was "human habitation" which is more obscure. The difference is defined as a human occupying the space vs. a human living in the space.

Line 76-77 whichever is less and the cumulative area of all architectural features allowed pursuant to this exception does not exceed fifteen percent (15%) of the gross floor area of the uppermost story of the building. "Does that mean if it is a 100 sq. ft. then the projection is 15ft. max.?" Discussion ensued between City Attorney and Chairman Pozzuoli.

Line 80-84 mechanical equipment incorporated into the building including but not limited to elevator and stairwell bulkheads, water towers, gas tanks, communications equipment, and air conditioning units provided such mechanical equipment does not exceed eight (8) feet in height from the lowest point of contact of the equipment with the roof or forty-three (43) feet above the finished grade as measured. "Are proposing capping the elevator at eight (8) ft.?" City Attorney, "yes, any mechanical element at its highest point would be eight (8) ft. above roof line." Brenda Wotherspoon expressed concern over capping life safety equipment. Chairman Pozzuoli added comments regarding elevators and life safety equipment being capped at eight (8) ft. City Attorney inquired as to what a better number would be. After an in-depth discussion, the City Attorney suggested taking elevators out of

the eight (8) ft. hard cap so that it could be as tall as it needs to be along with an architectural element and capping at forty-five (45) ft. Lisa Smith suggested capping the elevators at fourteen (14) ft. Vice-Chairman Shupe agreed with Lisa Smith with Line 125 as support for the suggestion.

Line 117-118 (d) Any such area shall not be fully enclosed; provided, however, partial walls and transparent drop curtains may be used for protection from the elements. "Considering the climate we live in, why are we discounting fully enclosing?" City Attorney explained once enclosed you now have created another floor. Chairman Pozzuoli inquired how this relates to handicap accessibility? City Attorney stated this is specifically addressing the roof top bar scenario.

Brenda Wotherspoon referred to the information she collected and distributed to the attendees of the Workshop on June 4, 2024. Discussion ensued.

Vice-Chairman Marshall Shupe: "This Ordinance is detailed and there is no ability to vary the numbers." He inquired about the forty-five (45) degree angle, how it is calculated and how is the angle determined. He inquired about peak roof vs. flat roof in regards to height limit. An in-depth discussion ensued. City Attorney suggested setting roof eave cap at ten (10) ft.

Lisa Smith: "no further comments."

Joann Soman: "no further comments."

Scott Chappuis: stated he does not want to discourage development.

Chairman Pozzuoli: stated he overall likes the verbiage and narrative. Previous discussions addressed concerns. Line 119, recommended adding a railing such as a fence in lieu of parapet wall, i.e. adding decorative fence or something in lieu of.

Chairman Pozzuoli opened public comment:

Edward Lands, S. 9th Street commented in regards to building height. Suggested PAR Board attend the Commission Meeting to support their recommendations. Discussion with Board ensued.

Brett Spetoni, Ocean Palm Drive commented on behalf of other residents about fill and how it relates to building height. Discussion ensued.

Chairman Pozzuoli closed public comment.

City Attorney summarized recommendations:

Line 71-78 "architectural elements" changing the fifteen (15) percent gross floor area ratio of the roof to fifteen (15) percent of each linear plane.

Line 79-85 "mechanical elements" breaking elevators out of that so everything else would stay at eight (8) ft., but elevators could go up as high as fourteen (14) ft. above roof line and elevators would have to have architectural screenings (such as being incorporated into a tower).

Parapet is coming out of screening and going in to architectural elements to allow the parapet wall to come out to the edge of the building instead of being behind that forty-five (45) degree plane.

Line 119 "Rooftop use area" allow for something other than a wall such as decorative fencing. On the shelter over the rooftop use area, keeping the fourteen (14) ft. for total height, but adding the eaves can only be as high as ten (10) ft.

Motion to approve ordinance with Board approved modifications made by Joann Soman. Seconded by Lisa Smith.

Roll Call: Brenda Wotherspoon: Yea, Vice-Chairman Shupe: Yea, Chairman Pozzuoli: Yea, Lisa Smith: Yea, Joann Soman: Yea, Scott Chappuis: Yea. Motion passed unanimously.

City Attorney followed-up on public comment and inquired if the Board would like to designate a member to attend the Commission Meeting. Chairman Pozzuoli will represent the Board with Lisa Smith as the alternate.

7. Other Business

None

a. City Planner Report

- Signage for Compass by Margaritaville Hotel
- Gridics Software update

Item 8 was moved before Item 7.

City Planner presented updates on the signage for Compass by Margaritaville Hotel. City Planner presented updates on the status of the new program Gridics.

City Planner reported the City Commission has tasked the Planning & Zoning Department with revising the parking formulas which will be presented to the PAR Board. Another task assigned is creating a technical review committee to include the Fire Marshall, Public Works Director, Engineer, City Planner and other subject matter experts. After the technical review board is created, projects will go through technical review before being scheduled for a PAR Board meeting. The Veranda Bay Annexation is scheduled to come before the PAR Board in September.

8. Board Comments

Chairman Pozzuoli moved Item 7 after Item 8 due to Item 7 being out-of-order on the agenda.

Joann Soman likes the signage for the new hotel.

Chairman Pozzuoli like the signage as well.

9. Adjournment

Joann Soman motioned to adjourn the meeting. Brenda Wotherspoon seconded.

Motion passed unanimously.

Chairman Pozzuoli adjourned the meeting at 7:07pm.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Pozzuoli Joseph Dominick		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Flagler Beach - PARB	
MAILING ADDRESS 314 Moody Blvd, K.B. 32136		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Flagler Beach		<input checked="" type="checkbox"/> CITY	<input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY Flagler		NAME OF POLITICAL SUBDIVISION: Florida	
DATE ON WHICH VOTE OCCURRED 07.02.2024		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father; mother; son; daughter; husband; wife; brother; sister; father-in-law; mother-in-law; son-in-law; and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Joseph D. Pozzuoli, hereby disclose that on July 2nd, 2024:

(a) A measure came or will come before my agency which (check one)

☒ inured to my special private gain or loss;

☐ inured to the special gain or loss of my business associate, _____;

☐ inured to the special gain or loss of my relative, _____;

☒ inured to the special gain or loss of Flader Fish Company of S, LLC, by whom I am retained; or

☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am Chair of the PARB & Design Professional of The Project to be presented to the PARB.

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.