

**MINUTES  
CITY OF LAKE WORTH BEACH  
SPECIAL CITY COMMISSION MEETING  
BY TELECONFERENCE  
TUESDAY, JUNE 30, 2020  
IMMEDIATELY FOLLOWING THE ELECTRIC UTILITY MEETING**

The meeting was called to order by Mayor Triolo on the above date at 7:39 PM by teleconference from City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

**ROLL CALL:** Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell, Omari Hardy and Herman Robinson. Also present were City Manager Michael Bornstein, Assistant City Attorney Pamala Ryan and City Clerk Deborah M. Andrea.

**PLEDGE OF ALLEGIANCE:** led by Commissioner Scott Maxwell.

**PUBLIC HEARING:**

- A. Ordinance No. 2020-08 – second reading – approve the establishment of a mixed use urban planned development for The Bohemian

City Attorney Ryan read the ordinance by title only:

ORDINANCE NO. 2020-08 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY APPROVING THE CREATION OF A MIXED USE URBAN PLANNED DEVELOPMENT DISTRICT, LOCATED AT 1017 LAKE AVENUE, 101 SOUTH EAST COAST STREET, AND A PORTION OF 202 SOUTH EAST COAST STREET CONSISTING OF APPROXIMATELY 2.0359 ACRES AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, THAT IS LOCATED WITHIN THE TRANSIT ORIENTED DEVELOPMENT – EAST (TOD-E) AND ARTISANAL INDUSTRIAL (AI) ZONING DISTRICTS WITH A FUTURE LAND USE DESIGNATION OF TRANSIT ORIENTED DEVELOPMENT (TOD) THAT INCLUDES THE SPECIFIC DEVELOPMENT STANDARDS DESCRIBED IN EXHIBIT B; APPROVING A DEVELOPMENT OF SIGNIFICANT IMPACT; APPROVING A CONDITIONAL USE PERMIT; APPROVING DENSITY AND HEIGHT BONUS INCENTIVES THROUGH THE CITY’S SUSTAINABLE BONUS INCENTIVE PROGRAM AND TRANSFER OF DEVELOPMENT RIGHTS PROGRAM; APPROVING A MAJOR SITE PLAN FOR THE CONSTRUCTION OF A MIXED USE URBAN PLANNED DEVELOPMENT CONSISTING OF 200 RESIDENTIAL UNITS, A 3,619 SQ. FT. COMMERCIAL STRUCTURE, AND A FIVE STORY PARKING GARAGE; PROVIDED FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Ordinance No. 2020-08 on second reading approving the establishment of a mixed use urban planned development for The Bohemian.

Mayor Triolo stated that this was the second reading of an ordinance to establish a mixed use urban planned development pursuant to section 23.3-25 of the City’s Land Development Regulations. She announced that the Commission had heard from staff

and the applicant at the first hearing and asked if staff or the applicant had anything to add or if the Commission had any questions for either.

Commissioner Robinson said that he looked forward to the project.

City Clerk Andrea read the public comment card submitted by the following:

Noam Brown wrote in opposition to The Bohemian development.

Commissioner Hardy said that the impact of developments on neighboring areas should be considered and spoke in favor of the project.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell, Hardy and Robinson. NAYS: None.

**UNFINISHED BUSINESS:**

- A. Appeal of the Historic Resources Preservation Board's decision to approve the construction of a new single-family structure at 403 South M Street

Mayor Triolo read the title of the case into the record saying that this was an appeal by Dan Walesky on behalf of Royal Building Group, LLC, appealing the decision of the Historic Resources Preservation Board approving the construction of a new single-family structure with conditions at 403 South M Street. She stated the Commission had voted to continue the quasi-judicial hearing to hear an appeal pursuant to section 23.2-17 of the City's code of ordinances and under the City's code, the Commissioners would consider only the evidence presented at the HRPB meeting. She explained that the hearing would continue where it left off.

Mayor Triolo asked if there were any questions or comments on the procedure. No one had any questions or comments.

Mayor Triolo informed the Applicant that he could make his presentation, which could be no longer than ten minutes.

Dan Walesky, the Applicant, said that he was asking the Commission to appeal conditions 7 and 8 of the conditions of approval. He stated that he had not been able to build the home in a timely fashion after the first approval and spoke about the proposed design of the one-story three-bedroom home and the two new HRPB conditions. He said that the Board did not require a walkway, but still reduced the width of the driveway; he said that there were many examples of properties with 12' and wider driveways in the historic district. He reported that, when asked about the sidewalk, Mr. Waters commented that he could not get over the asymmetrical columns, which was the first time the issue was raised. He contended that staff said that the front porch configuration and front window were consistent with the Masonry Vernacular architectural style. Mr. Walesky stated in the Basis of Appeal that the Board amended conditions of approval were in contradiction with the City's Historic Preservation Design Guidelines (HPDG) portion on the Masonry Vernacular architectural style. He summarized that the front porch window and column configuration were approved on the original application. He explained that he had asked

the Board to approve the application as submitted or grant a continuance to allow him to bring evidence that the two issues were in compliance.

Mayor Triolo asked if any member of the public had submitted a public comment card.

City Clerk Andrea read the public comment card submitted by the following:

Wes Blackman wrote in favor of the appeal.

Mayor Triolo asked if staff had any additional comments.

Abraham Fogel, Preservation Planner for Community Sustainability, stated that he would be able to screen share to answer any questions.

City Attorney Ryan clarified that the applicant had not clearly asked for a continuance at the HRPB meeting.

Mr. Walesky said that he had asked for a continuance to be more equipped if the application was not approved as presented.

Mayor Triolo recommended that the appeal should go back to HRPB for Mr. Walesky to do a full presentation.

Commissioner Hardy asked what the standard was to determine the outcome.

City Attorney Ryan gave a definition of arbitrary and capricious included evidence that the judge or officer who made the first decision failed to consider all of the evidence, to hear the relevant arguments, to consider reasonable alternative conclusions, to give a reasonable explanation for the decision reached or to reach an answer that logically relates to the evidence and arguments made, evidence of bias, vindictiveness, personal animosity, conflict of interest or incapacity may also demonstrate capriciousness.

Commissioner Hardy opined that HRPB did not behave arbitrarily nor capriciously.

Commissioner Robinson stated that in seeing the evidence, the applicant was reasonable and he disagreed with HRPB's judgment in the case.

Commissioner Maxwell said that the statutes regarding historic preservation were complicated for the average person. He asked why the project was brought back to a different board.

City Attorney Ryan explained that Mr. Walesky was not able to get a third extension for the project and although the HRPB had approved the project initially, new design guidelines had been adopted and there were new members on the HRPB in the time that elapsed.

Commissioner Maxwell stated that if all the aspects were looked at in context, the difference in opinion between the two boards was unreasonable. He said that he would vote in favor of the applicant.

Commissioner Hardy stated that the difference in opinion of the two boards was not evidence of anything and asked for City Attorney Ryan to read the definition of arbitrary and capricious again. He said that staff gave a presentation and the HRPB made a decision; the Commission would have to determine that the decision was arbitrary and capricious.

Commissioner Robinson said that the applicant appealed because he wanted to build his own design.

Vice Mayor Amoroso said that he agreed with Commissioners Maxwell and Robinson and would vote in favor of the applicant. He asked what the cost would be to go back to the HRPB.

Mayor Triolo stated that the historic preservation rules were changed to make it easier. She said that the applicant should be able to make a presentation to the HRPB as there was a misunderstanding about a continuance.

City Attorney Ryan said that there would not be a cost involved and that Mr. Walesky had a great presentation but could not include slides that had not been shown previously to the HRPB. She opined that there could be a different outcome if the applicant went back to the HRPB.

Commissioner Hardy stated that the Commission had to accept HRPB's decision and they had approved the project with conditions.

Commissioner Maxwell asked if there had been any reference in the backup to the symmetrical design of the columns.

City Attorney Ryan responded that there was not.

Commissioner Maxwell asked what would be gained by sending the issue back to the HRPB. He said that there were true purists in favor of historical preservation where the bar could be too high and the power of suggestion could have influenced the HRPB.

Commissioner Robinson stated that the Commission should be able to decide and not send the issue back to the HRPB. He said that the HRPB's decision was arbitrary and capricious.

Commissioner Hardy said that the Commission had limited power and was not allowed to question the judgment of the HRPB, only if they had acted arbitrarily and capriciously.

Mr. Walesky stated that staff did not recommend the change to the windows or the columns and the HRPB did not review any evidence nor discuss the historical context before making its decision.

Commissioner Maxwell stated that Mr. Waters made a comment about the columns that should have been included in the staff report. He asked City Attorney Ryan how the Commission should deal with the issue.

City Attorney Ryan replied that a vote to uphold the appeal would require a supermajority vote of four out of five in favor, a reverse would require a majority and would approve the

application without conditions 7 and 8 and remanding the issue would send it back to the HRPB.

Mayor Triolo said that she was more apt to agree with Commissioner Robinson because of Mr. Waters' comment. She stated that she was leaning towards agreeing with Mr. Walesky.

Mayor Triolo requested a motion, stating that under section 23.2-17 of the code, the Commission should approve, approve with modifications or disapprove the application and the considerations substantiating the decision should be outlined in the motion.

**Action:** Motion made by Commissioner Hardy to uphold the decision of the Historic Resources Preservation Board decision to approve the construction of a new  $\pm$  2,267 square foot single-family structure at 403 South M Street with modifications to Conditions 7 & 8 as set forth in the Board's Development Order. **Motion died for lack of a second.**

**Action:** Motion made by Commissioner Hardy to remand the issue back to the HRPB. **Motion died for lack of a second.**

**Action:** Motion made by Commissioner Robinson and seconded by Commissioner Maxwell to reverse the decision of the Historic Resources Preservation Board decision to approve the construction of a new  $\pm$  2,267 square foot single-family structure at 403 South M Street with modifications to Conditions 7 & 8 as set forth in the Board's Development Order.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: Commissioner Hardy.

**ADJOURNMENT:**

**Action:** Motion made by Vice Mayor Amoroso and seconded by Commissioner Hardy to adjourn the meeting at 9:08 PM.

**Vote:** Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell, Hardy and Robinson. NAYS: None.

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Pam Triolo, Mayor

ATTEST:

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Deborah M. Andrea, CMC, City Clerk

Minutes Approved: August 18, 2020

A digital audio recording of this meeting will be available in the Office of the City Clerk.