

# TOWN OF LAUDERDALE-BY-THE-SEA

## PLANNING AND ZONING REGULAR MEETING MINUTES

*Town Commission Meeting Room*

*Wednesday, October 19, 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, Lawrence Wick and First Alternate Eric Yankwitt. Also present were Linda Connors, Planner and Zoning Contractor for the Town, 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 August 17, 2011

There being no additions, deletions or changes to the minutes, Eric Yankwitt made a motion, seconded by Mr. Wick, to approve the August 17, 2011 minutes as presented.

### III. PUBLIC COMMENTS

There were no public comments.

### V. NEW BUSINESS

**Item #1: Applicant: Aruba Beach Café  
Location: 1 Commercial Boulevard  
Conditional Use application for Paid Private Parking in the B-1 and B1-A Zoning District.**

Town Planner Cecelia Ward of JC Consulting Inc. is acting on the behalf of the Town and introduced Linda Connors who has been brought in to assist the Town with the day-to-day planning activities and would be handling the applications that come in that would go before the Planning and Zoning Board and would be presenting Items 1 and 2 to the board.

Linda Connors said that currently she would be working at the Town for 20 to 25 hours and that she would be working mostly Monday mornings, Tuesday and Wednesday afternoons and Thursday all day. Ms. Connors said that her direct phone line is 954-640-4214.

Ms. Connors said that she provided staff's analysis and recommendation on the Conditional Use application for the Aruba Beach Café for Paid Private Parking in the B-1 and B-1-A Zoning Districts. The applicant is seeking approval to conduct Paid Private Parking by valet as a conditional use for the property located at 1 East Commercial Boulevard. The applicant advised that they have historically provided beach parking to help with the limited public parking in Town. Ms. Connors referred to the Exhibits and said that the first map indicated the parking lots and the second map reflected the second item at 224 East Commercial Boulevard.

Ms. Connors said that the current use of 1 East Commercial Boulevard is restaurant and the proposed use would remain the same with the addition of Paid Public Parking. The property located at 224 East Commercial Boulevard is zoned B-1 and the current

use of the property is a commercial building and parking lot. Ms. Connors referred to the table in the staff report that indicates the parking that is available in the lots that are included in the Paid Private Parking which is a total of 85 spots.

Ms. Connors referred to Code Section 30-56 that outlines the specific criteria for approving a Conditional Uses that were included. Staff analyzed these conditions and found that the scale and intensity, traffic generating characteristics, and off-site impacts were compatible and harmonious with adjacent land uses and would not adversely impact land use activities and residential areas in the immediate area and that the conditional use complies with the Land Development Regulations in the Comprehensive Plan.

Ms. Connors said that staff recommends approval of the proposed conditional use based on an updated list of 14 conditions that was handed out to the board for review. Ms. Connors pointed out condition #7 that stipulates that *"within 30 days of the conditional use approval, landscaped planters will be provided on the west side of 4412 Ocean Drive between the existing fence and the public right of way, subject to approval by the Town Manager or Designee"*. Additionally, the applicant shall provide documentation that the property owners of the parking lots agree with the inclusion of their land in the application and that could be a letter allowing the lots to be approved and Aruba to be the authorized agent or by providing a copy of the lease agreement.

Chairman Oldaker asked Ms. Connors with regards to all of staff's recommendations being placed on Aruba, what is the relationship of the property owner and Aruba; would it be Aruba's responsibility or would it be subject to their lease? Or would it be subject to the permit?

Ms. Connors said that the conditions would be the responsibility of Aruba because they were the applicant.

Chairman Oldaker referred to the photo of the parking lot and asked Ms. Connors if there were any code requirements for entrances and exits of the parking lot.

Ms. Connors responded that this parking lot has been in existence for a very long time and has legal non-conforming status.

Chairman Oldaker referred to the unfinished concrete block wall in the photo and suggested that the wall be finished to give it a better appearance and suggested that a condition be added to the existing list.

Ms. Connors said that the exterior concrete block wall has been painted but the interior wall has not been painted. Ms. Connors said that the applicant has agreed to paint the interior concrete block wall to improve the appearance.

Mr. Wick referred to condition number 7 in Staff's report that states *"Within 30 days of the conditional use approval, landscaped planters will be provided on the west side of 4412 Ocean Drive between the existing fence and the public right of way, subject to approval by the Town Manager or Designee"* and asked why the Town was putting this condition on this parking lot and not on the others in Town.

Ms. Connors responded that it was because they came to the Town and submitted an application for approval.

Mr. Wick said that because Aruba came to the Town and condition 7 was one of the stipulations they agreed to.

Ms. Connors responded in the affirmative.

Mr. Yankwitt said that he has not heard the reasons why the Town is requiring Aruba to put in landscaping.

Ms. Connors said that in the Town's code section 30-478 b.1 (*Landscape requirements for vehicular use areas*) requires perimeter landscaping area. Along the perimeter of a parcel of land that abuts a street, exclusive of vehicular access points, a perimeter landscape area shall be provided. Ms. Connors said that because Aruba has come before the board to request a conditional use, we are asking them to bring that portion of the lot up to code. Because the lot is existing and the Town realizes there are difficulties in providing the normal landscape area that includes irrigation, staff has recommended the use of planters so that it would not be a hardship to provide that condition.

Chairman Oldaker asked if signage would be required for the parking.

Cecelia Ward came forward to respond that typically when you have legal-non conforming status, you are allowed to continue that status unless you ask for something in an application. The fact that Aruba has applied for a request, staff could ask for some form of provision that upgrades. With respect to signage, there is nothing that would be done in conjunction to this particular application that would warrant the ability to delve into the signage issue. If they were doing something that would trigger the need for a sign, then staff could ask for that to be brought up to code.

Ms. Connors concluded her presentation.

Chairman Oldaker asked the applicant for their comments.

Attorney Nectaria Chakas with the law firm located at 1401 East Broward Boulevard Suite 200, Fort Lauderdale, Florida 33301, was present on behalf of the Aruba Beach Café. Ms. Chakas said that this is a conditional use application for a paid private parking facility that operates from a location at 1 Commercial Boulevard. The property is zoned properly which allows the activity to take place. All of the activity has taken place for several years, so this is not a new use being introduced into the area. The parking lots that are part of this application have been there for many years and they are stand-alone parking lots. The applicant has agreed to the upgrades that staff has requested and they are happy to accommodate those conditions and even the request to paint the interior concrete block wall to make it look more presentable. Ms. Chakas said that they have also been discussing with staff ways that they could upgrade the landscaping in front of the fence and said that the fence, unfortunately, swings out and they would have to figure out a way so that the fence would swing in so that they could put some planters in the front. Ms. Chakas said that this was something they were willing to work out with staff to obtain some sort of solution. Ms. Chakas said that they have a recommendation for approval from staff and they meet all of the conditions that are required for a conditional use approval. Ms. Chakas concluded her comments.

Mr. Wick confirmed with Ms. Chakas that the lot is being used for the exact same use and that they have been doing this for years and that the only difference is to clarify the use more correctly with the Town's code.

Ms. Chakas said that there is no change at all in the use and that this was a brand new code provision that was adopted and they are just trying to comply with the new code.

Chairman Oldaker asked if there were any public comments. There being no public comments, Chairman Oldaker asked the board to make a motion to approve or disapprove.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to approve the conditional use for paid private parking as presented with staff's recommended conditions of approval listing 13 requirements.

Chairman Oldaker made a friendly amendment to the main motion, seconded by Mr. Yankwitt, to add the following additional conditions:

- a. Paint the interior concrete block wall to improve the over-all appearance of the wall.
- b. The applicant shall provide a lease agreement or a letter of authorization allowing Aruba to act as the authorized agent for the parking lot.
- c. Install landscaped planters on the west side between the existing fence and the public right of way, subject to approval by the Town Manager or Designee.

Mr. Wick accepted the friendly amendment to the main motion.

In a roll call vote, all voted in favor to recommend approval of the main motion with staff's conditions of approval listing 13 requirements in the staff report with its friendly amendment to include the following additional requirements: a) Paint the interior concrete block wall to improve the over-all appearance of the wall. b) The applicant shall provide a lease agreement or a letter of authorization allowing Aruba to act as the authorized agent for the parking lot. c) Install landscaped planters on the west side between the existing fence and the public right of way, subject to approval by the Town Manager or Designee.

**Item #2: Applicant: VMC Realty  
Location: 224 Commercial Boulevard**

## Conditional Use application for Paid Private Parking in the B-1 Zoning District.

Chairman Oldaker asked Ms. Connors for her presentation.

Ms. Connors said that this is another conditional use application for paid private parking at 224 Commercial Boulevard and this application is for a commercial building. Ms. Connors referred to the staff report that lists the 39 parking spaces that are required with 6 parking spaces that are not required that total 45 onsite parking spaces available. The applicant would like to allow for paid private parking and allow the parking to be valeted through Aruba Beach Café which was just approved by the board. The valet service will be at 1 Commercial Boulevard and the pickup will also be at 1 Commercial Boulevard and will be all maintained in that general area. Because this is a commercial building, the conditional use is allowed off hours and on holidays during the day because there is a use existing on the site and the parking spaces are being used during the day. Again, staff has reviewed the criteria analysis in Section 30-56 which includes land use compatibility; sufficient site size; site specification and infrastructure; compliance with the Comprehensive Plan and Code of Ordinances; and proper use of mitigated techniques. Ms. Connors said that staff has determined that all four of these requirements have been met and staff recommends approval of the proposed conditional use with the 11 conditions listed in staff's report. Ms. Connors concluded her presentation.

Chairman Oldaker said that since this location is a multi-tenant building that houses different types of businesses that have different business hours, would any conflict that may arise from that be purely a landlord/tenant situation.

Ms. Connors said that the use of the building is "office", so the hours would be the general 8 am to 5 pm and agreed with Chairman Oldaker that any conflict would be a tenant/landlord issue.

Mr. Wick interjected that the application indicates that the paid private parking for Aruba Beach Café would be after business hours (5 pm closing) weekends and holidays all day which specifies that they already have an agreement.

Ms. Connors confirmed Mr. Wick's statement and said that this is a continuation and that Aruba was already using this lot and again, they are bringing this existing use up to the current conditional use code and that this is nothing new to the Town.

Chairman Oldaker asked for comments from the applicant.

Nectaria Chakas came forward and said that she was present on behalf of the Aruba Beach Café and said that the owner of the property is VMC Realty Inc. and they have signed the application and have authorized Aruba to go ahead and file this application on their behalf. Ms. Chakas said that this operation has been ongoing for several years and indicated they were going through the process to comply with the current code by obtaining a conditional use for the property. Essentially, whenever the office building is closed, that is when Aruba is allowed to use the parking lot. Ms. Chakas said that they appreciate the board's support and they have agreed to all of the conditions listed in the staff report.

Chairman Oldaker said that the board is looking at an application and wanted to make sure that the Town has verified the application and that the parties involved were authorized to do what the application states.

Ms. Connors responded that the owner of the property signed the application.

Since there were no public comments, Chairman Oldaker asked the board for a motion.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to pass this on to the Town Commission with the board's recommendation to approve the conditional use with staff's 11 conditions listed in the staff report.

In a roll call vote, all voted in favor to recommend approval of the conditional use.

Ms. Connors interjected that these two items would be forwarded to the Town Commission for final approval on November 29, 2011.

## VI. OLD BUSINESS

### Item #1: Proposed Amendments to Section 30.9 Architectural Standards

Cecelia Ward of J. C. Consulting said that on August 17, 2011 the board, acting as the Town's local planning agency, had reviewed the draft ordinance proposing changes to Section 30-9 "Architectural Standards". Ms. Ward said that the board voted 3 to 2 to table the draft ordinance until November 16, 2011 and asked for an economic study to be completed regarding the proposed changes to the code. Ms. Ward said that this information was presented to the Town Commission at their September 13, 2011 meeting and at that time, the commission did not support proceeding with the economic study and instead requested that the ordinance be scheduled for first reading at the Town Commission that was held on October 11, 2011. At that meeting, the commission voted 3 to 2 to approve the proposed ordinance on the first reading. However, the commission also requested that the item again be brought before the local planning agency which was scheduled for this Planning and Zoning meeting and that staff would receive a recommendation from the board.

Ms. Ward recapped the changes that were proposed to the code. There are three basic provisions: 1) to delete the requirement for Mediterranean style as currently required by the code and instead replace it with a preferred style, not a mandatory style. That preferred style would be one that would be in keeping with the Mid-Century Modern. 2) Allowing greater flexibility in design, supported by appropriate standards. Ms. Ward said that they had received comments from the public and they just asked staff to clarify terminology regarding adjacent. Ms. Ward said they provided that information and it was highlighted in the draft ordinance provided in the backup material for the board. 3) it would remove the requirement for review by a Town Architectural Review Board and would replace that review specifically with a review by a Development Review Official based on a recommendation from a licensed architect. This would not in any way shape or form replace the duties of the Planning and Zoning Board with respect to any site plan. It would be the same as if there were an Architectural Review Board making a recommendation to board as it would be if the Development Review Official were making a recommendation to the board for any application that is required to go before the board. With that, Ms. Ward said that they would recommend approval of the proposed ordinance as amended.

Mr. Wick referred to the highlighted lines 144 through 146 in the proposed ordinance and asked if those changes were brought before the board the first time.

Ms. Ward said that this actually came up during public comments at the Town Commission meeting and these changes were added since that meeting as the result of those comments.

Mr. Yankwitt said for clarification the Town will no longer require a specific style of architecture and that the homeowner would have more of a choice in the type of style they would like.

Ms. Ward said that this ordinance does not apply to single family housing and the proposed ordinance would apply more to multi-family and commercial properties. Ms. Ward said that Mr. Yankwitt was correct and that there would not be a mandatory style. Ms. Ward said that after the first Planning and Zoning meeting, she did some research and found that the enactment of the original Mediterranean Style was really twenty years ago and it was based on a Coral Gables ordinance which did not make a lot of sense to her. Ms. Ward said that it would make perfect sense if someone wants to change the style as long as they show how that fits in with the character of the surrounding area.

Chairman Oldaker asked Assistant Town Manager Bud Bentley to come forward and said that he understood that staff was working hard to get all of the backup together for the board meeting and commented that he would like to have pictures or anything that would be relevant to help the board go through the analysis included in the packet and not be presented with the material as the board arrives at the hearing. Chairman Oldaker said that he mentally spends time organizing everything and he thought time would be better spent when he would have more time to focus on the material and not at the hearing.

Mr. Bentley said that Chairman Oldaker made an excellent suggestion and his comments were so noted.

There being no public comments, Chairman Oldaker asked the board for a motion.

Mr. Wick commented that 8 to 10 years ago the Town Council said that they wanted to put a color combination together and that was battered back and forth for a while. Mr. Wick said that a good example of the Mediterranean Style was the Minto property. Mr. Wick said that recently a study was done that indicated that the Town was more Mid-Century Modern than Mediterranean.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to pass the proposed ordinance through for a vote by the Town Commission at its next meeting.

In a roll call vote, all voted in favor to pass the proposed ordinance on to the Town Commission for a vote.

**VII. UPDATES/BOARD MEMBER COMMENTS**

Mr. Wick announced that there would be a Halloween Party at Town Hall on October 31<sup>st</sup> that is being run by Commissioner Clotey and that she is looking for volunteers. Mr. Wick wished everyone a Happy Halloween.

**VIII. ADJOURNMENT**

Having nothing further to discuss, Chairman Oldaker requested and received a motion and second to adjourn the meeting at 7:20 p.m.

ATTEST:

\_\_\_\_\_  
Chairman Alfred Oldaker

Date Accepted: \_\_\_\_\_

\_\_\_\_\_  
Colleen Tyrrell, Board Secretary