

MINUTES

CITY OF KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING VARIANCE REQUEST

Thursday, April 22, 2021 9:30 a.m.
Marble Hall & Virtual via Zoom Conferencing

Call to Order, Pledge of Allegiance, Roll Call

The Public Hearing was called to order by Mayor Sutton at 9:30 a.m.

Present: Mayor Ron Sutton, Vice Mayor Patricia Trefry (Virtually), Secretary/Treasurer Kathryn McCullough, and Commissioner Tom Harding. *Also Present:* City Administrator David Turner, City Clerk Rebecca Todd, Executive Assistant Saara Staten, City Attorney Dirk Smits, Police Chief DiGiovanni, Building Official Roussin, and Building Inspector Greg Lawton.

Excused: Commissioner John DeNeale

Public - 46 (Virtually) 24 (Marble Hall)

Administration of Oath to Witnesses: City Clerk Todd swore in all present who may speak on the agenda item.

Disclosure of Ex-Parte Communications: Commissioner McCullough reported receiving correspondence and replying to some regarding the proposed development agreement. Commissioner Harding, Vice Mayor Trefry, and Mayor Sutton reported receiving correspondence regarding the proposed development agreement and not replying. All Commissioners confirmed that the correspondence will not affect their decision-making process.

Proof of Publications, Affidavit of Mailing Notices: City Clerk Todd affirmed the proof of publication.

Proposed Development Agreement – 721 West Ocean Drive:

1. Applicant Presentation: Attorney Bart Smith, representing Jupiter Realty and Oceanfront Condominium owners, presented the proposed development agreement and highlighted the project details, project characteristics, project history, etc. Attorney Smith highlighted Land Development Regulation Section 101-190 regarding nonconforming uses being inapplicable because nonconforming uses are not being proposed. Attorney Smith also highlighted the Key Colony Beach Comprehensive Plan Policy 1.5.1 differentiating densities vs. intensities and reviewed the Florida Statue definition. Attorney Smith cited Rinker Materials Corp. v. City of North Miami, 286 So. 2d 552,553 (Fla. 1973) stating (c) Since zoning regulations are in derogation of private rights of ownership, words used in zoning ordinance should be given their broadest meaning when there is no definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner. Attorney Smith continued by explaining the effects of the COVID-19 State of Emergency to development orders. Attorney Smith defined per Florida Statute what a Development Order and Development Permit include and emphasized the extension given at the February 13, 2020 City Commission meeting is still valid due to the current State of Emergency. Developer Jerry Ong presented the proposed building design and highlighted the oceanfront features and luxury units. Mr. Ong emphasized his desire to develop a structure that is additive to the City aesthetically and financially. Vice Mayor Trefry requested clarification on the rental term for Marabella Oceanfront. Mr. Ong conceded that Marabella Oceanfront will have a minimum of a 30-day rental. Attorney John Wolfe, representative of 20 of the 22 unit owners of Oceanfront Condominiums, emphasized the difficult time the Oceanfront Condominium owners have had since Hurricane Irma due to limited financial resources and complications from the insurance agency. Attorney Wolfe expressed support and urged the Commission to grant the 27 units proposed by Jupiter Realty.

2. Building Official Presentation: Building Official Roussin reported willingness to support the Commission's decision regardless of what is decided. Building Official Roussin will submit a letter of support along with the approved designs by the Commission to DEO. Building Official Roussin stated he would like to see a minimum of 22 units granted to help the previous Oceanfront Condominium owners.

3. Planning & Zoning Board Recommendation: Vice Chair Troiano presented the Planning & Zoning Board recommendations. At the March 17, 2021 Planning & Zoning Hearing, the Planning & Zoning Board unanimously

agreed with Building Official Roussin's recommendation to allow 22 units across the three lots, 42-45 feet in height including any mechanicals, and consider setbacks at a later stage of development.

4. Public Comment: David McKeehan, 2 7th Street, expressed support of the proposed development agreement and urged the Commission to approve up to 27 units.

James McDonald, 711 West Ocean Drive, expressed concern with the side setbacks being too close to his property and requested a survey of his property prior to construction to assure any damage is repaired.

Sheree Rheinhardt, 601 West Ocean Dr. #107, expressed concern with the size of the proposed property.

Mary Ann Royse, 721 Ocean Dr. #4, urged the Commission to focus on the 30-day rental minimum and to approve the proposed development agreement.

Susan Melvin, 755 West Ocean Dr. #2, questioned verbiage on the proposed development agreement regarding side setbacks.

Gerald Regan, 721 West Ocean Dr. #11, urged the Commission to approve the proposed development agreement and help the Oceanfront Condominium owners.

Mike Yonker, Property Manager of Castillo del Sol Condominiums, expressed support of the proposed development agreement and urged the Commission to recognize the importance of the 30-day rental minimum. Castillo del Sol Condominiums is also a 30-day rental minimum and Mr. Yonker related their experience of very low occupancy year-round.

Lin Walsh, 755 West Ocean Dr. #5, urged the Commission to expedite the decision-making process to help Oceanfront Condominium owners and expressed support for the proposed development agreement.

Mary Sansone, 721 West Ocean Dr. #17, urged the Commission to approve the proposed development agreement and help the Oceanfront Condominium owners.

Walter Solntzeff, 721 West Ocean Dr. #3, urged the Commission to approve the proposed development agreement.

Jerry Merrifield, 721 West Ocean Dr. #10, urged the Commission to approve the proposed development agreement.

5. Commission Discussion and Recommendation: After discussion, the Commission unanimously agreed that the substantial damage letter is still in effect based on the information presented. Commissioner McCullough did not support granting up to 27 units. Mayor Sutton, Vice Mayor Trefry, and Commissioner Harding were not concerned with granting up to 27 units. Commissioner McCullough requested if 27 units are granted that a traffic study and environmental impact study be conducted at the expense of the Developer. Commissioner Harding requested for Mr. Ong to research whether a 100-foot beachfront setback is possible to meet FEMA recommendations and lower insurance premiums for future residents. Attorney Jones reviewed and revised the development agreement to reflect the decisions made at this hearing.

MOTION: Motion made by Mayor Sutton, seconded by Commissioner Harding to approve 24-27 units in the site plan which included usage of lot 6, 7 and 8.

ON THE MOTION: Roll call vote. No: Commissioner McCullough. Yes: Mayor Sutton, Vice Mayor Trefry, and Commissioner Harding.

MOTION: Motion made by Mayor Sutton, seconded by Commissioner Harding to formally adopt the development agreement as revised.

ON THE MOTION: Roll call vote. Unanimous approval.

The meeting adjourned at 11:51 a.m.

Respectfully submitted,



Saara V. Staten (on behalf of City Clerk Rebecca Todd)
Executive Assistant