AGENDA
CITY OF HOLMES BEACH
PLANNING COMMISSION MEETING
PATRICIA A GEYER COMMISSION CHAMBERS
5801 MARINA DR, HOLMES BEACH, FL 34217
WEDNESDAY – NOVEMBER 2, 2016 - 7:00 P.M.

PLEDGE OF CONDUCT: We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

1. CALL TO ORDER

2. ROLL CALL

MINUTES

3. CONSIDER APPROVAL OF THE OCTOBER 5, 2016 PLANNING COMMISSION MINUTES

UNFINISHED BUSINESS

4. CONTINUED DISCUSSION – PROPOSED CHANGES TO LDC

A. ADD A PROVISION FOR GRASS PARKING

B. IDENTIFY THE ZONING DISTRICTS IN WHICH STANDALONE BARS, COCKTAIL LOUNGES, AND NIGHTCLUBS ARE ALLOWED

C. CLARIFY DENSITY AND DEVELOPMENT STANDARDS FOR RESORT HOUSING IN THE MXD DISTRICT

D. CORRECT SCRIVENER'S ERRORS REGARDING THE NEED FOR SITE PLAN REVIEW IN CERTAIN COMMERCIAL DISTRICTS

E. MODIFY THE LIMITATION ON THE WIDTH OF DRIVEWAYS TO INCLUDE BACK-OUT PARKING SPACES

F. ADD REQUIREMENTS FOR SITE PLAN REVIEW IN THE REC (PUBLIC RECREATION/OPEN SPACE) ZONING DISTRICT

G. CLEARLY IDENTIFY SITUATIONS WHERE AN APPLICATION FOR, AND THE GRANTING OF, A VARIANCE IS INAPPROPRIATE AND NOT ALLOWED

H. CREATE A DEFINITION FOR "MINOR DEVELOPMENT" AND PROCEDURES ALLOWING A SITE PLAN TO BE ADMINISTRATIVELY APPROVED BY THE BUILDING OFFICIAL (OR ZONING ADMINISTRATOR)

NEW BUSINESS

5. QUESTIONS AND COMMENTS FROM PLANNING COMMISSION MEMBERS

6. QUESTIONS AND COMMENTS FROM PLANNER AND STAFF

7. QUESTIONS AND COMMENTS FROM PUBLIC AND PRESS

ADJOURNMENT

Should any interested party seek to appeal any decision made by this City Commission with respect to any matter considered at this meeting, they will need to insure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities act and 286.26 Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the office of the City Clerk no later than 3 days prior to the meeting at telephone (941) 708-5800 for assistance; if hearing impaired, telephone (800) 955-8771 (TDD) for assistance.

#3

MINUTES
CITY OF HOLMES BEACH
PLANNING COMMISSION MEETING
PATRICIA A GEYER COMMISSION CHAMBERS
5801 MARINA DR, HOLMES BEACH, FL 34217
WEDNESDAY – OCTOBER 5, 2016 - 7:00 P.M.

PLEDGE OF CONDUCT: We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

1. CALL TO ORDER
Chair Hickerson called the meeting to order at 7:01 p.m.

2. ROLL CALL
Present: Commissioner Harris, Commissioner Hickerson, Commissioner Hines, Commissioner Stealey, Commissioner Wurzbach, Alternate Commissioner Boyd, and Alternate Commissioner Lester.
Also present: City Clerk Johnston, Mayor Johnson, Building Official McGuinness, and Commissioner Soustek.

MINUTES

3. CONSIDER APPROVAL OF THE SEPTEMBER 7, 2016 PLANNING COMMISSION MINUTES

Motion: Move that the September 7, 2016 Planning Commission Minutes be approved for adoption.
Action: Approved. Moved by Commissioner Hines, Seconded by Commissioner Stealey.
Motion passed unanimously.

UNFINISHED BUSINESS – None.

NEW BUSINESS

4. PLANNING COMMISSION DISCUSSION PRIORITIES – *Planner Brisson*
a. Changes to the Land Development Code (LDC)
b. Initiate Comp Plan Update Process

Planner Brisson informed he and Building Official McGuinness have identified some LDC amendments that need to be addressed as soon as possible. The suggested LDC amendments will be presented to the City Commission at their 10-11-16 Work Session. The Planning Commission will then proceed with reviewing the amendments at the November meeting. Planner Brisson reviewed the recommended changes in the LDC as follows:

1) Grass parking provision. A draft Ordinance has already been written for the Commission's consideration. The Planning Commission will need to review the Ordinance for any recommended changes.

2) Bar, Lounge, and Night Clubs – There is no provision in the LDC in any zoning district for a bar, lounge, or nightclub. There are, however, provisions in the Alcohol section of the code. *Planner Brisson* recommended the usage be located in the C-3 Zone District as a Special Use.

   Building Official McGuinness informed there was a recent Site Plan approval for a bar/lounge known as the Dr. Office. When he and Planner Brisson reviewed the request as an allowable use in the C-3 district, they found there was no allowance in any of the zoning districts. This will need an immediate fix.

3) MXD District – The City has received a Site Plan request to allow dwelling units above an existing building. During the Site Plan review, staff determined the language in the LDC is not clear. Staff would like the language amended for clarification purposes.

4) Site Plan Review – There are a number of places in the current LDC that do not state a Site Plan review is needed. As a result, the appropriate language needs added into the code.

5) No POS REC – The LDC does not indicate a Site Plan review is required in the POS REC Zoning District. A request has been received for the Manatee County Beach. Staff recommends a Site Plan review be required.

6) Driveway - There was a problem with a driveway situation in the past. It was noted back-out parking is allowed in the City. Staff recommends revising the definition of "driveway" to clarify it includes the entire width of back out parking. Examples followed.

7) Variance - A section needs added that clearly identifies situations where a variance application is inappropriate and not allowed.

8) Minor development – Staff recommends a definition for "minor development" be added that will allow a Site Plan to be approved administratively by the Building Official.

Planning Commission discussion and examples followed relating to the requirement for variances.

Planner Brisson informed once all the LDC amendments have been addressed, the Planning Commission will then begin addressing the Comprehensive Plan, followed by the LDC. He noted the overall approval of the LDC in 2005 was to make it consistent with the Comp Plan. He explained the definitions portion would be the last thing to address.

Building Official McGuinness stated definitions are where the process begins and provided examples.

Planner Brisson explained there are certain State requirements as far as the Comp Plan process that the Planning Commission will need to address:

a. To revise the Public Participation Procedures originally adopted in 1989 and never updated. The new procedures would establish the manner in which the subsequent update of the Comp Plan, and any future amendments would be undertaken as it relates to public notice and public participation.

b. Staff updates relating to population estimates and projections, tabulation, and mapping of existing land use data.

c. Look at including a Vision Statement in the Comp Plan. The issue of a Vision Statement will be discussed by the City Commission at their October 11 meeting.

Discussion followed relating to the creation of a Vision Statement.

Chair Hickerson felt the Planning Commission should take on the responsibility of working with the public's vision and then provide input to the City Commission. He prefers that process versus the Commission doing all the work and then submitting to the Planning Commission for their input.

Planner Brisson explained a Vision Plan had been written in the past that was accepted by the City - but never adopted. Only a Vision Statement written in 2002 has been incorporated in the Comp Plan.

Planning Commission discussion followed relating to where the responsibility for the Vision Statement/Plan should lie. In *Planner Brisson's* opinion, a Vision Statement should be addressed and agreed upon prior to review of the Comp Plan itself.

Building Official McGuinness felt the City Commission should set the vision, with the Planning Commission then determining if it complies with the Comprehensive Plan. He stated the Planning Commission is a land-development regulatory commission.

Commissioner Hines agreed the Planning Commission should review the Vision statement first with the City Commission having the ultimate approval responsibilities. She stated there are a lot of people on the Planning Commission that have expertise, and can advise the City Commission. Then submit recommendations to the City Commission for their final review – versus reviewing a completed document. Discussion continued relating to the difference between mission statements vs. a vision statement.

After discussion, it was agreed City Clerk Johnston would provide a copy of the 2002 Vision Plan that was not adopted to each Planning Commission member. *Chair Hickerson* asked that each member begin thinking about what they would like to see as part of a vision plan with the hopes for having an opportunity to provide input for the City Commission.

Chair Hickerson asked if it would be useful to look at other communities Comprehensive Plans.

Planner Brisson noted they would only be updating the City's current Comprehensive Plan - not creating a new one. He explained there are many sections in the Comp Plan that are no longer needed. Examples and explanation followed.

Chair Hickerson noted some City's Comp Plans have a separate Quality of Life Element. He pointed out that Quality of Life had been addressed in the un-adopted Vision Plan.

Planner Brisson agreed a Qualify of Life Element could be a topic for discussion as part of the Future Land Use Element. He cautioned the Planning Commission to be aware the City's Comp Plan was only written at the time to meet State legislation – only because they had to meet the mandates of the State. He encouraged the Planning Commission to look at other Comp Plans and make a list of their suggestions to include the Element they are located in. He provided the example of short-term vacation rentals and the need to determine the goals of the Holmes Beach community.

Commissioner Wurzbach asked what Holmes Beach was like in 1989.

Planner Brisson informed he began with the City in 2003. The biggest change he has seen is there were no vacation rentals in 1989. In addition, the population was around 6,000 and has since dropped.

Chair Hickerson stated when he moved to Holmes Beach in 1991, at least two of the Commissioners owned resorts. They were adamant then that short-term rentals be limited to a specific area. The R-4 Overlay was then approved in 1994 with no rentals allowed by code in any of the other districts.

Alternate Commissioner Boyd stated the reason the State allows Comp Plans to be updated is because communities change. Therefore, the Planning Commission's goal is to update the Comp Plan to deal with the factors being faced, and set a vision for what they want the community to look like five to ten years from now. Otherwise, the community will evolve in the way future politicians or someone in power wants it to.

Commissioner Harris stated the City would be facing big issues. She made reference to the new Waterline development. She noted in the future, there would also be several hotels on Cortez Road. Many new hotels will be constructed in the very near future that will affect the parking, transportation issues, etc. in Holmes Beach.

Commissioner Stealey observed over the years that things have changed in the City based on the politics and population. He noted having seen a number of changes in the City Commission's over the years, and the positions and laws will change based on who is elected. He noted the vision of the City Commission six years ago is quite different than that of the current Commission. He did not feel there was any

concern with the current City Commission political situation – but that he would not have said that a few years ago.

Commissioner Hines agreed, stating the City is only one election away from a total change that could occur. In addition, as the population decreases, it can be a concern. She noted the current City Commission has no control over many of the current problems – ex. Tourist Development Council (TDC).

After further discussion, *Chair Hickerson* asked that the Commissioners each begin reviewing the Comp Plan in order to come up with any concerns for future discussion.

5. QUESTIONS AND COMMENTS FROM PLANNING COMMISSION MEMBERS

Commissioner Wurzbach

Commissioner Wurzbach announced he and his wife will be moving off the Island within the next couple of months and he will be resigning from the Planning Commission Board.

6. QUESTIONS AND COMMENTS FROM PLANNER AND STAFF – None.

ADJOURNMENT

Chair Hickerson adjourned the meeting at 8:24 p.m.

_____

Stacey Johnston, MMC, City Clerk

Minutes approved: _____

NOTE: THIS IS NOT A VERBATIM RECORD; A DIGITAL RECORDING HAS BEEN MADE OF THE FOREGOING PROCEEDINGS OF WHICH THESE MINUTES ARE A PART. THIS RECORDING IS ON FILE AT THE CLERK'S OFFICE IN THE CITY OF HOLMES BEACH FOR TWO (2) YEARS.

DRAFT

LaRue Planning
& Management Services, Inc.

#4

Memorandum

To: Planning Commissioners

From: Bill Brisson, AICP
Sr. Planner, LaRue Planning & Management Services, Inc.

Date: October 26, 2016

Subject: Proposed changes to LDC for discussion at November 2nd meeting

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As you will recall, at our last meeting we identified eight issues that Jim McGuinness and I felt needed to be addressed in the LDC as quickly as possible. This memorandum addresses these eight items. Each item begins with a brief discussion of the reason behind the issue and is followed by the recommended changes to the LDC. Deletions to existing language are show in ~~strikeout~~ format. New language is <u>underlined</u>.

Please review this memorandum so that we can discuss the proposals and each of the Planning Commissioners' comments and suggestions.

A. ADD A PROVISION FOR GRASS PARKING.

Reason

Various communities include in their land development regulations provision for a portion of the required off-street parking to be in the form of grass parking, rather than having the entire parking area covered by impervious surfaces. Grass parking is usually only for intermittent uses, such as houses of worship, that only use the full complement of the required off-street parking intermittently, perhaps only one or two days per week. The benefit of this is a reduction in the amount of impervious surface, allowing for natural greater percolation of rainwater, thus reducing stormwater runoff.

Recommendation

The following changes are proposed to §8.19 Off-street parking required.

Section 8.19

F. *Size and construction.*

1. *Perpendicular or angle parking.* For perpendicular or angle parking in which vehicles are side by side, a parking space shall be a rectangle with minimum dimensions of nine feet by 18 feet.

2. *Parallel parking.* For parallel parking, a parking space shall be a rectangle with minimum dimensions of nine by 23 feet. Ease of entrance to and exit from the parking spaces are required. Parking spaces shall be constructed and surfaced with a stable material that minimizes dust and is maintained in a smooth, well-graded condition. Adequate drainage shall be provided and maintained.

3. *Construction.* Parking spaces shall be constructed and surfaced with a stable material that minimizes dust and is maintained in a smooth, well-graded condition except as provided otherwise herein. These materials shall comply with the City Standard Engineering Details as amended. Adequate drainage shall be provided and maintained.

   a. *Exception: Provision allowing grass parking for intermittent uses.*

      (1) The number of required paved parking spaces required under Sec. 8.19.D.2 may be reduced by the city commission when an applicant can demonstrate that the proposed use normally would have only an intermittent demand for the total required parking spaces, that is, only one or two days during the week.

      (2) The number of paved parking spaces shall not be reduced by more than (65?,or75?) percent.

      (3) The application for use of grass parking shall contain a site plan showing the number, size, and location of paved spaces and grass spaces.

      (4) All spaces designated for handicapped parking shall be paved spaces and meet the requirements of the Florida Accessibility Code.

      (5) Should the use of grass parking spaces intensify such that the grass dies; the grass parking spaces shall be converted to traditional paved surfaces.

4. *Stacked, tandem and in-line parking prohibited.* Except for single-family and individual duplex units, all required off-street parking shall have unobstructed access from the street.

5. *Compact car spaces.* Compact car spaces with dimensions of not less than eight feet by 16 feet may be counted towards required off-street parking provided such spaces are clearly marked "compact cars only" and do not comprise more than 20 percent of the total number of off-street parking spaces required for the property.

B. IDENTIFY THE ZONING DISTRICTS IN WHICH STANDALONE BARS, COCKTAIL LOUNGES, AND NIGHTCLUBS ARE ALLOWED.

Reason

While the LDC the includes a parking requirement for "Restaurants, bars and cocktail lounges," it does not provide a definition for bar, cocktail lounge or nightclub. Furthermore, nowhere in the LDC is a standalone bar, cocktail lounge or nightclub listed as an allowable use. Restaurants, bars and cocktail lounges are allowed only as accessory uses to a hotel or motel located in the A-1 District, and they must be within a fully enclosed area.

However, there a few stand-alone bars or cocktail lounges (i.e., they serve alcohol but little or nothing in the way of food) in the C-3 District. Chapter 6, Alcoholic Beverages, of the City's Code of Ordinances includes the following definitions for "Bottle club", "Nightclub" and "Stand-alone bar or nightclub", but includes nothing about where such uses are allowed.

> *Bottle club* means any premises or place which provides space for club members to store or keep their individual bottles of alcoholic beverages, which are not to be sold and which may be consumed only on the premises for the use of club members and their guests, wherein persons may engage in the drinking of alcoholic beverages, for a fee or any other consideration including without limitation the sale of food, mixers, ice or other fluids used with alcoholic drinks.
>
> *Nightclub* means a restaurant, dining room, lounge, bottle club or similar establishment where alcoholic beverages are sold or dispensed for consumption on the premises where a floor show, band, disc jockey or other entertainment is provided for guests at any time during the hours of 8:00 p.m. to 2:30 a.m. the following day.
>
> *Stand-alone bar or nightclub* means any licensed premises devoted during any time of operation predominantly or totally to serving alcoholic beverages, for consumption on the licensed premises; in which the serving of food, if any, is merely incidental to the consumption of any such beverage; and the licensed premises is not located within, and does not share any common entryway, or common indoor area with, any other enclosed indoor workplace, including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue. A place of business constitutes a stand-alone bar or nightclub in which the service of food is merely incidental in accordance with this definition if the premises derives no more than ten percent of its gross revenue from the sale of food consumed on the licensed premises. This definition shall be construed consistent with any judicial construction given to Section 386.203(11), Florida Statutes. This definition does not include sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held; nor hotels, motels, and bona fide restaurants whose primary business is the service of full course meals, where such businesses are licensed by the state's division of hotels and restaurants. This definition does not include any airport vendor holding a

special airport license, as defined by Section 561.01(13), *Florida Statutes.*

Recommendation

A. Amend §1.4 of the LDC by adding the following definitions:

Bottle club: shall have the same meanings as set forth in Section 6.8 of Chapter 6, Alcoholic Beverages, in the City's Code of Ordinances.

Nightclub: shall have the same meanings as set forth in Section 6.8 of Chapter 6, Alcoholic Beverages, in the City's Code of Ordinances.

Stand-alone bar or nightclub: shall have the same meanings as set forth in Sections 6.1 of Chapter 6, Alcoholic Beverages, in the City's Code of Ordinances.

B. Amend §6.6.J.2.b, *Special Exception Uses*, by adding the following:

Note: The following are recommended as Special Exception uses because all uses other than those already allowable in the C-1 or C-2 Districts are now shown as Special Exception uses in the C-3 District.

(20) Bottle club
(21) Nightclub
(22) Stand-alone bar or nightclub

C. Amend §8.19.D.2.b(4) to read as follows:

(4) ~~*Restaurants, bars, cocktail lounges:*~~ *Restaurants, bottle clubs, and stand-alone bars or night clubs:* One parking space for every three seats.

C. CLARIFY DENSITY AND DEVELOPMENT STANDARDS FOR RESORT HOUSING IN THE MXD DISTRICT.

Reason

The most recent application for resort housing in the MXD District pointed out what some might consider ambiguities with respect to the whether or not resort housing is a residential use, and to density and parking requirements applicable to resort housing in this District. It has also been noticed that the allowable density for transient and tourist lodging facilities is not consistent with the limitations in the Comprehensive Plan. The following changes are intended make clear the standards applicable to resort housing and without having to refer to, and interpret, other sections of the LDC, and to correct the allowable densities for transient and tourist lodging facilities.

Recommendation

A. Amend §6.6.O.3, to read as follows:

3. *Allowable uses.*

   a. All uses listed as permitted or special exception uses in the underlying zoning district shall be permitted equally in the MXD district, and such uses shall be subject to all conditions, requirements or limitations applicable to such use in the underlying zoning district, except as may otherwise be set forth in this section.

   b. Residential and resort housing uses provided the following conditions are met:

      (1) All residential and resort housing units are located on the second and/or third floors above ground floor commercial, public, semi-public, or recreational use(s);

      (2) The maximum allowable ~~residential~~ density for residential and resort housing is ten dwelling units per acre. However, ~~in the event that~~ if the location of just one dwelling unit results in a density ~~in excess of~~ greater than ten dwelling units per acre, one dwelling unit may be located above an allowable nonresidential use on any individual lot regardless of the resulting density.

      Note: It has been suggested that the density should be limited to 10 du/ac and if a commercial lot is too small, it should not be allowed to have a residential unit above.

      (3) The gross square footage of all residential, resort housing, and transient or seasonal tourist lodging facilities ~~uses~~ on the property does not exceed two-thirds of the gross floor area of all uses in the development ~~the entire development (i.e., the aggregate of all residential and nonresidential floor area)~~.

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c. Transient or seasonal tourist lodging (hotels, motels, timesharing, and onshore lodging~~, and resort housing~~) offering occupancy periods of less than one month, provided the following conditions are met:

(1) Such units are located on the second and/or third floors above ground floor commercial, public, semi-public, or recreational use(s)

(2) In accordance with limitations on density in the City's Comprehensive Plan, ~~M~~maximum allowable density for transient or seasonal tourist lodging facilities is 12 units per acre for units containing only one room suitable for sleeping purposes, and 14 units per acres for units with more than one room suitable for sleeping purpose, as such room is defined in Sec. 6.6.F.3.b(4) of the LDC. ~~20 units per gross acre for units with no more than one room suitable for sleeping purposes and 15 units per gross acre for all others.~~

(3) The gross square footage of transient or seasonal tourist lodging facilities ~~such facilities~~ combined with the square footage of residential and resort housing units, does not exceed two-thirds of the gross floor area ~~of the development (i.e., the aggregate~~ of—all uses in the development ~~residential and nonresidential floor area)~~.

(4) For the purposes of this section, a room suitable for sleeping purposes includes the main living area of a unit and all separate bedrooms, dens, lofts, offices or similar spaces, but excludes bathrooms, laundry rooms, and stand-alone kitchen areas.

4. *Development standards.*

a. All development within the MXD district shall be subject to the development standards of the underlying zoning district except as otherwise set forth in this section.

b. Development within the MXD district is limited to lots or parcels of 5,000 square feet or more.

c. ~~Buildings with residential units located above nonresidential uses shall provide separate additional pedestrian access to such residential units.~~

Each residential or resort housing unit shall be provided with convenient pedestrian access from the public way to the entrance of the unit.

d. For parking purposes resort housing, hotels, motels and time-sharing uses are considered nonresidential uses and shall provide parking in accordance with the requirements of Sec. 8.19.2.b.

e. The minimum off-street parking requirement for each residential unit shall be one parking space plus one space for each bedroom in excess of one.

f. Each residential or resort housing dwelling unit shall be provided at least one parking space that is conveniently located to the unit it is intended to serve. This

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parking space shall be clearly marked and identified as being reserved, on a 24-hour basis, only for occupants of the residential or resort housing unit.

D. CORRECT SCRIVENER'S ERRORS REGARDING THE NEED FOR SITE PLAN REVIEW IN CERTAIN COMMERCIAL DISTRICTS.

Reason

During prior amendments to the LDC, or during their codification, the requirement for site plan review was mistakenly omitted for special exception uses in the C-1 and C-2 Districts, and for permitted uses in the C-3 District.

Recommendation

A. Amend Sec. 6.6.H.2.d to read as follows:

d. *SPECIAL EXCEPTION USES* *(site plan review required)*

B. Amend Sec. 6.6.I.2.d to read as follows:

d. *SPECIAL EXCEPTION USES* (site plan review required)

C. Amend Sec. 6.6.J.2.a to read as follows:

d. PERMITTED USES: No land, building or structures, or part thereof, shall be erected, altered or used, in whole or in part, for other than the following. Site plan review is required for all principal permitted uses:

E. MODIFY THE LIMITATION ON THE WIDTH OF DRIVEWAYS TO INCLUDE BACK-OUT PARKING SPACES.

Reason

The LDC now limits the width of driveways to 40 feet in the R-2, R-3 and R-4 Districts. Limiting the overall width of contiguous parking spaces requiring vehicles to back-out onto the public right of way has previously been accomplished through an interpretation that "back-out" parking spaces are the equivalent of a "driveway". Therefore, I originally thought that revising the definition of "driveway" would be the best way to clarify the intent of the driveway width limitation. After further thought, I believe the more appropriate approach would be to modify Sec. 8.15.B.3.

Recommendation

A. Amend Sec. 8.15.B.3 to read as follows:

3. *Requirements.* For the purposed of this section, the aggregate width of all contiguous parking spaces requiring vehicles to back-out onto the public right-of-way shall be considered a driveway.

   a. Driveways shall not intersect a street corner radius or be closer than 20 feet to the intersection of the extended ~~street curblines~~ right-of-way lines.

   b. Maximum width of driveways (excluding flare or radius) at their intersection with a street travel way shall be as follows: R-1AA and R-1 districts, 20 feet; R-2, R-3 and R-4 districts, 40 feet; districts other than above, site plan approval by city commission is determinative.

   Alternatively, the 40-foot limitation on width could also be applied throughout all nonresidential districts.

   c. Driveways shall be no closer than ten feet measured along a street line or closer than six feet measured along the ~~curbline~~ right-of-way line.

   d. ~~Driveways shall be paved or otherwise stabilized with other appropriate material~~.
   Driveways shall be constructed and surfaced with a stable material that minimizes dust and is maintained in a smooth, well-graded condition except as provided otherwise herein. These materials and construction shall comply with the City Standard Engineering Details as amended. Adequate drainage shall be provided and maintained.

F. ADD REQUIREMENT FOR SITE PLAN REVIEW IN THE REC (PUBLIC RECREATION/OPEN SPACE) ZONING DISTRICT.

Reason

POS (Private recreation/open space) and the PSP (Public/semi-public) Zoning Districts clearly note that a site plan review is required. In the REC (Public recreation/ open space) Zoning District development standards sections there are several references to the site plan review and site plan review process, but these are hidden in the body of the text. I believe the requirement for a site plan review should be clearly identified under the Permitted uses section of the REC District.

Recommendation

Amend Sec. 6.6.K.2.b to read as follows

b. *Permitted uses.* Land designated as public recreation open/space shall be suitable for active and passive recreational use and may, subject to site plan review, include the following:

(1) Parks
(2) Playgrounds
(3) Tot lots
(4) Reserved
(5) Beach frontage
(6) Nature trails
(7) Lakes
(8) Bikeways
(9) Reserved
(10) Swimming pools
(11) Tennis courts
(12) Public roads and rights-of-way
(13) Transportation corridor related uses such as but not limited to stormwater, bike paths, sidewalks, etc.
(14) Vehicular parking as an accessory use
(15) Similar facilities

G. CLEARLY IDENTIFY SITUATIONS WHERE AN APPLICATION FOR, AND THE GRANTING OF, A VARIANCE IS INAPPROPRIATE AND NOT ALLOWED.

Reason

We have received applications for aspects of the LDC that are not the proper subject for a variance. Holmes Beach uses what is traditionally referred to as a "hardship variance." Such variances are typically intended to apply to numerical requirements of a zoning ordinance or land development code. The approval of a specific variance request is intended to grant relief to the property owner in situations where, if the regulation were strictly applied, a physical characteristic of the specific property would significantly interfere with the use of the property. While we have recently rejected applications for certain variance requests based upon interpretations of the LDC, it is preferable to specifically identity situations where a variance is not appropriate. The following recommendation is intended to achieve this end.

Recommendation

Amend Sec. 5.2, *Variances prohibited* to read as follows:

A. Under no circumstances shall a variance be granted to permit a use not generally permitted, permitted by administrative review, or allowed by special exception in the zoning district involved. No variance shall be granted for any use, expressly or by implication, prohibited in the zoning district involved.

B. No variance shall be applied for, or granted, for development of a legally nonconforming lot as defined in Section 4.3, unless the strict application of the applicable dimensional standards will result in a dwelling unit that cannot meet the minimum floor area requirements for principal buildings in the district in which the lot is located. In such case, all standards and conditions set forth in Section 5.11 shall be met and the variance shall be granted only for the minimum deviation necessary to meet the minimum floor area requirement for the dwelling.

C. No variance shall be granted to permit the construction of any structure or building within 50 feet of the erosion control line as established by the State of Florida.

D. No variance shall be applied for, or granted, that will purport to modify any definition.

E. No variance shall be applied for, or granted, that would be inconsistent with the comprehensive plan of the city.

F. No variance shall be applied for, or granted, to permit relief from any of the following provisions applicable to the zoning district in which the property is located:

1. Maximum allowable density
2. Maximum allowable height
3. Maximum allowable number of habitable stories
4. Maximum allowable Living Area Ratio (LAR)
5. Maximum allowable number of bedrooms
6. Maximum allowable number and size of recreational water features
7. Locational limitations for recreational water features
8. Any conditional use criteria, special exception criteria, or condition of approval imposed by the city commission.

Finally, all references to the Board of Adjustment should be changed to "Special Magistrate".

H. Create a definition for "minor development" and procedures allowing a site plan to be administratively approved by the Building Official.

Reason

Now, virtually all development other than individual single-family and two-family structures requires a site plan review and approval by the City Commission, with the following exceptions.

Sec. 3.5 contains the City's site plan review procedures. Subsection B, *Waiver of provision* includes criteria for the building official to administratively waive the requirement for a site plan review by the City Commission.

In addition, Subsection L, *Administrative review* allows for an administrative review by the building official if there is no physical change in the location of the building or an increase in floor area provided any increase required parking does not exceed three spaces or 1/3 the number of space required before the change.

These provisions, while offering some flexibility, tend to be somewhat clumsy. We believe the following approach is more direct and up-to-date.

Recommendation

Delete Sec. 3.5 B in its entirety and replace it with the following:

~~B. **Waiver of provision.** The requirement for site plan review may be administratively waived by the building official if all of the following conditions exist:~~

~~1. The proposed use does not involve the construction or erection of buildings or structures, or the enlargement, expansion or external alteration of an existing building or structure; and~~

~~2. The proposed use does not have different dimensional or other requirements, including but not limited to off-street parking, than the prior use of the lot, parcel, building or structure; and~~

~~3. The proposed use does not involve alteration of the site plan, including expansion or enlargement thereof, for the lot or parcel upon which the use is proposed; and~~

~~4. The building official finds that the proposed use is such that site plan review is not appropriate or required to assure compliance with the provisions of this ordinance.~~

B. *Determination of minor or major site and development plan review.*

1. *Purpose and intent.* The development of land takes many forms and varies with regard to intensity and potential impact on neighboring properties. Therefore, this section establishes two types of review for land development projects:

   a. major site and development plan review, which is approved by the City Commission after a public hearing;

   b. minor site and development plan review, which is administratively reviewed and approved by the building official.

2. *Projects requiring a major site and development plan application and review.*

   Land development projects which meet any of the following criteria in this subsection shall be required to submit a major site and development plan application to the building department:

   a. Development of land that is vacant or substantially vacant.

   b. Substantial redevelopment of a property in which multiple components (e.g., buildings, parking, access, landscaping and buffering, drainage, etc.) of the site will be altered.

   c. A project that will result in an increase in residential density.

   d. New building(s) or expansion of a building(s) that increases the existing lot coverage by more than 15? percent.

   e. Any project that increases the height of the habitable portion of a building.

   f. A change in the use of a property in which site improvements are required to bring the new use into compliance with this chapter. For the purpose of this section a change in use shall be defined as a change in occupancy classification per the Florida Building Code.

g. A project that provides less than the minimum required buffers, landscaping, yards or open space.

3. *Projects requiring a minor site and development plan application and review.* Land development projects which meet all the following criteria may submit a minor site and development plan application to the building department. Minor site and development plan projects shall be administratively reviewed and approved by the building official, and are projects which:

   a. Involve the construction of only an individual single-family dwelling or two-family dwelling on a lot of record;

   b. Do not meet the thresholds of subsection (b) above;

   c. Clearly meet the requirements of the comprehensive plan and land development code; and

   d. Are unlikely, in the opinion of the zoning administrator, to have an impact on neighboring properties.

4. The building official shall make a written finding for each project review based upon the above criteria. Such written findings shall be included as part of the file of record and summary determinations made by the building official or projects qualifying for "minor site and development plan".

5. Any person or party aggrieved by a determination by the building official may appeal such decision as set forth in Sec. 2.4.