

MINUTES — FEBRUARY 14, 2023
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, FEBRUARY 14, 2023**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 7:01 p.m., followed by the Pledge of Allegiance and a moment of silence.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Denise Houseberg, Commissioner Bond, Commissioner Phillip J. Hanna, and Commissioner Joseph D. McCall.

OTHERS PRESENT: City Attorney Randy D. Mora and Planning Consultant Hetty Harmon, AICP.

ABSENT: City Manager Gregg Mims.

(To provide continuity for research, items are listed in agenda order, although not necessarily discussed in that order.)

1A. REPORT OF Pinellas County Sheriff's Office.

The Pinellas County Sheriff's Office presented a crime analysis report for the month of January 2023.

1B. REPORT OF Pinellas Suncoast Fire & Rescue District.

Fire Chief Jeffrey Davidson of the Pinellas Suncoast Fire & Rescue District presented the fire statistics for January 2023.

Fire Chief Davison stated that when he became fire chief, there were a lot of issues, but his most significant thing was ensuring the Fire District was here forever. His number one thing is life safety for all residents and visitors. He stated there are a lot of visitors that come to the Pinellas beaches. An analysis was done years ago, and it was suggested that the IRB Fire Station be moved north. A professional study concluded that the best service for IRB would not be to relocate the IRB station but to add a station at the northern end of Indian Rocks Beach. There is a piece of property that has the potential that would expand the entire safety of the beaches. For example, from St. Pete Beach to Sand Key Beach, the average distance between fire stations is 2.4 miles, and there are 5.9 miles between Indian Rocks Beach and Sand Key, which is horrible. So moving that station would be significant; however, it would cause other issues. Most of the district's fire and EMS calls are closer to the Downtown Business District. There are approximately 5,000 calls on the

beaches. Twenty percent of the time, two, three, four, or even five calls are going on simultaneously, so units come from across the bridge, meaning longer response times.

Chief Davidson stated the fire district covers Indian Rocks Beach, Indian Shores, Belleair Shore, Belleair Beach, and an incorporated area of Oakhurst. Last year, the district's citizens paid approximately \$4.2 million into the EMS, and the district received back \$1.7 million. The district has been the most underfunded district in the entire county since 2010. This year, the district will be receiving \$2 million. The county's EMS reserve fund balance is \$65 million, and they are on track to have \$73 million by 2028, as depicted in their budget.

Chief Davidson stated he would be holding a public meeting/presentation on Monday, February 27, 2023, at 6:00 p.m., in the Belleair Beach City Hall to discuss beach safety and beyond and improving emergency services for the beaches and surrounding areas.

2. PUBLIC COMMENTS.

Diane Daniel, 309-10th Avenue, stated she had launched a resource for Indian Rocks Beach vacation rentals. She encourages property owners, managers, vacationers, and anyone else to donate leftover items from their stay, such as non-perishable food, books, beach toys, clothing, towels, etc. Her website lists the resources to which a person can take the items. She is trying to be a one-stop resource for these items. She hopes the city considers her a friend and partner in encouraging donations and cutting down on waste.

Kelley Cisarik, 448 Harbor Drive South, stated the city has a problem that needs to be addressed at the following vacation rental work session. Some short-term rental properties have increased occupancy by adding extra living space on the lower levels. These properties are in the FEMA Flood Zone A, and she calls these properties the city's "problem children." She had residents telling her about this problem since November, but it was not until last month that she paid attention because several of these "problem children" have listed their homes for sale on MLS. She had sent the city commission links to photos that appear to show bedrooms, bathrooms, kitchenettes, and laundries on the lower levels, and that is a big no, no in elevated homes. She thinks the Realtors can spot illegal living spaces because they are used to selling flood zone property, but out-of-state buyers may not. The city needs to provide consumer protection before consumers buy a two or three-million-dollar big mistake. She also has a personal dog in this fight because she purchases FEMA flood insurance, and most IRB residents do. The city has to follow flood zone building codes to maintain the city's community rating to receive the city's discount of 20%. Her 20% discount saves her about \$500 per year. She does not want violations in the vacation rental sector to hit her pocketbook. She thinks the city staff is now dealing with some unpermitted work. But they are going to need some more extensive tools in their toolboxes. These violations are not in the same category as noise complaints or putting trash cans out too early. The residents will need the city commission to act at the next work session to put more teeth into the vacation rental regulations. Hence, the staff has the tools to act quickly on serious building or safety code violations.

Ms. Cisarik stated that the public has heard from some responsible vacation rental owners who try to comply with state and local rules, and she applauds them.

Ms. Cisarik stated she hopes the city's enforcement efforts with the problem children will allow them to operate on a more level playing field.

Diane Davis, 107-13th Avenue, stated she owns a four-plex. When she purchased the property, it was 100% occupied by long-term rentals. She did her stint with short-term rentals and is now back to long-term rentals in three of the four units. One thing she wanted to bring up for everyone to consider as they make the rules going forward is medium-term rentals. She is unsure if the city commission is familiar with medium-term rentals or is considering the concept. The concept is such that it is a minimum rental of 30-day rentals and is for the market share for furnished finders. Furnished finders reach out to people typically in the nursing industry, law enforcement, federal government workers, and people working in the utility industry. Depending on their assignment, these people enter her units for 30 days to a year. Furnish finder nurses are typically assigned on a 13-week turnaround period. Her concern is that the city is careful in defining a short-term rental so that it may give someone like her the ability to write a lease, collect a security deposit, and house somebody coming not only to live but also to work here. These are not the typical partiers. They are not partiers at all. One of the nurses she rented to worked from 10 p.m. to 10:00 a.m. She worked the night shift.

Ms. Davis stated she feels the city commission could consider this kind of concept, it could be a promising avenue for some people who want to transition off of short-term rentals, like her, in the event they are not able to get a long-term tenant to reach out through furnish finders, to find someone like that: under a lease, providing a security deposit, coming to live here and work.

John Pfanstiehl, 448 Harbor Drive South, stated the city commission should be aware of several citywide communications sent to him. He said the following text was sent to many residents: "The city's proposed ordinance will plunge home values and is wanted by anti-community extremists and tell IRB commission no." The phone number it was sent from was canceled immediately for legal reasons. This week, a fundraising letter was mailed presumably to all short-term rental owners, and it was packed full of scare tactics to generate a reason to send them money.

Mr. Pfanstiehl stated he considers himself a part of the homes, not hotels group, and their letter falsely attributes some very negative things to them. He would like to set the record straight. This letter says the homes, not hotels group, specifically targeted all properties within the business district west of Gulf Boulevard. That is a big fib. The group's core brief is that short-term rentals do not belong in residential neighborhoods. The group has only put signs in areas zoned residential, not in the business district, and not west of Gulf Boulevard. The letter says the group intends to do away with all short-term rentals—the end goal is to shut them down. It is not letting them rent. The group wants to bleed them dry. Of course, that has never been said. The group has said the opposite. The group is okay with short-term rentals in areas not zoned residential. It also says without them, there

would be no Crabby Bill's, Casa Italia, Café De Paris, and Sandy's. That is another big fib. Someone out of state might have written it because everyone knows these, and another 20 other restaurants have been here before short-term rentals came to Indian Rocks Beach. At the end of the letter, it says it is a fundraising effort; the group is trying to scare the majority of short-term rental owners. Those are the good people who live west of Gulf Boulevard to give them money. Reportedly, to stop the proposed legislation and possibly sue. He is guessing what regulations these unnamed people fear are onerous inspections to ensure the rentals are up to building codes. The proposed vacation rental regulations make sense. It has been a fair compromise that most good short-term rental owners would be able to live with. They live with similar regulations in other cities and counties. The proposed regulations should help level the playing field for compliant short-term rental owners and other small lodgings and, significantly, help make short-term rentals safer for the renters and vacationers.

Linda Newton, 438 Harbor Drive North, stated she reviewed the list of short-term rental BTR on the city's website. She noted that the following short-term rentals are not on the list: 417 Harbor Drive South and 430 Harbor Drive South.

Ms. Newton reiterated what she said previously, that it was a residential neighborhood when she purchased her home. There were zero short-term rentals. She said that she had friends, and groups of them got together and did things, and they all had a fabulous time. Now, she has trouble driving home.

Ms. Newton recommended limiting the number of short-term rentals in each single-family residential neighborhood. The city should issue just so many short-term rental licenses, just like the state does for grouper fishing, so that the residents of Indian Rocks Beach do not become extinct. It is very frustrating where the city has positioned the residents.

Ms. Newton stated that vacation rental violators need strict fines for not doing the right things in the neighborhoods.

Ms. Newton stated she lives in a residential zoning district, not a commercial one.

Teresa Pruchniewska, 316-6th Avenue, reiterated her comments from previous city commission meetings. She stated short-term rentals had invaded her neighborhood. Her rights and community have been taken away by vacation rentals. There are hotels, not rentals, on 6th Avenue, which puts the residents in danger. Everything is very unsafe. The homes that are for sale on her block have added unpermitted rooms. There were no inspections.

Ms. Pruchniewski stated the residents need the city's protection for these unpermitted additions and to protect their quality of life. She does not have the quality of life she once had when she first moved to Indian Rocks Beach. She does not feel safe anymore in her home.

Ms. Pruchniewski stated she called city hall before Christmas to ask to schedule a meeting with the city manager and the mayor. She wanted a dialogue with people who represented the residents of Indian Rocks Beach. She did not want a monologue but a dialogue with people representing Indian Rocks Beach. She was denied that privilege. It hurts her, and it still hurts her today. She does not think it is proper of the mayor or the city manager to deny her of that conversation. She used to be a friend of the mayor, and they talked many times. She let the mayor put her campaign signs on her lawn.

Jerry Newton, 438 Harbor Drive North, stated there is a very useful and applicable state law designed to reduce objections and repercussions when an entity is developing upcoming regulations. It is called the zoning pending ordinance doctrine. The legislature set out this rule in Florida (circa 2010). The doctrine holds that a permit or development under application established on or after the date when a local government publicly declares its intent to change its zoning scheme may be denied or held until after the enactment of the new zoning ordinance. The law eliminates the eleventh-hour rush to obtain a permit for specific uses. At the same time, the applicant knows full well that the regulations for those uses are being modified. The city commission can imagine what is happening; only the city's officials would know. Still, he is confident there is an eleventh-hour rush to get these \$15 permits before the new regulations take effect. The purpose of the pending ordinance doctrine section is to provide an administrative and legislative procedure whereby the city can place a temporary hold on development permits and approvals if they are pending or there are active efforts underway to amend this code in a way that would preclude such licenses/permits and approvals should the pending amendment be adopted. This information was submitted to the city on January 26, 2023, just two days after the city commission work session. He stated there is no reason why it has not been explored if not adopted. This doctrine should be a simple and logical process. It has no downside for the city. The city needs to go through whatever steps are necessary as soon as possible to protect the city from any more damage. The city needs to pass the doctrine to put the doctrine in place to put all new STR applications on hold. The doctrine would eliminate investors rushing in at the last minute to eliminate the need to follow upcoming regulations. Delay will only further damage the city's residents and the city and result in more discourse later between the city and new STR investors.

Mr. Newton stated this issue had gotten out of hand. He does not think anyone intended the stiffer regulations to negatively affect legitimate businesses on the west side of Gulf Boulevard and some of the east side. There are a lot of legitimate commercial hotel businesses not in the single-family residential zoning that should not be adversely affected. They are not trying to hurt anyone's business. They are only fighting vacation rentals in the single-family zoning district.

Don House, 2104 Beach Trail, stated it had come to his attention last week that members of the city commission were commenting on his attempt to get elected to the city commission. He likes that. He would like to say as the city commission was talking about his effort to get elected. The city commission can say some other things they were saying, which are all true. He does deal with lower-income people. He has financed cars for his tenants at no profit, which he has done about 25 to 30 times. He has lent them personal

loans probably 50 to 100 times. They do not have \$500 in a savings account, unlike Indian Rocks Beach residents. He has appliances that he has given to his tenants. He has encouraged his tenants to attend First-Time Home Buyer Courses; some are succeeding. He has lent them money to get their first secure credit card. He does not think anyone in this room has ever had a secured credit card. He is working with his tenants to build and restore their credit. He goes to the food bank every Thursday and distributes that food to his tenants. Some people are just good people. Just keep that in mind when someone is talking about someone around town.

Alicia Harris, 205-10th Avenue, stated she never received the communications that Mr. Pfanstiehl referred to. She does spend a lot of time in Indian Rocks Beach. She has friends here that are residents. She loves Indian Rocks Beach just as much as anybody else, and she walks these streets as much as anybody else that lives here permanently. She sees the friendliest faces and has visited several resident homes. She stated Indian Rocks Beach is paradise. She cannot believe that it has become so negative.

Ms. Harris stated when she came here three years ago, Indian Rocks Beach was so happy, and people were talking to the dogs, and now it has just become hostile. It is scary because she wants to live on one of these roads.

Preston Smith, 2308-1st Street, #5, stated he wanted to clarify his position on restricting short-term rentals. In his opinion, the 20 pages of regulations are poorly worded. The work session disappointed him because he could not hear clearly what the city commission was deciding. The city commission sounded unsure of what they were saying and did not want to talk into the microphone when making these decisions. He walked around the city to ask people to vote for him. Vacation rental owners assured him they would sue if their property rights were violated. Then the long-term residents are so fed up with the partying, vacationers, and transients that they are ready to absorb a few lawsuits to shut all the vacation rentals down.

Mr. Smith stated the city could find that enforcement of the existing rules is the way to go, but that is for already established rentals that need to be inspected before they receive their BTR. He stated the city needs to monitor the noise, which is 50 decibels at night and 60 decibels during the day per the city code.

Mr. Smith stated it is unfortunate for the city's long-term residents to watch all the vacation rentals taking over. Most long-term residents want a cap on vacation rentals in their neighborhoods. They do not want any more vacation rentals approved.

Ms. Smith stated he also heard that Tallahassee wants to cancel the local government's right to inspect rentals, similar to how they canceled the local government's right to control the minimum rental time. He stated the city should be ready for that, and he was wondering if the city should try to go after these rights and tell Tallahassee to back off. Because he does not think Tallahassee knows what is happening in Indian Rocks Beach because each municipality has a different situation.

Ms. Smith stated one resident thought that a property owner should have to live in residence for one or two years before making it a vacation rental.

Ms. Smith stated instead of legal battles among the residents and vacation rental owners. The city should spend its money on beach sand replenishment and burying the city's power lines.

Tony Tribuzio, 415 Harbor Drive South, asked when occupancy limits are established, how internet advertising will be enforced, and what the repercussions will be for the host if they do not comply with the eight or ten occupancy limit in the ordinance. Will they lose their license? How will this work?

Eddie Bie, 497-20th Avenue, stated that the zoning pending ordinance doctrine is used everywhere. He is a developer, and it has been used on him many times. The doctrine does not have to be done by ordinance. If it had been put into place months ago, the doctrine would have prevented a lot of this. He knows that one house on his street has become an Airbnb between last week and this week. This Airbnb would not have happened if the doctrine had been in place. He stated this doctrine is a very effective tool. And yes, the 2nd DCA, city of Clearwater vs. Smith, is the one that started all of this. It is effectuated by law, ordinance, or resolution, and it could be placed on the next city commission meeting as a resolution by a simple vote, and it is done. He urges the city commission to stop this. There are four or five houses right now that are for sale, and there are empty houses that have been bought that are planning to be Airbnbs and need to be under the new ordinance.

R.B. Johnson, 1206 Beach Trail, addressed some misconceptions about the CT zoning district west of Gulf Boulevard. He had received one of the flyers that Mr. Pfanstiehl was referring to having to do with folks who were upset about the possibility of new regulations for vacation rentals. He received it because he is a vacation rental owner on the west side of Gulf Boulevard. But, he favors stricter regulations because he has to deal with a nuisance vacation rental next door. One of the misconceptions in this letter is they refer to the west side of Gulf Boulevard as a business district. The west side of Gulf Boulevard is a commercial-tourist zoning district. But, it is not a traditional business district where it is allowed to have freestanding restaurants and businesses like shops and things of that nature. The businesses on the west side of Gulf Boulevard, like Kooky Coconuts and the 2300 Gulf Boulevard Plaza, have been grandfathered in. For decades, the city has not allowed new freestanding businesses on the west side of Gulf Boulevard. The west side of Gulf Boulevard is supposed to be for vacation/residential-type uses.

Mr. Johnson stated that during Meet the Candidates, it was said that the west side of Gulf Boulevard was all condominiums and maybe a few old hotels. That is not the case. Some blocks are almost all condos, but other blocks are all houses or cottages with just a sprinkling of a few four-plexes or duplexes. He emphasized that there are various structures on the west side of Gulf Boulevard.

Mr. Johnson stated the problem on the west side of Gulf Boulevard is the large houses that have been converted or built for vacation rentals without rules, like motels and condos. He stated that is what the issue is now. Any houses on Gulf Boulevard's west side can be converted to vacation rentals. There are no rules for them. He stated the west side residents are looking for regulations for these establishments.

Scott Shapiro, 2032-20th Avenue Parkway, stated he can see 26 cables from his driveway crisscrossing everywhere, and that has been the most significant pain in his neck since he has lived here. He said he would like some accountability from the utility companies to clean up all overhead wires.

Mr. Shapiro asked why the city could not have write-in candidates for the city elections but could do so for Presidential Elections.

Mr. Shapiro stated his flood insurance was canceled. He paid for a year upfront and has had a policy for over seven years on his annual rental property. In addition to his property taxes, his wind, storm, and hazard insurance going up, and his flood insurance went up 154%, over \$3,000. The total cost of his annual rental property is going up 40% over last year. He stated every elected official has to take ownership of this. Where is the accountability?

Mr. Shapiro stated everyone is writing auto insurance because it is profitable. But, yet no one requires them to write other lines of insurance. Therefore, there is no competition. People like himself, people coming in that want to buy or who already own, are forced to sell to someone (a) who has deep pockets and is going to self-insure, (2) who may be an institutional owner, or (c) short-term vacation rental. That is the position that the government has put everyone in.

Mr. Shapiro stated the city should enforce its laws before creating new ones.

3A. REPORT OF the City Attorney: No report.

3B. REPORT OF the City Manager.

The City Manager's Written Report was part of the Agenda Packet.

3C. REPORTS OF City Commission.

COMMISSIONER McCALL:

- Stated the HOA Meet the Candidates was a great success with a large turnout.
- Announced that the next HOA Mix & Mingle will be February 16, 2023, at Chicago JAQX beginning at 6:00 p.m.
- Announced that April 1st is the HOA Easter Egg Hunt.
- Announced BeachFest is April 15th. He stated the HOA had been informed that this would probably be the last beach event due to the current conditions along the beach. That will be unfortunate and take a chunk out of the fundraising for the HOA.

- The HOA donated \$1,000 to the Beach Art Center for Boots and Brushes.
- The HOA donated \$1,500 to Bay Pines Wreath Across America (Bay Pines Veterans Hospital).
- The HOA donated \$1,000 to the Hurricane Ian Relief Fund.
- The HOA donated \$2,000 to Seminole Middle and High Schools to repair the band trailers and the color guard.
- At all the HOA events, donated money is donated back to the community in various ways, and as always, the HOA has been going since the 1970s. They are always looking for volunteers or leaders to put on these events.

MAYOR-COMMISSIONER KENNEDY:

- Announced Winterfest is Saturday, February 18th, at Calvary Episcopal Church, and there is a pet parade.
- Announced that she and the city manager will accompany the Clearwater Vice Mayor and the Treasurer Island Mayor to Sanibel on a fact-finding trip on what they have done since Hurricane Ian and what this city can do in the event it experiences something like that.
- Announced that she has Monday with the Mayor once a month from 4:00 to 6:00 p.m. and stated that she also meets with people for coffee.

4. ADDITIONS/DELETIONS. None.

5. CONSENT AGENDA:

- A. APPROVAL OF the January 10, 2023 Regular City Commission Meeting Minutes.**
- B. RESCHEDULING the March 14, 2023 Regular City Commission Meeting to Tuesday, March 28, 2023 due to the IRB General Election.**
- C. RECEIVE/FILE the Annual Updates to Pinellas County's Local Mitigation Strategy (LMS).**
- D. RECEIVE/FILE First Quarter Financials.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Items 5A through 5D, by title only.

MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER HANNA, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEMS 5A THROUGH 5D, AS WRITTEN. THE MOTION CARRIED UNANIMOUSLY.

The public hearing started at 7:11 p.m., as advertised.

- 6A. BOA CASE NO. 2023-01 — 2504 GULF BOULEVARD/DOLPHIN REEF**
Considering a variance request from Sec. 110-314 of the Code of Ordinance to allow for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the height requirements by 1 foot 7-1/4 inches, for the property located at 2504 Gulf Boulevard, Indian Rocks Beach, Florida, and

legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-21814-000-0001.

[Beginning of Staff Report.]

SUBJECT: BOA CASE NO. 2023-01 – 2504 Gulf BOULEVARD

Variance request from Sec. 110-314 of the Code of Ordinance to allow for an additional accessory structure with a building height of 9 feet 7¼ inches exceeding the height requirements by 1 foot 7¼ inches for property located at 2504 Gulf Boulevard, Indian Rocks Beach, Florida, and legally described as Dolphin Reef, A Condominium Association, as recorded in Plat Book 50, Pages 74-80, of the Public Records of Pinellas County, Florida. Parcel #01-30-14-21814-000-0001

OWNER: Dolphin Reef Condominium Assn Inc.
PROPERTY LOCATION: 2504 Gulf Boulevard
ZONING: CT- Commercial Tourist

DIRECTION	EXISTING USE	ZONING CATEGORY
North	Residential	CT
East	Residential	B
South	Residential	CT
West	Gulf of Mexico	N/A

BACKGROUND:

The applicant is requesting a variance for an additional accessory structure with a building height of 9 feet 7-1/4 inches exceeding the 8-foot interior wall height requirements by 1-foot 7¼ inches. The Dolphin Reef Condominium is located on 1.24 acres with 40 residential units. They presently have two gazebos and a bath building. The existing structures are in need of repair/replacement and the association has proposed to replace the structures.

The smaller gazebo is located very near the property line and the applicant is proposing to move it away from the property line, enlarge the structure to match the other gazebo, and relocate to the raised deck area. During the review stage of the project, the applicant proposed to cover the new grill area adjacent to the bathhouse and agreed that the grill area roof would replace the smaller gazebo. It was determined that if the applicant wanted to add the other gazebo the association would need to apply for a variance.

Sec. 2-152. Variances.

(a) *Generally; criteria for granting variances from the terms of subpart B.*

(1) The Board of Adjustments and Appeals shall make recommendations on and the City Commission shall decide variance applications will not be contrary to the public

interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the Board or the City Commission shall consider each of the following.

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The site consists of 1.24 acres with 40 residential units.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the gazebo as proposed.*
- f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. *Granting the variance will not be in harmony with the general intent and purpose of subpart B.*

NOTICE: A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on January 30, 2023, (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: Mary Kay and E. J. Foody, 2504 Gulf Boulevard, Unit #204, emailed in support of the variance.

STAFF RECOMMENDATION: Based on the variance review criteria of Section 2-152, staff recommends approval of the request.

BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION: The board of adjustments and appeals recommended approval to the city commission by a vote of 5-0

[End of Staff Report]

City Attorney Mora read Agenda Item No. 6A by title only.

City Attorney Mora stated this is a quasi-judicial hearing and briefly reviewed the quasi-judicial procedures.

City Attorney Mora duly swore in all persons planning to give testimony during the quasi-judicial proceeding.

City Attorney Mora asked if any city commission member had conducted any ex-parte communications with the applicant or their agent in advance of this evening. All members responded negatively.

City Attorney Mora asked if any city commission member had conducted any site visit to evaluate the application before them. All members responded negatively.

Planning Consultant Harmon stated the applicant is requesting a variance from Section 110-314 of the Code of Ordinances to allow for an additional accessory structure with a building height of 9 feet 7¼ inches exceeding the height requirement by 1-foot 7¼ inches for the property located at 2504 Gulf Boulevard, Dolphin Reef Condominiums.

Planning Consultant Harmon showed a PowerPoint Presentation depicting aerial views of the subject property, site photos, a survey of the proposed outdoor area, proposed site plans, the proposed gazebo, and the existing raised deck. As Planning Consultant Harmon went through the PowerPoint Presentation, she explained the variance request.

Planning Consultant Harmon stated the applicant would like to remove and enlarge the existing small gazebo, add a covered outdoor kitchen/BBQ area and a bathhouse to meet the setbacks, and keep the gazebo by the gulf. However, the city code does not permit three accessory structures on a multifamily structure. Therefore, staff and the applicant agreed a variance would be required to replace and enlarge the existing 8' X 8' gazebo that is in disrepair and currently encroaches into the side setback. The size of the proposed gazebo would be 10' X 10' and would exceed the height requirement by 1-foot 7¼ inches and would not encroach into the property line. She explained that the deck is raised and the height dimension was taken from grade, not from the existing raised deck. The height is measured from the inside interior wall. Both of the rooftops of the gazebos will be level with each other.

Planning Consultant Harmon stated that single-family structures could only have one accessory use. There may not be more than two accessory structures on-site for a total of 120 square feet for duplex and multifamily structures.

Planning Consultant Harmon stated the staff and the board of adjustments and appeals did recommend approval.

Planning Consultant Harmon stated the board of adjustments and appeals recommended the city commission review code section 110-314 — "In all zones for single-family structures, the maximum size for an accessory structure shall not exceed 120 square feet in floor area and eight feet in interior wall height excluding roof. For duplex and multifamily

structures, there may not be more than two accessory structures of a maximum of sixty square feet in floor area and eight feet in interior wall height, excluding the roof, or one accessory structure of a maximum of 120 square feet in floor area and eight feet in interior wall height excluding roof." For example, this site has six lots and is only allowed two accessory structures, but if it was six single-family lots could have six accessory units at 120 120 square feet a piece.

CONSENSUS OF THE CITY COMMISSION TO FORWARD TO THE PLANNING AND ZONING CODE SECTION 110-314 FOR REVIEW AND RECOMMENDATION.

Peter Osborne, 2504 Gulf Boulevard, President of Dolphin Reef Condo Association, stated it is a 40-unit condo building. He said the condo was built in 1982. As such, they are repairing and renovating various assets that have worn out after 40 years.

Mr. Osborne stated they are replacing and repairing the common pool area, spa, and pool deck. As part of that effort, they have explored efforts to make the area more attractive for family gatherings and resident interactions and improve safety and security. As they navigated the process, they learned they could not enlarge their gazebo to accommodate a bigger family gathering, so they decided to add a second one. The new gazebo would meet the current setback requirements and code requirements. He stated the problem was with the number of accessory structures and the height of the new gazebo. He said the structure could not be seen by outsiders and did not impede the view of the beach.

Ms. Osborne stated the board of adjustments and appeals did feel that the city code was somewhat unclear and disadvantaged for condo buildings. He noted the board of adjustments and appeals unanimously recommended approval of their variance to the city commission.

MOTION MADE BY COMMISSIONER McCALL, SECONDED BY COMMISSIONER HANNA, TO APPROVE BOA CASE NO 2023-01 — 2504 GULF BOULEVARD. A VARIANCE REQUEST FROM SEC. 110-314 OF THE CODE OF ORDINANCE TO ALLOW FOR AN ADDITIONAL ACCESSORY STRUCTURE WITH A BUILDING HEIGHT OF 9 FEET 7-1/4 INCHES EXCEEDING THE HEIGHT REQUIREMENTS BY 1 FOOT 7-1/4 INCHES, FOR THE PROPERTY LOCATED AT 2504 GULF BOULEVARD, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS DOLPHIN REEF, A CONDOMINIUM ASSOCIATION, AS RECORDED IN PLAT BOOK 50, PAGES 74-80, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA. PARCEL #01-30-14-21814-000-0001.

There was no discussion by the City Commission.

ROLL CALL VOTE:

AYES: McCALL, HANNA, BOND, HOUSEBERG, KENNEDY

NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY.

7. **OTHER LEGISLATIVE MATTERS:** None.
8. **WORK SESSION ITEMS [DISCUSSION ONLY]:** None.
9. **OTHER BUSINESS.** None.
10. **ADJOURNMENT.**

MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER HANNA, TO ADJOURN THE MEETING AT 7:24. P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

March 28, 2023
Date Approved

/DOR