

**MINUTES REPORT**  
**LEE COUNTY HISTORIC PRESERVATION BOARD**  
**OLD LEE COUNTY COURTHOUSE**  
**2120 MAIN STREET, FORT MYERS, FL 33901**  
**EAST ROOM (SECOND FLOOR)**

**JANUARY 16, 2025**

**MEMBERS PRESENT:**

Katherine Brownell	Annalisa Xioutas
Adam Knight	Kathleen Walsh

**MEMBERS ABSENT:**

Vacant	Joe Smith
Taylor Kakes	

**OUTSIDE CONSULTANTS/APPLICANTS**

Charles Walczak, 11458 May Street, LLC

**STAFF PRESENT**

Peter Blackwell (Zoning)	Anthony Rodriguez, Zoning Manager
Mary Sue Groth (Zoning)	Amanda Swindle, Assistant County Attorney
Janet Miller, Recording Secretary	

**Agenda Item 1 - Call to Order – 10:00 a.m./Review of Affidavit of Publication**

Ms. Brownell, Vice Chair, called the meeting to order at 1:00 p.m.

A roll call was taken. Katherine Brownell, Annalisa Xioutas, Kathleen Walsh and Adam Knight were present.

Ms. Swindle stated that the Attorney’s Office reviewed the ad and affidavit of publication for today’s meeting and determined it was legally sufficient.

**NOTE:** For the audio recordings for this meeting, go to:

<http://www.leegov.com/dcd/committees/committeesearch>. Once the page pulls up, click on the blue hyperlink that says “Lee County Historic Preservation Board (LCHPB).” There will be an audio recording for each item to help keep the recordings from being too large for the public to open. Contact Janet Miller at 239-533-8583 or [jmiller@leegov.com](mailto:jmiller@leegov.com) if you need assistance.

**Agenda Item 2 – Election of Officers**

The Board opted to postpone the Election of Officers to the next meeting when there are more members in attendance.

**Ms. Xioutas made a motion to postpone the Election of Officers to the next scheduled meeting, seconded by Mr. Knight. The Vice Chair called the motion, and it passed 4-0.**

### **Agenda Item 3 – Approval of 10-28-2024 Minutes**

**Ms. Walsh made a motion to approve the 10/28/2024 meeting minutes. The motion was seconded by Ms. Xioutas. The Vice Chair called the motion, and it passed 4-0.**

### **Agenda Item 4 – Special Certificates of Appropriateness (SCA) Cases**

#### **A. SCA2024-00002, 11458 May Street – Duplex, 11458 May Street, Matlacha, FL 33993**

Approve the new design above FEMA flood elevation for the addition/renovation to the duplex which is a conforming use for TFC-2 zoning.

Ms. Groth reviewed the staff report and recommendations.

Ms. Walsh asked staff to elaborate regarding the duplex not being allowed to be built unless the quadplex is denied or demolished due to being in the TFC-2 zoning district.

Ms. Groth stated that the existing quadplex located on the east side of the subject property qualifies as multi-family; however, the subject property is zoned two-family conservation (TFC-2) which does not permit multi-family dwelling units per Land Development Code, Section 34-695. In addition, Land Development Code, Section 34-3102, precludes more than one principal building on a TFC-2 property. This means the existing use of the property is considered “*non-conforming*.” The Land Development Code does not allow non-conforming uses to expand. Ms. Groth explained that the applicant has requested this new Special Certificate of Appropriateness for the expansion of the duplex. Insufficiency comments from the quadplex development order deem that portion of the project as “*not feasible*.” Since the development order case has not been withdrawn yet, staff put a condition in this SCA that it will cease to happen if the applicant moves forward with the duplex on the side of the property. She emphasized that the quadplex will have to be redesigned to be in compliance with today’s Land Development Code standards.

Ms. Walsh noted there is a lack of affordable housing in Matlacha, so it seemed counterproductive to her to not allow some sort of grandfathered size for quadplexes if in fact the county wants to have more affordable housing in Matlacha.

Mr. Blackwell admitted that this has become an onerous situation to the applicant. The applicant has the option to continue with the quadplex because they have been approved on that, but if they want to simplify things, they can turn the structure into a duplex, which would remove some of their problems with the loss of two units. It is a decision for the applicant to make.

Ms. Brownell opened this item to the applicant.

Mr. Walczak felt staff provided a thorough presentation, so he had no further comments.

Ms. Brownell opened this item to the public.

Mr. Michael Hannon, resident of Matlacha, welcomed Ms. Groth. Although she is not a new employee, she has only recently been reviewing historic proposals. He complimented her on the staff report. He noted that Mr. Walczak has been proactive with the Matlacha Civic Association regarding his project. The Matlacha Civic Association recognizes this is an unusual property in Matlacha because of the nonconforming use and the development plan. Mr. Hannon stated that the Matlacha Civic Association is in favor and supportive of this proposal. The Matlacha Civic Association is in

favor of projects that enhance properties, so they do not become transient in nature. He thanked Mr. Walczak for his investment in this project. On a separate note, Mr. Hannon stated that previously consideration was given on whether a property is too high. He felt this should be a minimal consideration and noted that disapproval of an application for that reason only would be unusual.

Ms. Marcia Macone, resident of Matlacha, stated she personally has restored two homes in a historical setting, so she is appreciative of what the applicant is doing. She stated that the only issue she had is when you come around the corner and see a barge in the back as well as mobile homes and trailers. She asked if it was temporary or if it was something the community would continue to see as the development proceeds. She was in favor of seeing a new building there that will fit in with the Matlacha area, but that is not the case currently, which is concerning to her. She showed the Board a photograph.

Mr. Walczak stated that since this comment does not pertain to today's case, he would prefer to speak with Ms. Macone and other owners apart from today's meeting. He stated there were many moving parts due to all the authorities that have jurisdiction. Mr. Walczak stated he wished more property owners had reached out to him because there have been so many complaints about this property which have caused a lot of damage and hardship. Mr. Walczak emphasized that he is under the mercy of the various authorities involved.

Ms. Brownell stated this is not something that is under the Historic Preservation Board's purview and is a Code Enforcement issue.

Ms. Walsh stated that she believed the applicant was desiring a change to that look and use, which is why this Special Certificate of Appropriateness was brought forth today. She noted that, as a board member of the Matlacha Civic Association, she could attest that Mr. Walczak presented his plans to them to keep everyone apprised of what he was attempting to do. She concurred with Ms. Macone's sentiments, but believed Mr. Walczak's applications would change the look and feel of what is currently in place.

Ms. Sandy Reynolds stated she was in favor of this application and also asked if that area would get cleaned up once his new building was in place.

Mr. Walczak stated he would love to do that, but noted the process takes a long time. He reiterated that he preferred to discuss this issue further outside of today's meeting, and that, again, he is subject to a number of things and that he is working within his parameters. He noted this property was built before the zoning and building departments were created in Lee County and its use was once "*commercial*," but the county has since decided to tag it as "*two-family residential lots*." He felt that as a result of this, the county is not certain what to do with the property and they have not given him clear direction on what to do with it either. He felt it would eventually get worked out, but that it was not an easy process.

Mr. Hannon was in favor of this discussion being held afterwards. At that time, Mr. Walczak can explain things further. He noted it was an economic issue, and the applicant does not want to be bound to anything on the record here.

Ms. Swindle agreed the discussion was getting off topic.

Ms. Walsh commended the applicant for making an effort to change the property because it is in a location that everyone passes.

**Ms. Walsh made a motion to: 1) approve the Special Certificate of Appropriateness for the subject property pursuant to LDC Chapter 22 to permit the construction of the proposed elevated duplex as depicted on the site plan stamped “received” May 23, 2024, and the plans and elevations stamped “received” April 9, 2024, with the following conditions:**

- 1. The ground floor of the structures may be altered to address FEMA regulations; and*
- 2. The duplex cannot be built unless the quadplex as approved under SCA2023-00006 is not developed and is demolished or converted to a single-family residence or duplex as permitted in the Two-Family Conservation (TFC-2) zoning district.*

**and 2) Make a finding that the request complies with the Design Guidelines for the Matlacha Historic District and Lee County LDC Chapter 22. The motion was seconded by Mr. Knight. The Vice Chair called the motion, and it passed 4-0.**

### **Agenda Item 5 – Items by the Public; Committee Members; Staff**

#### **Public**

Mr. Walczak stated that he wanted to present something at some point to try to make this process faster in instances where someone wants to make an amendment to a previous SCA approval. Right now, if he wanted to make an amendment to a previous approval, it requires a new SCA application. He was in favor of there being some sort of change to alleviate the entire process when there are minor changes.

Mr. Blackwell stated that cases are reviewed on a case-by-case basis. If the proposed changes are de minimis or fall under ADA type changes, such as adding a ramp, then staff can approve it administratively. However, if the changes are more extensive, they require coming back before the Historic Preservation Board.

Mr. Hannon noted that since Hurricane Ian staff has implemented significant changes to enable them to act faster on things to where some items will not require approval from the Historic Preservation Board. There are instances where staff can approve certain things administratively.

Mr. Blackwell stated this was the standard even before Hurricane Ian. Anything that is required by law or is a health and safety issue, such as ADA items, it gives staff enough mandate to approve it administratively especially if it is something that the Board would be bound to approve.

Mr. Hannon stated it was important to have timely meetings rather than gaps between meetings. It is difficult for applicants when meetings are postponed when someone is awaiting approval because time is money. He also felt that at times there are too many governmental entities involved. Because of this, Mr. Hannon believed it might be worthwhile to look into ways to expedite approval by the Board in instances where there is unanimous staff approval.

Ms. Walsh stated she had brought up the concept in the past of members being able to attend by Zoom if they are unable to attend in person.

Ms. Swindle stated that staff does not have authority, under the Land Development Code to administratively approve things outside of something that would be considered de minimis, or otherwise required by law. In order to have some authority, it would need to be written into the Land

Development Code. She emphasized that staff must be very careful with this because the Historic Preservation Board, under the guidelines, must meet state requirements in order to qualify as a historic preservation board which follows federal requirements. Ms. Swindle stated it is not impossible to create some sort of authority within certain parameters, but it will have to be carefully considered. Regarding remote meetings, the Florida Statute requires that in order to be counted towards a quorum the members must be physically present. Although there are meeting rooms with certain technical capabilities, there have been technology issues/glitches during some meetings. This is particularly problematic because this is a quasi-judicial hearing with due process requirements. Applicants' rights must be respected while still giving the public an opportunity to comment.

Mr. Blackwell stated that another issue with rushing the turnaround times is that the County does not want there to be instances where something gets approved quickly and the public does not feel they had a chance to comment or be heard. Staff feels it is better to go slow and be correct rather than risk something that is historically removed permanently.

Mr. Walczak felt there are times when certain county departments are not collaborating. For instance, the county is actively tagging all of the unsafe buildings in Matlacha and getting ready to demolish them. Even though he has an open demo permit, an open development order permit, as well as today's proposal, the county is flagging his property and wants to demo his quadplex.

Ms. Walsh stated that Matlacha residents are strongly considering becoming their own special district.

Ms. Brownell asked if Code Enforcement and the Inspections office are notified when applications are submitted on historic properties.

Ms. Groth stated that Code Enforcement and Inspections staff have access to view all cases associated with a parcel.

Mr. Walczak stated he has also provided Code Enforcement with all the information of his pending cases, but they do not seem to care and follow their own rules.

Mr. Knight asked if there was anything in the county's system that flags structures that are historic (not just SCA applications).

Ms. Swindle and Ms. Groth stated that was correct. The county's system identifies the historic district and contributing and non-contributing.

Mr. Knight asked for confirmation that this information is something that staff who are tagging the buildings have access to.

Mr. Rodriguez stated that was correct.

Mr. Walczak discussed the possibility of respecting the Sunshine Law while still allowing applicants to have a quicker process for revisions/amendments on a previous SCA similar to what takes place when someone submits a revision to other types of permits.

Mr. Blackwell stated that was different because, with regard to his specific case, Mr. Walczak wants to make significant changes that would have to be brought before the Historic Preservation Board as they are not minor changes.

Ms. Swindle stated she was not certain that what he is asking for is much different than just filing another application for a change to the original approval because staff would still have to take the same amount of time to review it. Staff would be aware that a good portion of the project was already reviewed when the original case was in process. It may mean that staff's review time is reduced, but it is still the same process.

Ms. Groth concurred with Ms. Swindle and noted it is the same for development orders. Applicants submit amendments to their existing development order. It still has the same review process.

Mr. Blackwell reiterated there are times he is contacted by permitting staff or other reviewers because applicants want to make certain changes to their SCAs that are de minimis such as changing the wall sconces. He has given them verbal approval to accept that change. However, there are other times that the applicant wants to do something more significant such as moving their addition from the east side to the west side. An applicant may not feel it is a significant change, but it is.

Mr. Hannon stated he agreed with staff on this. Although this is a complicated procedure, applicants wanting to make modifications to their projects can always reach out to staff ahead of time and discuss it with them, which can help streamline the process. There have also been other instances where the public will raise a particular issue at a Historic Preservation Board meeting and the applicant will agree to what is being requested (such as installing shrubs). He defended the current process but felt it was very important for the Board to meet on a monthly basis.

Ms. Walsh stated that one of the reasons the community is contemplating becoming a special district is due to the dilapidated, dangerous, and environmentally unsafe historical buildings in the historic district of Matlacha. When this was brought up at the Historic Preservation Board's last meeting, she was told it was a code compliance issue. The community is very angry, and a meeting was held in September to which several government officials were in attendance. Several of the government attendees were surprised that buildings damaged by Hurricane Ian were still in place even though they were in both a dilapidated and dangerous condition. Ms. Walsh stated that over the holidays she was able to review in more depth exactly what the Historic Preservation Board's purview is. She referenced several sections of the Land Development Code and reviewed them with staff and the Board (attached). Ms. Walsh stated it is difficult to rebuild Matlacha with the dilapidated structures located by the gateway. It does not entice new buyers.

Ms. Brown, resident of Matlacha, stated that she and her husband would love to demolish their home, but their insurance company will not allow it. They have since moved to a new location but still have this damaged home to contend with.

Mr. Brown felt there should be a way for local politicians, Lee County, and the State of Florida to force the insurance companies to settle with people that own property in Matlacha.

Ms. Swindle referred to the sections cited by Ms. Walsh. While they do give the Historic Preservation Board a duty to look at these unsafe structures that need to be demolished due to neglect, ultimately any action has to go through the Building Official which is Code Enforcement. This means that even if this Historic Preservation Board took a look at a particular property and made a finding that it should be demolished by neglect, the only authority to work with is the Building Official, which filters down to Code Enforcement.

Mr. Blackwell noted that the intention of those sections, when they were created, did not have in mind vast amounts of places needing to be removed. It was a means to force people to keep up their property. The massive damage that has occurred due to various hurricanes was not foreseen at the time.

Ms. Xioutas asked if it was possible for this Board to write a letter stating their concerns and those voiced by citizens of Matlacha.

Ms. Swindle stated that the Building Official and Code Enforcement are aware of the problems in Matlacha. She was not opposed to providing the Building Official with a complete list of property addresses the community is concerned with; however, it must be done within the Sunshine Laws where notice is provided to property owners so they can respond accordingly.

Ms. Brownell asked if a member of the Matlacha Civic Association, other than Ms. Walsh, would gather a report on the specific derelict properties of concern to the community so that some possible action can be taken.

Further discussion on this ensued.

Mr. Hannon referred to Section 22-171 and noted that when the Lee County Commissioners created this Board, they also created a fund of money for the Board to lend to properties in Matlacha to restore them. He stated the Historic Preservation Board has an obligation to search for financial support to aid historically designated properties.

Ms. Walsh reviewed Section 22-17, which states, *“Financial assistance. All properties designated as historic resources or as a contributing property to a designated historic district shall be eligible for any financial assistance set aside for historic preservation projects by the County, the State or the federal government, provided they meet any additional requirements of those financial assistance programs. The Historic Preservation Board and its staff shall investigate funding sources and make recommendations to the Board of County Commissioners to establish a program providing for transfer of development rights, easements and other local financial assistance programs whenever possible.”*

Ms. Swindle stated the key phrase is *“eligible for any financial assistance set aside.”* It does not state that there actually is financial assistance set aside. It says to the extent that there is financial assistance that has been set aside, properties in the historic district would qualify for it. Ms. Swindle noted it has been stated in the past that there is currently no local financial program set aside.

Due to a question from Ms. Macone regarding setbacks, Ms. Swindle stated it was something for discussion outside of today’s meeting. She noted that some of these specific questions can be handled with a phone call to staff. Ms. Swindle stated she was not comfortable answering questions on a specific property at today’s meeting when staff has no way to look up the property.

Mr. Hannon referred to the financial aid issue and noted that there was a proposal from this Board that a portion of the real estate taxes paid by historic properties in Matlacha be set aside in a fund to be used by those properties in Matlacha. He acknowledged that there may be some provisions currently in place that no longer support that concept, but at one time it was a vehicle this Board could use and distribute to property owners of historic properties. He felt there were vehicles available for this Board to set up financial incentives. He did not believe any Matlacha residents would be opposed to having a portion of their taxes being set aside uniquely to restore the historic nature of Matlacha. Matlacha becoming a Special District might be one avenue. In saying that, Mr. Hannon emphasized that a

Special District does not mean that Matlacha does not want to be part of the historic district or that they are against this Board. He felt the Historic Preservation Board was an asset to Matlacha. No one in their area wants to see ungovernable construction that does not comply.

Ms. Brownell stated she owns a historic home that had a demo permit on it due to the previous owner's attempt to have it demolished due to neglect. They purposely did certain actions so that the property would fall into disrepair. She personally performed several searches for funding at both state and federal levels, but nothing is available.

A request was made to have a representative at a future meeting by Code Enforcement so they could update everyone on what is taking place regarding the properties being flagged for demolition and how far along they are in the process.

The Board members and staff had no further items to discuss.

### **Agenda Item 6 – Next Meeting Date**

The next Lee County Historic Preservation Board meeting is scheduled for Thursday, February 20, 2025 (if there are cases to discuss) in the Old Lee County Courthouse, 2120 Main Street, East Room, Second Floor, Fort Myers, FL 33901. **Ms. Walsh made a motion to adjourn. The motion was seconded by Ms. Xioutas. The Vice Chair called the motion, and it passed 4-0.** The meeting adjourned at 2:12 p.m.

DIVISION 2. INCENTIVES Sec. 22-171. Financial assistance. All properties designated as historic resources or as a contributing property to a designated historic district shall be eligible for any financial assistance set aside for historic preservation projects by the County, the State or the federal government, provided they meet any additional requirements of those financial assistance programs. The Historic Preservation Board and its staff shall investigate funding sources and make recommendations to the Board of County Commissioners to establish a program providing for transfer of development rights, easements and other local financial assistance programs whenever possible

## **ARTICLE IV. MAINTENANCE AND REPAIR OF PREMISES**

### **Sec. 22-241. Ordinary maintenance and repair.**

Nothing in this chapter shall be construed to prevent or discourage the ordinary maintenance and repair of the exterior elements of any historic resource or any property within a designated historic district when such maintenance and repair do not involve a change of design, appearance (other than color) or material, and do not require a building permit.

(LDC 1994, § 22-241; Ord. No. 88-62, § 9A, 12-21-1988)

### **Sec. 22-242. Correction of deficiencies generally.**

When the Historic Preservation Board determines that the exterior of a designated historic resource, or a contributing property within a designated historic district, is endangered by lack of ordinary maintenance and repair, or that other improvements in visual proximity of a designated historic resource or historic district are endangered by lack of ordinary maintenance, or are in danger of deterioration to such an extent that it detracts from the desirable character of the designated historic resource or historic district, the Historic Preservation Board

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may request appropriate officials or agencies of the County government to require correction of such deficiencies under the authority and procedures of applicable ordinances, laws and regulations.

(LDC 1994, § 22-242; Ord. No. 88-62, § 9B, 12-21-1988)

### **Sec. 22-243. Unsafe structures.**

If the Building Official determines that any designated historic resource or contributing property is unsafe pursuant to the provisions of the applicable County ordinances, the Building Official will immediately notify the Historic

Preservation Board by submitting copies of such findings. Where appropriate and in accordance with applicable County ordinances, the Historic Preservation Board shall encourage repair of the building or structure rather than demolition. The Building Official will, in these instances, take into consideration any comments and recommendations made by the Historic Preservation Board. The Historic Preservation Board may also endeavor to negotiate with the owner and interested parties, provided such actions do not interfere with procedures established in the applicable ordinances.

(LDC 1994, § 22-243; Ord. No. 88-62, § 9C, 12-21-1988)

### **Sec. 22-244. Emergency work.**

For the purpose of remedying an emergency condition determined to be imminently dangerous to life, health or property, nothing contained in this chapter will prevent the temporary construction, reconstruction, demolition or other repairs to an historic structure, building or site or a contributing or noncontributing property, structural improvement, landscape feature or archaeological site within a designated historic district. Such temporary construction, reconstruction or demolition must take place pursuant to permission granted by the Building Official, and only such work as is reasonably necessary to correct the emergency conditions may be carried out. The owner of a building or structure damaged by fire or natural calamity will be permitted to immediately stabilize the building or structure and to later rehabilitate it under the procedures required by this chapter. The owner may request a special meeting of the Historic Preservation Board to consider an application for a Certificate of Appropriateness to provide for permanent repairs.

(LDC 1994, § 22-244; Ord. No. 88-62, § 9D, 12-21-1988)

### **Sec. 22-245. Demolition by neglect.**

If the staff of the Historic Preservation Board or the Building Official inform the Historic Preservation Board that a designated historic resource or contributing property within an historic district is being demolished by neglect, as defined pursuant to this chapter, the Historic Preservation Board shall notify the owners of record by certified mail of its preliminary findings and intent to hold a public hearing no later than 35 calendar days from the date the notice was sent to determine evidence of neglect. The owner shall have until the time of the public hearing to make necessary repairs to rectify the evidence of neglect as identified in the certified notice. Upon failure by the owner to abate the structural, health or safety hazards identified in the initial notice within 35 calendar days, the Historic Preservation Board shall hold a public hearing to consider recommending to the Building Official that the owner be issued a citation for Code violation. The owner shall have the right to rebut the preliminary findings of the Historic Preservation Board at the public hearing. If the Historic Preservation Board finds that the building or structure is being demolished by neglect pursuant to this chapter, the Historic Preservation Board may recommend to the Building Official that the owner be issued a citation for Code violations and that penalties be instituted pursuant to this chapter.

(LDC 1994, § 22-245; Ord. No. 88-62, § 9E, 12-21-1988; Ord. No. 90-35, § 5, 6-20-1990)

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