AGENDA
TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
SEPTEMBER 16, 2014
9:00 AM
Town Hall, Commission Chambers, 501 Bay Isles Road

REGULAR MEETING:

- Call to Order
- Roll Call

PUBLIC HEARINGS:

1. **Ordinance 2014-22, Rezoning of Town-owned Properties Located at 5810 Gulf of Mexico Drive and 4110 Gulf of Mexico Drive**

   AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, ADOPTING A CHANGE OF ZONING FROM SINGLE-FAMILY LOW-MEDIUM DENSITY RESIDENTIAL DISTRICT (R-3SF) TO OPEN SPACE – CONSERVATION (OS-C) FOR TOWN-OWNED PROPERTY LOCATED AT 5810 GULF OF MEXICO DRIVE; AND FROM LIMITED COMMERCIAL (C-1) TO OPEN SPACE – ACTIVE (OS-A) FOR TOWN-OWNED PROPERTY CONSISTING OF APPROXIMATELY 0.71 ACRES LOCATED AT 4110 GULF OF MEXICO DRIVE; AMENDING SECTION 158.007 OF THE TOWN CODE TO AMEND THE ZONING MAP TO SHOW CHANGE OF ZONING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE

DISCUSSION ITEMS:

CONSENT AGENDA: (*The following items have no objections or issues identified by staff. The Chairman may determine if anyone in the audience or on the Board has any comments or opposition to any of these items. If so, the Chairman may place that item in the regular meeting agenda for further consideration. The remaining items may be acted upon in total by using the recommended motion as follows: "I move approval of the consent agenda approving the minutes, and setting our future meeting dates."*)

- Approval of Minutes: May 27, 2014 Regular Meeting
- Setting Future Meeting Date: October 21, 2014 Regular Meeting

STAFF UPDATE

COMMENTS FROM THE PUBLIC AND PRESS

ADJOURNMENT

No verbatim record by a certified court reporter is made of these proceedings. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at these proceedings upon which any appeal is to be based (see Section 286.0105, Fla. Stat.). In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons needing a special accommodation to participate in this proceeding should contact the Town Clerk's office at 941-316-1999 forty-eight (48) hours in advance of this proceeding. If you are hearing impaired, please call 941-373-7002.

Planning & Zoning Board
Andrew Aitken, BJ Bishop, Jack Daly, Leonard Garner, Walter Hackett, Jr.,
Allen Hixon, Kenneth Schneier, George Symanski, Jr., John Wild

TOWN OF LONGBOAT KEY

PLANNING AND ZONING BOARD

MINUTES OF REGULAR MEETING

MAY 27, 2014

The regular meeting of the Planning and Zoning Board was called to order at 9:00 AM.

Members Present: Chair BJ Bishop, Vice Chair Jack Daly, Secretary John Wild, Members Andrew Aitken, Leonard Garner, Walter Hackett, Allen Hixon, Ken Schneier, George Symanski

Also Present: Maggie Mooney-Portale, Town Attorney; Kelly Fernandez, Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Briana Ozor, Planner; Donna Chipman, Office Manager

ADMINISTRATION OF OATH

Donna Chipman, Office Manager, swore reappointed members Jack Daly, Allen Hixon and Walter Hackett.

All those testifying at the hearing were sworn at this time.

AGENDA ITEM 1
ORDINANCE 2014-17, 5440 GULF OF MEXICO DRIVE
SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT

Pursuant to published notice, the public hearing was opened.

Briana Ozor, Planner, provided an overview of the request:

- The request would create a 'pocket' of residential between commercial uses
- It would have negligible impact on town services
- The property is currently vacant
- The applicant is seeking to convert the commercial property in order to allow four (4) single-family homes
- Reviewed the staff's assessment of the application and consistency with the Comprehensive Plan
- Discussed the issue of the referendum that was approved in 2012 for the property and the subsequent impact from the legislative law enacted in 2013
- Staff recommended, if the board chose to change the Future Land Use (FLU) designation, to change from the requested RM-3 to RM-4 to be consistent with nearby residential properties

Ms. Ozor reviewed a PowerPoint presentation showing the location, and conditions of site and surrounding properties.

Mr. Hackett asked if a preliminary site plan had been discussed or provided. Ms. Ozor replied no. Mr. Hackett questioned the dimensions of the property. Mr. Hixon responded it was 100 ft. x 400 ft. It was asked by Mr. Hackett why the applicant was only requesting to rezone a portion of 5442 Gulf of Mexico Drive. Ms. Ozor explained the applicant wished to create one acre of property, and with only 5440 Gulf of Mexico Drive, it was slightly short of an acre. Alaina Ray, Planning, Zoning & Building Director, commented that the applicant would be required to replat the property once the rezoning and Comprehensive Plan amendment were granted; they will need to replat both the front and back parcels.

Discussion ensued on the following:

- Access to the property, as it would not be divided into four single-family lots, but developed as a land condominium – there would be one driveway accessing four homes, the homes would be purchased individually, but the land would be under the association
- What was a practical use for the property
- Why staff did not recommend denial if the property was incompatible with the surrounding area; staff did not recommend denial, because they were attempting to find some type of appropriate use for the property, since the commercial designation had not been successful
- Suggestion that the property should be designated for an office and mixed use as they did not believe it was good for residential
- Whether the Town had an interest in purchasing the property to which staff indicated the Town was not interested
- Why the applicant was requesting six units for the Comprehensive Plan amendment and four units for the rezoning
- If the back part of 5442 Gulf of Mexico Drive (after the 50 feet was taken) would be a buildable lot – staff noted that there was a large home on the lot and the owner had no intention to build anything else; he wished to maintain a large buffer

Peter Dailey, agent for the applicant, explained the purpose of the request was to change the parcel to a viable use. The current owner has owned the property since 1993 and unsuccessfully marketed the property as commercial use for 15 years. The two easterly lots were accessed by a private easement over the commercial lot from Gulf of Mexico Drive. He was proposing to add 5,020 square feet of Tract A of the Cedar Woodlands Subdivision to the area being rezoned to meet the bulk and density standards to allow the four residential units under the R-4MX zoning district. Chair Bishop asked if Mr. Dailey wished to comment on the appropriate location. Mr. Dailey discussed that the parcel "did not fit neatly into any category," and residential was the only zoning it could be. Chair Bishop questioned the request for RH-6 zoning, but only

asking for four units. Mr. Dailey responded the land to the east was RH-6 in the Comprehensive Plan, and they were attempting to be consistent, but if there were a lesser zoning that allowed four units, they would be fine with that.

The board discussed the following items:

- The width of the easement; the easement was 15 feet (check 31:30)
- That there was discussion of a land condominium, but it was not referenced in the application; the applicant noted they had to show they could fit four units

Mr. Hixon asked if the applicant was intending to eliminate the mid access point on Gulf of Mexico Drive. Mr. Dailey noted the applicant was intending to leave the access point; however, if there were any problems, they would close it. Mr. Hixon pointed out that the state would like to eliminate second access points since it was within 30 feet from the right-of-way. Mr. Daily commented that the applicant would stipulate that they would close the second access point.

Discussion continued on:

- Agreement there should be a beach access point
- Concern with access by emergency vehicles and that there should be a shell turn-around area
- The 25-foot easement on the north that accessed the existing home; there would be a need to give the right of access along that easement to the new homes
- That the Fire Department had a key to the gate in the southern fence for access

MR. GARNER MOVED THE P&Z BOARD RECOMMEND DENIAL OF THE APPLICATION BASED ON THE FOLLOWING: 1) THE BASIC ZONING PHILOSOPHY OF COMPATIBILITY, 2) THIS HAS BEEN ZONED COMMERCIAL FOR 30 YEARS AND WAS COMMERCIAL WHEN PURCHASED; 3) THERE WERE MUNICIPAL SERVICES ON THE NORTH AND COMMERCIAL ON THE SOUTH, AND PLACING CONDOMINUMS WAS NOT COMPATIBLE WITH THE ZONING; AND, 4) ACCESSIBILITY – THERE WAS A PRIVATE EASEMENT FROM THE EAST, SO IF THERE WAS DEVELOPMENT, IT MIGHT BE AN ISSUE. MR. SYMANSKI SECONDED THE MOTION. MOTION FAILED ON ROLL CALL VOTE: AIKTEN, NO; BISHOP, AYE; DALY, NO; GARNER, AYE; HACKETT, NO; HIXON, NO; SCHNEIER, NO; SYMANSKI, AYE; WILD, NO.

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF THE APPLICATION WITH THE MODIFICATION THAT THE APPLICATION BE FORWARDED WITH A RECOMMENDATION OF A RM-4 FUTURE LAND USE DESIGNATION VERSUS THE RM-6 DESIGNATION REQUESTED. MR. HACKETT SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, NO; DALY, AYE; GARNER, NO; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

AGENDA ITEM 2
ORDINANCE 2014-18, 5440 GULF OF MEXICO DRIVE REZONING

Pursuant to published notice, the public hearing was opened.

Briana Ozor, Planner, provided an overview of the application noting:

- The applicant was requesting a change of zoning from C-1 (Limited Commercial) to R-4MX for 5440 Gulf of Mexico Drive, and R-3MX for a portion of 5442 Gulf of Mexico Drive
- That the change would create a small residential pocket in between two non-residentially zoned properties
- That a residential use with four single-family homes would create a smaller impact on the Town's services versus commercial use

Maggie Mooney-Portale, Town Attorney, was sworn. She explained this was a quasi-judicial hearing, and asked the board the following:

- If there had been Ex Parte communications to which Mr. Hixon, Mr. Hackett, Mr. Aitken, and Mr. Schneier noted for the record that they had visited the site, but did not speak to anyone
- If there were any conflicts of interest to which none were noted

Attorney Mooney-Portale noted that Mr. Dailey had provided testimony on the rezoning during the Comprehensive Plan hearing portion and asked if he and his client would stipulate his prior testimony into the record for this hearing. Mr. Dailey replied yes.

Chair Bishop questioned if there was a requirement, if a residential unit was being placed within a mile of an airport, or close proximity to a fire/police department, to stipulate, and require a notice in the deed be part of acquiring those residential properties within such an area. Kelly Fernandez, Town Attorney, commented it was not typically seen, or required, in Florida. Ms. Ray offered that staff could stipulate items during the site plan review, and they did review deeds and documents. Mr. Hackett commented that if the owner utilized a real estate agent, they were required to disclose. Mr. Symanski noted that the time to get a concession or agreement on the access was at this time. Mr. Aitken pointed out there was no beach access, so when it came to due diligence, there was a need to make the owners aware.

Mr. Symanski voiced concern with placement of single-family, without beach access, next to a fire station. Ms. Ray commented the concern was it would be between two different types of uses. Mr. Garner questioned if the site was large enough for four single-family lots that met zoning, or was it being offered as a land condominium because it could not meet the requirements. Ms. Ray explained it could not meet the requirements – they could not subdivide into four single-family lots, which was the

reason for the land condominium. Mr. Garner reiterated his concern with compatibility. Mr. Schneier commented there were not a lot of areas where one could walk to a commercial establishment

Mr. Hixon questioned if the applicant could also stipulate that previous comments from the previous hearing could also be incorporated into this hearing. Attorney Mooney-Portale noted the record would be clearer if the applicant was allowed to restate their comments.

Mr. Wild asked if the owner, Victor Levine, would be able to refute the stipulations. He understood that Mr. Dailey was Mr. Levine's agent, but wondered if the stipulations would be agreed to by the owner. Mr. Symanski noted that if Mr. Dailey made an oral representation, it was binding. Attorney Mooney-Portale explained that Mr. Dailey was representing Mr. Levine's interests, and if he had any concerns with stipulations agreed to by Mr. Dailey, his recourse would be against Mr. Dailey. Mr. Symanski questioned if the board should request it in writing. Attorney Mooney-Portale responded the board was rezoning a particular property and not dealing with a site plan, or stipulations for movement of access; those items were addressed during site plan review, which was not before the board. Mr. Wild pointed out that when they made the motion to allow RM-4 and Mr. Dailey agreed, Mr. Levine had applied for RM-6, and asked if RM-4 would be enforceable. Attorney Mooney-Portale replied yes.

Mr. Dailey commented that since the access seemed to be a concern, they would stipulate no direct access to any of the structures from Gulf of Mexico Drive. They were willing to covenant some form of acknowledgment of the location near a fire station be provided to any prospective purchasers of the properties. Ms. Ray informed the board that rezoning applications do not allow for stipulations, because if the property was sold, they did not carry over. This was not a planned development.

MR. AITKEN MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2014-18, TO ALLOW REZONING OF 5440, AND A PORTION OF 5442, GULF OF MEXICO DRIVE, AS REQUESTED. MR. SCHNEIER SECONDED THE MOTION.

Discussion ensued on:

- Providing Beach access
- Trespassing over surrounding properties
- The referendum approval the applicant received in 2012
- The recent laws passed by the legislature that nullified the referendum, and the request of the legislature to reconsider

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, NO; DALY, AYE; GARNER, NO; HACKETT, AYE; HIXON, NO; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

Chair Bishop took the opportunity to thank Attorney Mooney-Portale for her service and hard work over the past year, and also wished to thank the Persson & Cohen law firm for over 23 years of service to the Town.

The Board recessed from 10:20 am – 10:32 am.

AGENDA ITEM 3
ORDINANCE 2014-19, 521 BROADWAY STREET
SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT

Pursuant to published notice, the public hearing was opened.

Briana Ozor, Planner, provided an overview of the application noting:

- The applicant has been unable to utilize the commercial property and wished to build two single-family homes on the lot
- The request would be consistent with the Comprehensive Plan
- Would have negligible impact on Town services
- Was in keeping with the residential character of the surrounding area

Mr. Hixon discussed the waterway near Broadway Street noting that people used to be able to kayak under it and asked if anyone had looked at that issue. He commented that as long as there was no concern with quality of the water on each side, he did not have a problem. Ms. Ray responded the Public Works Department has looked at the area over the years, and there were no current discussions of opening the area; anything done would need to be done underground. Mr. Hixon asked if there was an advantage to opening up the area. Ms. Ray noted there were both advantages and disadvantages, but it was an issue for Public Works. Ms. Ray continued discussing the location and the surrounding facilities. Mr. Garner questioned if the request would interfere with the Whitney Beach Overlay District. Ms. Ray replied no.

Peter Dailey, agent representing First America Bank, explained that due to changing demographics and the economics, the commercial on the north end has not worked, and the conversion would add residences and Ad Valorem taxes for the community. He pointed out there was residential to the east, north, and south of the site, and the site was limited to two residences due to its size.

Patricia Zunz, Lands End Drive, discussed the Whitney Beach Overlay District, commenting that it was her recollection it was going to incorporate residential. She did not believe the request would have an impact on the overlay district.

MR. DALY MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2014-19 ALLOWING A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT FOR 521 BROADWAY STREET AS REQUESTED. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

AGENDA ITEM 4
ORDINANCE 2014-20, 521 BROADWAY STREET REZONING

Pursuant to published notice, the public hearing was opened.

Briana Ozor, Planner, discussed the application noting:

- The request was to change the zoning from Limited Commercial (C-1) to Single-Family High-Density Residential (R-6SF)
- The site would be limited to two dwelling units
- Changing the zoning would be consistent with the surrounding neighborhood
- The change would have a "de minimis" impact on the Town's utilities, stormwater, and transportation systems

Maggie Mooney-Portale, Town Attorney, explained this was a quasi-judicial hearing, and asked the board the following:

- If there had been Ex Parte communications to which Mr. Hixon, Mr. Hackett, Mr. Aitken, Chair Bishop, and Mr. Schneier noted for the record that they had visited the site, but did not speak to anyone
- If there were any conflicts of interest to which none were noted

Peter Dailey, agent representing the applicant, noted he would stipulate to the testimony from the Small-scale Comprehensive Plan hearing being incorporated, by reference, into this hearing.

MR. DALY MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2014-20, 521 BROADWAY STREET, REZONING APPLICATION AS REQUESTED. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

AGENDA ITEM 5
ORDINANCE 2014-16, BLOCK 11, REVISED LONGBEACH SUBDIVISION REQUEST FOR ALLEY CLOSURE

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, reviewed the request noting:

- Petition was filed to close a 10 foot wide alley in Block 11, Revised Longbeach Subdivision
- Located between Poinsettia Avenue and Longboat Drive South
- Alley was impassable with the exception of the areas on each end
- While the applicant did obtain signatures from a majority of the property owners, there were two owners that did not sign

- Michael Yeatman, owner of a lot on Hibiscus, which backs up to the alley, was not able to access the lot from the rear and contacted staff by phone; he was not in favor of the application and did not want the alley vacated or closed, but open for access
- Showed a PowerPoint presentation illustrating the site and surrounding conditions
- That if the alley was vacated, each abutting owner would gain five feet of property and would be responsible for maintenance and taxes

Mr. Hixon asked if it was possible that the neighbors would have an agreement between themselves for an easement. Ms. Ray responded they would have to file it with the clerk of court.

Ms. Ray continued her presentation and explained why staff was recommending denial:

- When vacating property in public ownership, there was a need to have public benefit to give property away
- Staff found no public benefit to the general public for conveying into private ownership
- Public Works recommended denial, because at some point in the future they may need utility access
- There was a property owner that has voiced disapproval of the petition; if granted, it would change that owner's property including requirement to pay taxes and maintain

Mr. Garner questioned the difference in utilization of the alley if it was discontinued versus narrowing; what would be the benefit to closing. Ms. Ray pointed out there was no public benefit. The code stated that all adjacent property owners need to support the petition.

Maggie Mooney-Portale, Town Attorney, was sworn. She explained this was a quasi-judicial hearing, and asked the board the following:

- If there had been Ex Parte communications to which Mr. Hixon, Mr. Aitken, and Mr. Schneier noted for the record that they had visited the site, but did not speak to anyone
- If there were any conflicts of interest to which none were noted

Attorney Mooney-Portale explained there were specific standards of review (Section 97.11 (A), (B), (C), (D), and (E)) as to what was under the purview of the Board.

Mr. Hixon pointed out when looking at the Poinsettia Avenue location, the owner on the southern side has taken over the use of the property as their own, probably for many years, and if they have done that, he asked whether there would be an issue with the right of 'Adverse Possession.' Attorney Mooney-Portale responded there could not be an 'Adverse Possession' taken against government.

Mr. Daly asked if a single owner's objection was a legal basis for denial. Attorney Mooney-Portale explained the benefit to the Town and the general public, with regard to the easement, was in their purview, and since an owner was part of the general public, then yes, it could be considered. Mr. Daly believed if a single land owner was objecting, then the board had no choice but deny the application. Attorney Mooney-Portale noted the objection from a single owner should weigh into the benefit of the general public.

Judith Carman, Poinsettia Avenue, noted she had lived on that corner for 45 years, and the alley had never been opened for any use; it had a "jungle atmosphere," and the Town has never maintained it. She continued discussing the history of the area and that Florida Power & Light (FPL) walked through the alley as there were two power poles; drainage was a problem in the area; and, there would be increased noise and impact on privacy if opened.

Elizabeth Brown, Hibiscus Way, supported the applicant and voiced concern with the potential ability to have access in the back of their property with the opening of the alley. Mr. Schneier questioned why they believed the alley would be used or developed. Ms. Brown responded the alley was not currently accessible, but understood the Town was considering opening it. Ms. Ray noted there had been discussions at the Commission level regarding the alleys, but the Commission had decided to leave things as they were currently.

Michael Riter, Hibiscus Way, spoke in support of the application. He discussed the recommended denial by Public Works noting they felt the vacation would hinder the Town's ability to locate utilities and other public infrastructure in the future. However, he referred to the Town's approval for closing of the alley in 2000, and the Town's vacation of Coral and Shell Street, and noted that these were also public rights-of-way, with Shell Street being vacated and deeded to the Longboat Key Center for the Arts to expand their campus.

Ivan Zunz, Broadway Street, voiced concern with setting a precedent if the request was approved as it would not prevent other owners in the Village from asking for the same. The Town should not be appropriating the land and asked if the owner voicing opposition would have to pay for land they did not wish to have.

No one else wished to be heard, and the hearing was closed.

MR. GARNER MOVED THE P&Z BOARD RECOMMEND DENIAL OF ORDINANCE 2014-16 REQUESTING CLOSURE OF AN ALLEY LOCATED IN BLOCK 11 OF THE REVISED LONGBEACH SUBDIVISION. MR. SYMANSKI SECONDED THE MOTION.

Mr. Garner did not see a benefit in officially closing the alley, but acknowledged there were utilities located in the alleyway which would still need to be accessible. He also voiced concern with setting a precedent. Mr. Symanski did not believe any verbal agreements would meet legal criteria; friendly agreements were not legally binding. Mr. Aitken noted that he was on the committee that addressed the alleys, and they concluded two items: 1) that all alleys should be treated the same – either open or

closed; and 2) should forward a recommendation to the Commission to open all alleys. However, after that it was learned the Town Manager was reviewing the status of the alleys, and the committee had dropped the idea of opening all the alleys. Mr. Hackett pointed out the main concern was if the alley was vacated, it might result in other changes that would not be satisfactory. Mr. Hixon commented that property owners currently have use of the space, and therefore, he did not see an advantage to making a change. Chair Bishop voiced concern with requiring someone, who did not wish to close the alley, to take over the property, maintain it, and pay taxes. She did not believe public property should be given to individual property owners.

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.

MR. WILD MOVED TO REORDER THE AGENDA TO HEAR AGENDA ITEM 7 AT THIS TIME. MR. GARNER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

AGENDA ITEM 7
ELECTION OF CHAIR, VICE CHAIR AND SECRETARY

Chairman

MR. DALY MOVED TO NOMINATE BJ BISHOP TO CONTINUE AS CHAIR OF THE P&Z BOARD. MR. WILD SECONDED THE MOTION.

MR. SYMANSKI MOVED TO NOMINATE ALLEN HIXON AS CHAIR OF THE P&Z BOARD. MR. GARNER SECONDED THE MOTION.

There were no other nominations, and the nominations were closed.

MR. HIXON WAS ELECTED AS CHAIR BY A 5-4 ROLL CALL VOTE: AITKEN, AYE; BISHOP, NO; DALY, NO; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, NO; SYMANSKI, AYE; WILD, NO.

Vice Chairman

CHAIR BISHOP MOVED TO NOMINATE JACK DALY TO CONTINUE AS VICE CHAIR OF THE P&Z BOARD. MR. WILD SECONDED THE MOTION.

There were no other nominations, and the nominations were closed.

MOTION CARRIED UNANIMOUSLY.

Secretary

CHAIR BISHOP MOVED TO NOMINATE JOHN WILD TO CONTINUE AS SECRETARY OF THE P&Z BOARD. MR. HACKETT SECONDED THE MOTION.

There were no other nominations, and the nominations were closed.

MOTION CARRIED UNANIMOUSLY.

Mr. Wild and Mr. Garner left the meeting at this time.

The Board recessed for lunch from 11:50 am – 12:23 pm.

AGENDA ITEM 6
ORDINANCE 2013-20 AMENDING CHAPTER 158
OUTLINE DEVELOPMENT PLAN PROCESS

Pursuant to published notice, the public hearing was opened.

Bill Spikowski, Spikowski and Associates, reviewed the ordinance with the board. He, along with the Board discussed:

- Concerning notice, this version provided notice to all owners of property in the same MUC zoning district for applications that would add dwelling or tourism units to the subject property
- To notify every owner would lay groundwork for notice to be not completed properly
- Whether an error in notification would invalidate the application or hearing
- If notification to the condominium association was a legal process to simplify
- Reviewed the MUC table outlining density in those districts (Section 8)

Chair Bishop requested consensus on language for Alternative 3 (page 10 of 44) in Section 158.009. **A majority of the board members believed there was a need for additional language concerning compatibility.**

Mr. Symanski believed that once an applicant applied, and were granted an Outline Development Plan (ODP) approval, then that was a reasonable use, and in order to gain additional units, they would need to show what they were proposing was furthering the health, safety and welfare and not detrimental to the character of the neighborhood. Chair Bishop referred to the Longboat Key Club project and asked what language in the ordinance met the criteria of that level of MUC. Mr. Daly commented in looking at Ms. Ray's suggested language, he would add "*units must be compatible with existing uses and with historic uses in the district*," which would add a measure that was not in Alternative 3 (a compatible standard). Mr. Symanski voiced concern with the use of the word 'historic' and noted he was trying to avoid setting it up for a lawsuit. Mr. Daly agreed with Mr. Symanski and suggested deleting reference to 'historic.' Ms. Ray commented on removal of the words "*similar existing*." Discussion ensued on ways to phrase the language to remove doubt.

There was consensus to recommend Alternative 3 as written.

Discussion ensued on the following points:

- Concern with the word 'compatible' as each person would have a certain idea of what it meant; may not be the same
- Suggestion of the use of the word 'arrangement' versus 'assignment'
- On Page 19, that staff's recommendation for language made sense as it provided an amplification that was not in the Alternative 3 language
- Modifying the first alternative and not discussing the intent of the district, but suggest the units must be compatible with the existing units and perhaps, similar existing uses (page 19, Item 9)

Attorney Fernandez addressed page 19, Item 10, and disagreed with the board's interpretation of the language. Staff was stating that if they were attempting to build a hotel, then the proposal would be compared to any other similar hotels, and to the extent there was nothing similar, it would not preclude the applicant from constructing it, but it could not be incompatible. Mr. Schneier suggested inclusion of the words "if any" so it stated, "compatible with similar existing uses, **if any**, within the overall district." Chair Bishop asked how many members were comfortable with Item 9 and Item 10 (a) and (b). Six members noted they were comfortable with those items.

The following items were discussed:

- Whether there was confidence to place 892 units in the ordinance
- That the ordinance was an interim ordinance for the next phase
- What would happen if someone wished to develop in the MUC-2 district, and stated they believed there was a specific number of units available
- Section 15, new language allowing an applicant to count land in common ownership across a privately-owned street
- Whether there was a definition of 'hardship;' concern voiced if there was not a definition
- Inconsistencies with 'building height' (page 28 of 44)
- Staff noting there were a lot of areas that were inconsistent within the Code and trying to resolve the process as there were people that needed to file an application, but could not at this time
- Whether there was agreement on the language on page 29 under Section 18, Item (K)(3) (Utilization of parking structures), and if 90 percent was excessive
- Page 9, Mixed Use Community, and page 13, Intent, and belief flexibility was not built-in

Attorney Fernandez explained that the judge reviewed the Charter provision and found the 1984 Comprehensive Plan did not allow tourist uses. Mr. Hixon questioned how the referendum related to the new legislation. Attorney Mooney-Portale responded it would not affect it. The reason the referendum provision was still applicable to the Key Club property was because there was not a judge's decision speaking to that with the exception of Judge Haworth's decision. She explained that when Judge Dunnigan evaluated the 2013 legislation on the Town Charter, she reviewed it for 5440 Gulf of Mexico Drive and 521 Broadway Street, and specifically exempted out the Longboat Key Club property due to Judge Haworth's Order.

Robert White, Islandside Property Owners Coalition (IPOC), voiced his concerns:

- Related to density and requests that would allow more density on the south end, including expanding the floor area ratio
- The establishment of the maximum setback for buildings, regardless of their height, at 100 feet
- Believe allowing substantial increase in density on south end of key
- What is the amount of available units
- Should not take density that was given to certain parcels, and in some cases deeded to those parcels, and then stating if unused could be used for land that was already developed
- Needs to be language in the code that addressed assigned, but unused units
- "Timeshare" definition was not included in the code and believed it was a tourism use

Mr. Wild rejoined the meeting

Mr. White continued with reviewing various sections of the ordinance and its impact.

Mr. Symanski addressed the issue of departures on page 20 and voiced concern with the proposed language, "*except where clearly inapplicable to the requested departure.*" He had requested it state, "*if applicable.*" Mr. Spikowski noted that the issue was the 'applicable' language was currently in the code, and was explicitly noted by the judge as not being clear enough. Mr. Spikowski discussed Judge Haworth's Order and the definition of 'timeshare.'

Mark Walsh, Longboat Key Club, voiced his concern with page 19, Item 9, and that he would prefer language that was more descriptive as he did not believe it resolved the problem. He asked that the board consider the language that was provided at the April 2014 P&Z Board meeting by Ken Metcalf, planner representing Longboat Key Club.

Discussion ensued on Alternative 3 (page 10), with Mr. Walsh agreeing with the language presented by Ms. Ray. Mr. Symanski asked if the Longboat Key Club proposal for a hotel would exceed the height of the current hotel, which was at 120 feet. Ms. Ray explained that 120 feet was the highest they could go within that district. The proposed ordinance was not changing the height limits. Mr. Metcalf voiced concern this version of the ordinance had the same subjective nature as the previous version. His idea was to incorporate specific standards for compatibility.

Discussion ensued on:

- Innovativeness
- Recognizing the character of the district and stating such in the ordinance
- The Longboat Key Club proposal was to incorporate compatibility criteria
- Section 158.067(C)(9), Standards for approval or disapproval of application (page 18)

No one else wished to be heard, and the hearing was closed.

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2013-20 AS AMENDED. MR. HACKETT SECONDED THE MOTION.

The Board discussed Page 10, and leaving Alternative 3 as the stand-alone language, and Mr. Symanski's concern with page 19, Items 9 and 10.

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

AGENDA ITEM 8
MEMORANDUM FROM VICE CHAIR JOHN DALY REGARDING THE PLANNING ROLE OF THE PLANNING AND ZONING BOARD

Mr. Daly, chair of the Planning and Zoning Board Subcommittee, reviewed the memorandum that he prepared on behalf of the subcommittee noting:

- A recommendation to the Town Commission to formalize the ongoing planning activities
- Scheduling of a joint public meeting with the P&Z Board and Town Commission to allow the Commission to establish some specific objectives for planning viewpoint
- Allow the P&Z Board an opportunity to conduct a dialogue with the Commission to assist in determining those objectives
- Provide a 'vehicle' for the public, who might be present, to submit their input
- Establishment of an initial meeting in November 2014, and perhaps, on an ongoing basis
- The Commission would, with input from the P&Z Board, monitor, modify, and develop strategies
- Request staff to review what other jurisdictions do for their board
- The Commission recently adopted an ordinance that provided for final site plan approvals at the P&Z Board level, but only if they met all code requirements
- Establishing an informal process for providing agenda materials

In reference to joint meetings in other jurisdictions, Ms. Ray discussed that it was common for joint meetings to be held twice per year, which was found to be useful. Mr. Wild agreed with two meetings per year and would suggest a second meeting after the election.

MR. DALY MOVED THE P&Z BOARD ACCEPT THE SUBCOMMITTEE'S RECOMMENDATION AND FORWARD SUCH TO THE TOWN COMMISSION. MR. WILD SECONDED THE MOTION.

Mr. Symanski commented that the board's authority was defined by statute and what they did was a function of what the Commission requested them to do. Mr. Wild responded one of the important things would be to send the agenda from the P&Z

Board to the Town Commission noting that these were issues that the board would be reviewing, and whether the Commission believed some ordinances might need to change in order for the board to address.

Mr. Daly explained that he believed there was not a planning structure, and from time to time, the Commission decided on a committee without much direction. He viewed this as a way for the Commission to formalize and establish planning objectives. He did not see it as a need to have topics for the Commission to discuss as much as a need for an opportunity to have a dialogue with the board to establish planning objectives and goals.

Attorney Mooney-Portale provided an overview of the state statute outlining the duties of the P&Z Board.

Discussion ensued on:

- Suggesting the subcommittee meet once more to establish a more "bullet-point" agenda for discussion
- Rather than creating an agenda, the board should create a platform for the Commission to discuss planning objectives
- The suggested meeting should have more structure versus just an introductory meeting
- What the board could plan for other than applications submitted or redevelopment challenges
- That whenever a planning opportunity arises, the Commission appoints another committee or group to do the work versus allowing the P&Z Board to do the review

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

STAFF UPDATE

CONSENT AGENDA

MR. HIXON MOVED APPROVAL OF THE MINUTES OF THE APRIL 15, 2014, MEETING AND SETTING THE FUTURE MEETING DATE FOR JUNE 17, 2014. MR. AITKEN SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; GARNER, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.

P&Z BOARD COMMENTS

Mr. Daly and Ms. Bishop noted they would not be available for the June 17, 2014, meeting.

There was discussion concerning the ability to teleconference in for the meeting with Attorney Mooney-Portale explaining the Town Commission had adopted a policy for

themselves; however, there was a general law issued by the Attorney General that one could appear by teleconference if there was a physical quorum present but they could not participate; or if extraordinary circumstances existed.

Staff was questioned on whether there were any items scheduled for the hearing with Ms. Ray noting there was only one Town-related issue that was going to be scheduled, but it could wait until the September meeting.

MR. WILD MOVED THE P&Z BOARD CANCEL THE JUNE 17, 2014, REGULAR MEETING. MR. SYMANSKI SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; GARNER, AYE; HACKETT, AYE; HIXON, NO; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.

ADJOURNMENT

The meeting was adjourned at 3:01 p.m.

_____

John Wild, Secretary
Planning and Zoning Board

AGENDA ITEM 1

MEMORANDUM

DATE: September 5, 2014

TO: Planning and Zoning Board

THRU: Alaina Ray, AICP, Director
Planning, Zoning and Building Department

FROM: Steve Schield, ACIP, ASLA, CFM, Town Planner
Planning, Zoning and Building Department

SUBJECT: Ordinance 2014-22: Rezoning of 5810 Gulf of Mexico Drive from Single-Family Low-Medium Density Mixed Residential District (R-3SF) to Open Space – Conservation (OS-C), and 4110 Gulf of Mexico Drive from Limited Commercial (C-1) to Open Space – Active (OS-A)

The 1988 settlement stipulation by which the town acquired the 3.81-acre tract located at 5810 Gulf of Mexico Drive mandated that the property be used solely as open space. This was consistent with the property's long-established use as open space. The future land use designation was amended to Open Space – Conservation (OS-C) on October 1, 2012, by Ordinance 2012-10. The Future Land Use Map (FLUM) was also revised to reflect this change. However, the zoning designation for this Town-owned property was not amended to reflect the historic use and future intent for the property and is currently listed as Single-Family Low-Medium Density Residential (R-3SF). The requested change of zoning would make the zoning classification consistent with the future land use designation.

Similarly, the Town-owned property located at 4110 Gulf of Mexico Drive, consisting of .71 acres, was acquired on December 8, 2011, with the intent to eventually integrate this property into Bayfront Park. The zoning designation for the existing property at Bayfront Park is Open Space – Active (OS-A). The future land use designation for 4110 Gulf of Mexico Drive was amended to Open Space – Active (OS-A) on October 1, 2012, by Ordinance 2012-10. The FLUM was also revised to reflect this change. However, the zoning designation for the property was not amended to reflect the future intent for the property and is currently listed as Limited Commercial (C-1). The requested change of zoning to Open Space – Active (OS-A) would make the zoning classification consistent with the future land use designation.

5810 Gulf of Mexico Drive

4110 Gulf of Mexico Drive

ORDINANCE 2014-22

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, ADOPTING A CHANGE OF ZONING FROM SINGLE-FAMILY LOW-MEDIUM DENSITY RESIDENTIAL DISTRICT (R-3SF) TO OPEN SPACE – CONSERVATION (OS-C) FOR TOWN-OWNED PROPERTY LOCATED AT 5810 GULF OF MEXICO DRIVE; AND FROM LIMITED COMMERCIAL (C-1) TO OPEN SPACE – ACTIVE (OS-A) FOR TOWN-OWNED PROPERTY CONSISTING OF APPROXIMATELY 0.71 ACRES LOCATED AT 4110 GULF OF MEXICO DRIVE; AMENDING SECTION 158.007 OF THE TOWN CODE TO AMEND THE ZONING MAP TO SHOW CHANGE OF ZONING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act (Act) (Sections 163.3161 to 163.3243, Florida Statutes (F.S.)), directs the Town of Longboat Key to adopt an amended Comprehensive Plan in accordance with the Act and the applicable state regulations adopted pursuant to the authority granted in the Act; and

WHEREAS, Section 163.3202, F.S., states that within one year after submission of its revised comprehensive plan for review pursuant to Section163.3167(2), F.S., each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, the Town adopted Ordinance 2012-10 amending the Future Land Use of certain properties owned by the Town located at 5810 Gulf of Mexico Drive, Longboat Key, Florida 34228, as Open Space - Conservation, and at 4110 Gulf of Mexico Drive, Longboat Key, Florida 34228, as Open Space – Active and, amending the Future Land Use Map to accurately reflect the changes; and

WHEREAS, the Town requests approval of its application to change the zoning district of the above referenced Town properties from Single-Family Low-Medium Density Residential (R-3SF) to Open Space-Conservation, and Limited Commercial to Open Space-Active and to amend the Zoning Map to be consistent with the properties' future land use designation; and

WHEREAS, the Town wishes to amend Section 158.007 of the Zoning Code to reflect the ordinance adopting the most current Zoning Map; and

WHEREAS, the Planning and Zoning Official has, in a timely fashion, accepted the application to amend the Zoning Map and referred the same to the Planning and Zoning Board along with the required documentation and staff recommendations; and

WHEREAS, the Town of Longboat Key Planning and Zoning Board ("Planning and Zoning Board"), after due public notice, held a public hearing on September 16, 2014, concerning the requested amendments to the Zoning Code, change of zoning, and revised Zoning Map; and

WHEREAS, following the public hearing before the Planning and Zoning Board, the Planning and Zoning Board recommended approval of the requested amendments to the Zoning Code, change of zoning, and revised Zoning Map, and recommended that the same be forwarded to the Town Commission for their review and approval; and

WHEREAS, the Town Commission of the Town of Longboat Key, after due public notice, held a public hearing on November 3, 2014 on the proposed changes as recommended by the Planning and Zoning Board; and

WHEREAS, the proposed amendments to the Zoning Code, change of zoning, and revised Zoning Map are consistent with the Town's Comprehensive Plan and Future Land Use Map; and

WHEREAS, the Town Commission of the Town of Longboat Key finds that the proposed amendments to the Zoning Code, change of zoning, and revised Zoning Map are in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COMMISSION OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The Whereas clauses set forth above are hereby adopted as findings by the Town Commission for the adoption of this Ordinance.

SECTION 2. The zoning district for approximately 3.81 acres located at 5810 Gulf of Mexico Drive, Longboat Key, Manatee County, Florida 34228, Parcel Identification No. 80028.00004 is hereby amended from Medium Density Single Family/Mixed Residential (R-3SF) to Open Space – Conservation (OS-C).

SECTION 3. The zoning for approximately .71 acres located at 4110 Gulf of Mexico Drive, Longboat Key, Sarasota County, Florida 34228, Parcel Identification No. 0002040009 is hereby amended from Limited Commercial (C-1) to Open Space – Active (OS-A).

SECTION 4. Chapter 158, Section 158.007(A),of the Town of Longboat Key Code of Ordinances is hereby amended as follows to adopt a new 'Official Zoning Map' (Appendix 'A') by updating the reference to the adopting Ordinance as follows:

"The official zoning map of the town is hereby divided into zones or districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The official zoning map shall be identified by the signature of the mayor, attested by the town clerk, and bearing the seal of the town under the following words: This is to certify that this is the Official Zoning Map referred to in Ordinance 2014-22 of the Town of Longboat Key, Florida."

SECTION 5. The Town of Longboat Key Zoning Map and legend is hereby amended, as depicted on Exhibit "A" attached hereto.

SECTION 6. All ordinances and parts of ordinances in conflict herewith shall be deemed repealed.

SECTION 7. This Ordinance shall become effective as provided for by law.

SECTION 8. This Ordinance shall be recorded in the Official Records of Manatee and Sarasota Counties.

Passed and adopted on the first reading and public hearing this ___ day of _____, 2014.

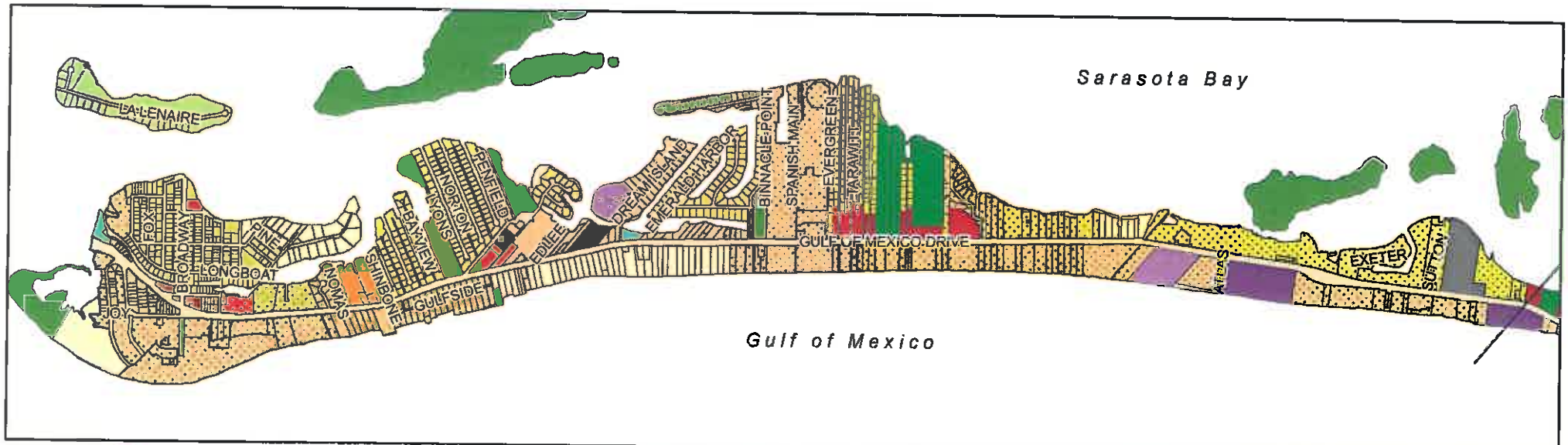
_____
James L. Brown, Mayor

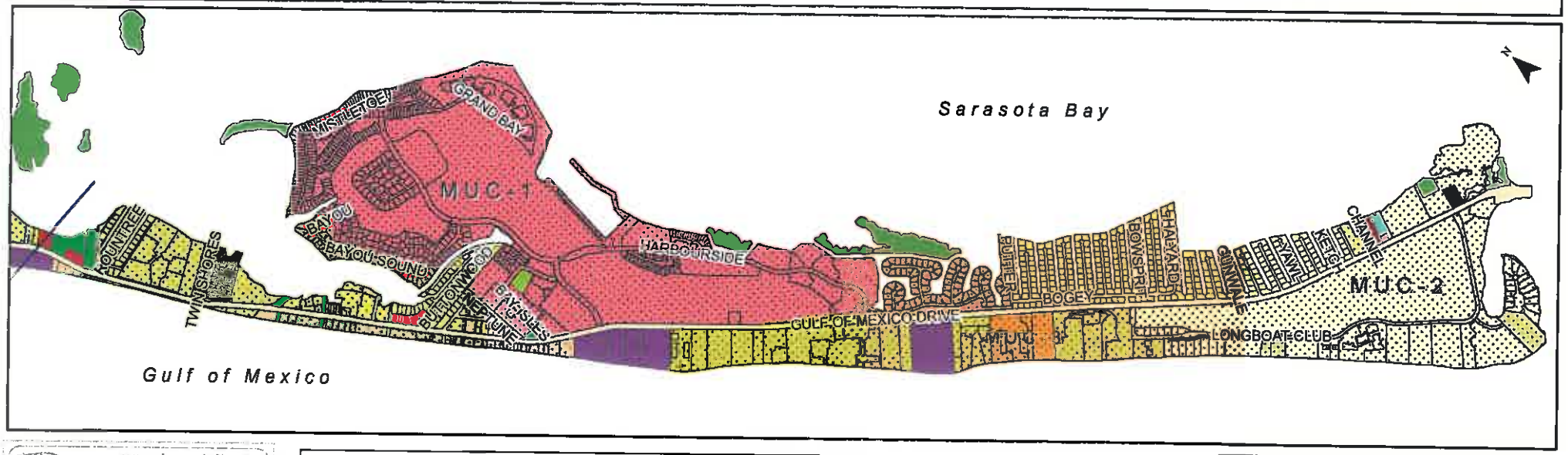
ATTEST:

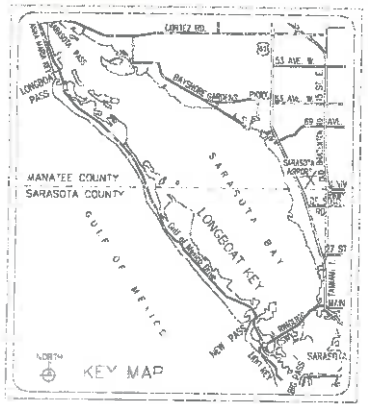
_____
Trish Granger, Town Clerk

Attachments:

Exhibit "A": Revised Zoning Map







ZONING LEGEND

- C-1 LIMITED COMMERCIAL
- C-2 GENERAL COMMERCIAL
- C-3 HIGHWAY ORIENTED COMMERCIAL
- INS INSTITUTIONAL
- M-1 MARINE COMMERCIAL SERVICE
- MUC-1 MIXED USE COMMUNITY BAY ISLES (3.26 DU/A)
- MUC-2 MIXED USE COMMUNITY ISLANDSIDE (5.05 U/A)
- MUC-3 MIXED USE COMMUNITY PROMENADE/WATER CLUB (11.26 DU/A)
- O-I OFFICE INSTITUTIONAL
- OS-A OPEN SPACE ACTIVE
- OS-C OPEN SPACE CONSERVATION
- OS-P OPEN SPACE PASSIVE
- R-1SF SINGLE FAMILY LOW DENSITY ESTATE RESIDENTIAL (1 DU/A)
- R-2SF SINGLE FAMILY LOW DENSITY RESIDENTIAL (2 DU/A)
- R-3MX LOW MEDIUM DENSITY MIXED RESIDENTIAL (3 DU/A)
- R-3SF SINGLE FAMILY LOW MEDIUM DENSITY (3 DU/A)
- R-4MX MEDIUM DENSITY MIXED RESIDENTIAL (4 DU/A)
- R-4SF SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL (4 DU/A)
- R-6MX HIGH DENSITY MIXED RESIDENTIAL (6 DU/A)
- R-6SF SINGLE FAMILY HIGH DENSITY RESIDENTIAL (6 DU/A)
- R-IP ISLAND PRESERVE RESIDENTIAL (1 DU/5 A)
- T-3 LOW MEDIUM DENSITY TOURIST RESORT/COMMERCIAL (3 TU/A)
- T-6 HIGH DENSITY TOURIST RESORT/COMMERCIAL (6 TU/A)

TOWN OF LONGBOAT KEY FLORIDA

0.4 Miles

ZONING MAP

This is to certify that this is the Official Zoning Map of the Town of Longboat Key as of the adoption of Ordinance No. 2014-22.
Adoption Date: _____

attested

Town Clerk _____ Mayor

Prepared by
Department of Planning, Zoning, & Building
Town of Longboat Key

Rev. August 2014, Ozor

ZONING.mxd