

TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
MINUTES OF REGULAR MEETING

MAY 1, 2012

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

Members Present: Chair BJ Webb, Vice Chair Allen Hixon, Members Phineas Alpers, Jack Daly, Leonard Garner, Laurin Goldner, Walter Hackett, George Symanski

Members Absent: Secretary John Wild

Also Present: David Persson, Town Attorney; David Bullock, Town Manager; Steve Schield, Planner; Ric Hartman, Planner; Donna Chipman, Office Manager

AGENDA ITEM #1
DISCUSSION REGARDING PLANNING SCOPE OF WORK FOR THE REVIEW OF
THE COMPREHENSIVE PLAN AND ZONING CODE

Chair Webb commented she received letters concerning the comprehensive plan and requested staff to provide an overview of the process. Steve Schield, Planner, discussed that the state mandated updates of the comprehensive plan every five years; there was a presentation before the Town Commission from Urban Land Institute (ULI) to discuss alternative planning consultant approaches; and the Town Manager had suggested drafting a scope of work, or framing questions, to initiate discussion.

Discussion ensued with staff on the following issues:

- why the town was moving forward with this issue at this time when the new planning & zoning director should have input
- the questions did not take into account the history and provided a 'blank' slate to an applicant
- the adopted Vision Plan was the "crux" of why it should move forward in terms of hiring an outside consultant to bring the comprehensive plan forward
- suggestion that the approved Vision Plan should be attached to the agenda materials
- suggestion that if the board was going to begin a 5-7 year review of the comprehensive plan, that it encompass the existing comprehensive plan as a guideline

Chair Webb asked if the framing questions were drafted for the sole purpose of hiring a consultant. Mr. Schield replied yes. Chair Webb asked if the framing questions were more useful than the Vision Plan and existing comprehensive plan. Mr. Schield believed the Town Commission was attempting to obtain direct feedback, and the questions were purposely broad, but it provided an opportunity to discuss options and determine a solution. Mr. Symanski suggested inclusion of the wording, "*within the guidance of the Vision Plan*". Mr. Schield believed it was very relevant to include the Vision Plan as part of the framing questions.

Chair Webb asked if the board was comfortable with making a recommendation to the Town Commission that they believe the framing questions should be included in the materials provided to the consultant, but the materials should also include the Town's Comprehensive Plan and the Vision Plan. Mr. Symanski believed the document should include wording that notated, "*this is constrained to some degree by the Town Vision Plan*," or similar language. Mr. Garner responded he did not see it as a constraint, but believed it was overlooking the modification of an existing document.

CHAIR WEBB MOVED TO SUGGEST A RECOMMENDATION TO THE TOWN COMMISSION, WHEN ATTEMPTING TO HIRE A CONSULTANT THAT THE P&Z BOARD BELIEVED THE FRAMING QUESTIONS SHOULD BE SENT, IN CONJUNCTION WITH THE EXISTING COMPREHENSIVE PLAN AND VISION PLAN, TO THE CONSULTANTS AS A COMPLETE BODY OF WORK FOR THEM TO REVIEW. MR. GARNER SECONDED THE MOTION.

Mr. Daly noted the fifth framing question focused on the Zoning Code and questioned how it related to the fourth item on the agenda with respect to the Town's Comprehensive Plan. Mr. Schield explained the fourth agenda item was to complete some precise changes as a result of recent court cases, and not do an "overhaul" of the entire code.

MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE.

Gene Jaleski, Cedar Street, commented on the hiring of a consultant and hoping the Town would allow a professional company, without constraints, to review the overall situation of the Town and what direction should be taken.

AGENDA ITEM #2

TELECOMMUNICATIONS STUDY REPORT FROM TE CONNECTIVITY NETWORKS

Mr. Schield provided a brief overview of the materials provided in the agenda packet. James Linkogle, Public Works Project Manager, presented a background of the report, and noted minor revisions to the PowerPoint presentation that was previously distributed. Discussions were held on the following topics/issues:

- page two of the TE Connectivity letter, dated April 25, 2012, which discussed larger equipment cabinets not being located within the right-of-way (ROW), and

in Item 6 on page 3 under the summary, and the possible concerns from visual pollution and impact to the normal viewscape when driving down Gulf of Mexico Drive

- utilization of equipment owned by Florida Power and Light (FPL) and Florida Department of Transportation (FDOT) and their position on additional equipment in their ROW
- whether the consultant had made recommendations regarding immediate reception and a solution for future reception- the recommendation in the final report involved a potential tower situation at various locations and distributive antenna systems (DAS)
- whether the study indicated there were only four locations on the island for the DAS- the study showed four locations for a DAS network that would cover the northern portion of the key
- whether installation of a tower would require a large amount of equipment that would need to be ground mounted and would it have to be above base flood elevation (BFE) – the current Town flood code would require it to be elevated above BFE, plus one foot

Ronald Platt, Gulf of Mexico Drive, reviewed a PowerPoint presentation and spoke in opposition to the tower proposal at Longboat Island Chapel.

Scott Wierson, consultant with TE Connectivity, attended the meeting via telephone.

The following discussions took place with the consultant:

- concerning TE Connectivity's recommendations for the best method to obtain reception on the key
- that towers and DAS both have merits to provide service, but the DAS would provide better service because the antennas would be closer to the users
- how the community can get cooperation from operators to expand and optimize reception on the south end of the key
- the cost for the DAS systems (page 27 of report), and if the proposal was reconfigured for five antennas, the cost would increase several thousand dollars
- consideration of disguising the towers as pine trees, which would require two at 60-80 feet on the north end that would look like Northern Pine trees
- locations for where DAS systems could be constructed, such as utilization of town properties
- leasing of town-owned locations by the carriers, which would require one host site with the remaining facilities located within the ROW
- the possibility of requesting FPL and FDOT to allow co-location of DAS systems on their property and poles; FPL was currently working with Crown Castle on negotiating how they would accomplish that
- Federal Communication Commission (FCC) statutes require utilities to accommodate telecommunications

Mr. Wierson completed his discussion and the phone call was disconnected.

The following individuals commented on the study:

Jim Eatrides, Gulf of Mexico Drive

Gene Jaleski, Cedar Street

Charlie Bailey, attorney representing Grand Mariner on Dream Island LLC

Michael Furen, attorney representing Accursio Sclafani and Doreen Erickson

The board continued their discussion of the report and comments received from the public concerning:

- that Ridan Industries would request permission to address the Town Commission at their upcoming workshop to address the issue of a tower
- question as to how the requirement for a maximum 150 feet in height for towers was determined
- suggestion that there be a requirement for a document that provided a demonstration of need for the tower – there were jurisdictions that required the document to be included as part of an application, along with documentation that it was a carrier initiated application or submittal of a signed commitment
- agreement with staff's recommendation that suggested a thorough analysis of the legal and policy implications of any changes being made to the existing zoning code with respect to telecommunications until it was totally vetted by the community
- communities in the United States that have adopted strong regulations that a cell tower was only a "solution of last resort," and in order to pursue a tower application there had to be a demonstration of technical need that the tower was the only realistic feasible solution
- there should be a minimum height necessary to accommodate a tower solution
- prohibition of applications that did not include a service provider to eliminate "bare" applications by speculative towers or communication providers
- whether it was feasible to place a tower on the Town-owned Public Works site
- that Verizon hired a consultant to design a DAS system, but upon review, Verizon found that it would not meet their technical requirements for level of service
- the notation by TE Connectivity in their presentation to the Town Commission that Verizon would not provide propriety information regarding coverage upon request

The Board recessed from 10:32 am – 10:46 am.

AGENDA ITEM #3

ORDINANCE 2012-09, COMPREHENSIVE PLAN AMENDMENT, POLICY 1.1.10 OF THE FUTURE LAND USE ELEMENT

Pursuant to published notice, the public hearing was opened.

MS. GOLDNER MOVED TO TABLE ORDINANCE 2012-09 AS SHE BELIEVED THE CONVERSATION WAS PREMATURE AND SHOULD TAKE PLACE AT A LATER DATE. MR. HIXON SECONDED THE MOTION.

Ric Hartman, Planner, explained there were certain items in the land development regulations (LDRs) that were allowed to exceed the standard heights. The maximum heights within Section 158.145 of the Zoning Code have now been inserted in the Comprehensive Plan to be consistent, which included parapet walls, enclosed stairwells, etc. He outlined several options the board could consider: 1) include an effective date in the ordinance which would allow the LDRs to be presented to the board prior to that effective date; 2) include language, such as limiting towers to a maximum height of 150 feet; and 3) remove the term 'towers' from the ordinance and allow the other exceptions to be part of the policy and move forward with the recommendation that the policy be approved as written, but delete the word 'towers' which would be addressed at a later time.

There was discussion related to staff's concern with tabling this item with Mr. Hartman explaining, with the exception of 'towers,' there were inconsistencies for the other items within the LDRs. He would support allowing the other exceptions to be adopted and moved forward. It was pointed out that the document had previously been approved by the state during the transmittal stage and needed to be adopted by June 28, 2012.

Discussion continued on the following points:

- would the state have a problem if the document was altered and the word 'tower' removed (the modification would be explained in a cover letter outlining what had occurred and what was different from the transmittal document)
- clarification of the 150 foot height and whether it was to accommodate segments for additional operators
- that the height was based on the number of carriers; if only one carrier then it could be lower; a 150 foot tower could accommodate six carriers
- it was noted that at the time the Longboat Island Chapel application was submitted, Verizon had requested to be at the 110 foot height

Chair Webb believed eliminating the 'tower' language would resolve the problem. As a result, Ms. Goldner withdrew her motion and Mr. Hixon withdrew his second.

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

MS. GOLDNER MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2012-09 SUBJECT TO THE WORD 'TOWERS' BEING STRICKEN IN THE FIRST PARAGRAPH OF POLICY 1.1.10 AS OUTLINED IN STAFF'S MEMORANDUM DATED APRIL 19, 2012. MR. HIXON SECONDED THE MOTION.

Mr. Garner noted that the issue would need to be addressed at some point and questioned how the town would address towers. Mr. Hartman explained there were restrictions in Section 158.200 of the Zoning Code addressing the height, but the Comprehensive Plan would be silent as to towers. Chair Webb requested the tower issue be placed back on the agenda as soon as staff received the final reports from the telecommunication consultants

MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE.

AGENDA ITEM #4
ORDINANCE 2012-08, AMENDMENTS TO CHAPTER 158, ZONING CODE

Pursuant to published notice, the public hearing was opened.

Prior to staff's presentation, and due to schedule conflicts, Chair Webb allowed the following individuals to comment on the proposed ordinance:

Terry Gans, Grand Bay Boulevard, commented on the issue of traffic and that the Town request that the city of Sarasota address their responsibilities with traffic along the Ringling Bridge, Golden Gate Point, and the intersection of US 41, which led to a lot of problems for Longboat Key.

Bob White, Longboat Club Road, representing the Islandside Property Owners Coalition (IPOC), reviewed the impact from the proposed changes, believed the changes would reduce the level of analysis by the Planning & Zoning staff and diminish the role of the P&Z Board, and noted that without a meaningful code to rely on, "the essence of the key would be destroyed."

Kelly Fernandez, Assistant Town Attorney, reviewed her memorandum, dated April 17, 2012, noting the proposed ordinance was to bring the comprehensive plan into consistency with the LDRs. The proposed set of amendments more clearly stated the Town's intent, clarified various items, and was easier to follow.

The board members discussed the following:

- why access was not included as one of the criteria that should be shown-how would they allow the new residents (tourist or otherwise) to have access to the beach, bay or both
- that the ordinance was a limited scope of changes as there would be further discussions in the future on the Comprehensive Plan, which would necessitate additional changes to the LDRs – this ordinance focused on the outline development plan process/planned development process
- suggestion that on Page 7, Item d, the insertion of the words 'beach access' might be appropriate as it would have a major impact on surrounding property values
- if all legal rulings had been rendered on all pertinent issues, and if so, would the Town be contesting them – according to Attorney Persson there were no other lawsuits involving the Town that were significant, and continued with outlining the hearings that were scheduled
- that Judge Roberts, when he rendered his decision, provided an outline to follow if the Town wished to change the code to allow the approval that was granted-the Town Commission considered that outline and "bifurcated" the specific

discussion of the Comprehensive Plan, which was discussed earlier, and then considered the remaining changes

- what are the legal ramifications of not requiring the board or Town Commission to provide findings of fact to support an application – according to Kelly Fernandez, assistant Town Attorney, written findings of fact were not required by law for the P&Z Board or Town Commission, but the issue would be what constituted an adequate finding of fact; there was still a need for competent substantial evidence to be presented and considered
- referring to Page 9, if changes were made to an application during the process, there was no language included to allow the Town Commission to remand the application back to the P&Z Board – was consideration given to if it was a substantial change, or something similar to that, so it did not bypass the P&Z Board
- referring to Page 9, there was concern with the language related to determination and recommendation of the P&Z Board; however, it was noted that the P&Z Board was advisory to the Town Commission- the Town Commission had taken the final authority on site plans back several years ago, but the P&Z Board was always advisory on outline development plans (ODPs) and zoning changes

John Patterson, attorney representing the Longboat Key Club, agreed that the amendment consisted of three components and brought the code into alignment with the Comprehensive Plan terminology. The other was the judge's ruling, which focused on freezing non-residential use to the uses in effect when Ordinance 2010-16 was adopted. He further discussed the issue of Findings of Fact, clarification of terminology of additional uses, and the ODP amendment process.

Gene Jaleski, Cedar Street, urged the board to not move forward with recommending adoption of the ordinance until they reviewed the impacts.

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

MR. GARNER MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2012-08 AS WRITTEN. MR. ALPERS SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE.

AGENDA ITEM #4
CONSENT AGENDA

MS. GOLDNER MOVED APPROVAL OF THE MINUTES OF THE MARCH 27, 2012, MEETING AND SETTING THE FUTURE MEETING DATE FOR JUNE 19, 2012. MR. ALPERS SECONDED THE MOTION.

Chair Webb informed the board that she will not be in attendance at the June 19, 2012, meeting.

MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE.

STAFF UPDATES

Chair Webb announced the new Planning, Zoning & Building Director will begin on May 14, 2012.

ADJOURNMENT

The meeting was adjourned at 11:32 am.

John Wild, Secretary
Planning and Zoning Board