

## M E M O R A N D U M

DATE: Feb 8, 2013

**TO:** Planning and Zoning Board

**FROM:** Robin Meyer, AICP, Director  
Planning, Zoning and Building Department

**RE :** Resolution 2013-07 Comprehensive Plan Amendments

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Attached for your review is Resolution 2013-07, transmitting proposed Comprehensive Plan amendments to the Future Land Use Elements Policies 1.1.10 and 1.1.11 regarding building heights for additional tourism units, including “ personal wireless service facilities” in Table 1, and amending Policy 1.6.4 regarding heights of personal wireless service facilities. In addition are the corresponding changes to the Supplemental Data and Analysis section of the Future Land Use Element supporting the proposed changes. The Board’s recommendation will be given to the Town Commission, which will determine if the amendments should be transmitted to the Florida Department of Economic Development (DOE) as provided by Florida Statutes 163.3187. The ODP and agencies will review the proposed amendments, and provide objection, recommendations and comments (“ORC”) to the Town. After receiving and considering the ORC, the Town may adopt the amendments after further Board review, commission workshop and public hearings. This is the first step in the process.

### **Proposed Changes**

The first paragraph of Future Land Use Element Policy 1.1.10 is hereby amended as follows:

The Future Land Use Map, Figure 2, shall contain the following future land use categories, which are further detailed in and implemented by the land development regulations. Table 1 illustrates the maximum densities and intensities of development for each future land use category. Height restrictions for each category shall not apply to the following: antennae, enclosed elevator shafts, enclosed stairwells and their parapet walls, enclosed mechanical equipment areas, personal wireless service facilities, chimneys, or house of worship spires. Height restrictions for these exceptions shall be addressed in but the Town’s land development regulations ~~shall limit their height.~~

Future Land Use Element Policy 1.1.10 is hereby amended as follows:

Tourist Resort Commercial. This category is intended to accommodate the unique land needs for resort-oriented facilities. These facilities generally are marketed as vacation accommodations for tourists and other transients seeking an environment with a high level of

amenities. Uses include multifamily dwelling units, time-share units, and tourism units. Associated resort amenities, such as restaurants, shops, and recreational facilities, may be permitted on the site in conjunction with a tourist resort commercial development. All commercially provided recreational activities requiring shoreline or near-shore water utilization shall be concentrated at the commercial hotel facilities. Additional tourism units may be allowed pursuant to Future Land Use Policy 1.1.11. Lot coverage may exceed the standard lot coverage by up to 10%, and height may exceed the standard height by one story as shown on Table 1, through the Outline Development Plan (ODP) process of the land development regulations. The additional story as shown in Table 1, may also be approved through the final site plan approval process for properties that are granted additional tourism units through section 158.180 of the land development regulations. The two Tourist Resort Commercial categories are as follows:

a. Medium-Density Tourist Resort/Commercial (TRC-3). Density shall not exceed three units per acre. Tourism units and associated resort amenities shall not exceed a lot coverage of 25%, and maximum height shall be 40 feet.

b. High-Density Tourist Resort Commercial (TRC-6). Density shall not exceed six units per acre. Tourism units and associated resort amenities shall not exceed a lot coverage of 30%, and maximum height shall be 50 feet.

SECTION 4. Future Land Use Element Policy 1.1.11 is hereby amended as follows:

Historically, tourism has been an important element of the Town's economy. The Town will maintain land development regulations that implement the Town referendum vote of March 16, 2008, that permits a limited increase of no more than a total additional 250 tourism units island wide to help restore the historic balance between residential and tourism uses. Development of the 250 tourism units, which are additional to units allowed under the Comprehensive Plan at the time of the referendum, will be limited to parcels within the Medium Density Tourist Resort/Commercial (TRC-3), High Density Tourist Resort/Commercial (TRC-6), Limited Commercial (CL), General Commercial (CG), Highway-Oriented Commercial (CH), Office-Institutional (OI), and Marina Commercial Service (MCS) future land use categories and parcels in residential future land use categories that contain an existing legal tourism use. Tourism units on Longboat Key shall provide transient lodging accommodations of less than 30 consecutive calendar days or one entire calendar month, whichever is less, and are not to be used as dwelling units for permanent occupancy. The standard maximum lot coverage and height of the future land use category in which the tourism units are located shall apply, except that up to an additional 10% of lot coverage and an additional story as shown in Table 1 may be approved through the Outline Development Plan (ODP) process of the land development regulations. The additional story shown on Table 1, to allow the additional story for TRC-6 properties may also be approved through the final site plan approval process for properties that are granted additional tourism units through section 158.180 of the land development regulations. In the residential land use categories, the standard maximum lot coverage and height of the zoning district in which the tourism units are located shall apply, except that up to an additional 10% of lot coverage may be approved through the ODP process of the land development regulations. The town must find by competent substantial evidence that the project incorporating the tourism units is in the best interest of the town and its citizens and does not adversely impact or affect the public interest.

**Table 1  
Land Use Densities and Intensities in the Town of Longboat Key**

Symbol	Category	Density	Intensities	
			Maximum Lot Coverage	Maximum Height (stories/feet)
OS	Open Space			
▪ OS-A	Open Space – Active		30%	
▪ OS-P	Open Space – Passive		15%	
▪ OS-C	Open Space – Conservation		See Policy 1.1.10	
IP	Island Preserve	1 du/5 ac		
RL-1	Low Density SF Residential	1 du/ac		
RL-2	Low Density SF Residential	2 du/ac		
RM-3	Medium Density SF/Mixed Residential	3 du/ac		
RM-4	Medium Density SF/Mixed Residential	4 du/ac		
RH-6	High Density SF/Mixed Residential	6 du/ac		
TRC-3	Medium Density Tourist Resort/Commercial	3 u/ac	25%*	3/40*
TRC-6	High Density Tourist Resort/Commercial	6 u/ac	30%*	4/50* **
MUC-1	Mixed Use Community (Bay Isles)	3.26 u/ac	30%	
MUC-2	Mixed Use Community (Islandside)	5.05 u/ac	30%	
MUC-3	Mixed Use Community (Promenade/Water Club)	11.26 du/ac	30%	
INS	Institutional		30%	2/30
OI	Office-Institutional		30%	2/30
CL	Limited Commercial		30%	2/30
CG	General Commercial		30%	3/40
CH	Highway Commercial	3 tourism u/ac	40%	3/40
MCS	Marina Commercial Service	One accessory dwelling unit located on the same lot	40%	2/30

\* Tourism units

\*\* The additional story for TRC-6 properties may also be approved through the final site plan approval process for properties that are granted additional tourism units through section 158.180 of the land development regulations

Note: Dwelling units per acre (du/a) refers to residential units; units per acre (u/a) include both tourism units and residential units.

Future Land Use Element Policy 1.6.4 is hereby amended as follows:

~~Because adequate Town wide wireless communication infrastructure is important to safety and the continued economic and social vitality of Town life, the Town will encourage the location of such infrastructure in suitable areas, consistent with criteria that include safety, aesthetics and neighborhood compatibility and as provided by state and federal law. Advancements in technology have made personal wireless service valuable to Longboat Key residents and visitors. In addition Federal and State law place restrictions upon the Town's authority to regulate personal wireless service facilities. As a result when the Town is presented with a demonstrated need for modified or additional personal wireless service facilities, the Town will work to balance that need with the Town's need to minimize visual intrusiveness and other impacts. The Town will utilize the land development regulations to evaluate proposed personal wireless service facilities based on, at a minimum, heights, surrounding land use compatibility, aesthetics, and safety.~~

## **Analysis**

### **Proposed Personal Wireless Changes**

Federal and State laws require that all communities provide accommodation to personal wireless facilities. Because Longboat Key did not have a reference to personal wireless facilities in the Comprehensive Plan the Town was in violation with both Federal and State Law. In order to remedy that situation staff is proposing changes to Policy 1.1.10 and Policy 1.6.4 of the Future Land Use Element to the Longboat Key Comprehensive Plan. As part of this effort staff is also proposing changes to the Town's Land Development Code to strengthen the regulations and more clearly define the community's desires as to the location and development of wireless facilities. To this end the proposed regulations clearly delineate the hierarchy for community preference for the type of facilities and their location.

**Policy 1.1.10 Change:** The purpose of this proposed language change is to reintroduce "personal wireless service facilities" to the Comprehensive Plan and then to declare that the heights of the facilities would be controlled by the Town's Land Development Regulations. By reintroducing the "personal wireless service facilities" to the Comprehensive Plan the Town of Longboat Key will be in compliance with State and Federal Laws that require all jurisdictions adopt plans and regulations to allow personal wireless service. Secondly by stating the heights of said facilities will be controlled by the Land Development Code, the Comprehensive Plan will be clearly providing direction as to the rules that will address the development of personal wireless service facilities.

**Policy 1.6.4 Changes:** The language changes proposed for Policy 1.6.4 are proposed to more clearly articulate the Town of Longboat Key's intent as to how personal wireless service facilities should be reviewed and developed within the Town. This language addresses three major issues that the Land Development Regulations need to address; 1) That there is a demonstrated need for the personal wireless service facility being proposed; 2) In reviewing applications for personal wireless service facilities the Town

will balance the need for the facility with minimizing the visual intrusiveness and other impacts; and 3) the Land Use Regulations will evaluate the applications based on height surrounding land use, aesthetics and safety. These are minimums the actual regulations which will be scheduled for adoption at the same meeting that the Comprehensive Plan changes are adopted by the Commission.

**Staff Recommendation:** Staff recommends that the proposed changes to Policy 1.1.10 and Policy 1.6.4 related to personal wireless service facilities be adopted by the Planning and Zoning Board and forwarded to the Town Commission for their review and adoption.

### **Proposed TRC-6 Changes**

#### **Economic Conditions Supporting Tourism Redevelopment**

The allocation and regulatory review process for the 250 additional tourism units warrants further revision to simplify the review process and incentivize economic redevelopment within the Town. The Town referendum authorizing the additional 250 tourism units was approved in 2008 in recognition that a more appropriate balance of residential and tourism units should be achieved within the Town to support the Town's tax base and provide greater support for existing and future businesses within the Town. However, due to a number of contributing factors, the Town has not realized its economic redevelopment objectives. The economic recession officially ended in June 2009, but economic recovery has been slow. While economic conditions were a contributing factor early in the recovery, statewide and County-level data confirm that the hotel industry rebounded during the past couple of years. Sarasota County has experienced a strong rebound. Thus, while economic conditions confirm strong tourist demand and support hotel investment and redevelopment, Longboat Key has not yet successfully allocated any of the 250 tourism units to support its economic redevelopment objectives.

#### **Regulatory Constraints Inhibiting Tourism Redevelopment**

Two primary factors have impacted the ability of property owners to utilize the additional tourism units within the current economic recovery: the status/existing conditions of individual properties/ownership entities and the complexity of the Town regulations. While the Town has limited ability to address the first factor which relates to proprietary issues unique to each site, the Town does have the ability to streamline the regulatory process to provide greater certainty for applicants as a means to incentive economic redevelopment and achieve the goal of a more balanced allocation of residential and tourism units. Policy 1.1.11 currently requires that applicants proposing to develop to five stories or in excess of 50' submit an Outline Development Plan (ODP) application. This additional review process effectively acts as a disincentive for such projects to utilize the additional density authorized by the referendum. In addition, the ODP process was challenged and determined by court order to be legally insufficient. Thus, continuing to require ODP review for such projects discourages preferred

redevelopment that should be directed to the TRC-6 land use category, which staff considers the most appropriate land use category for such intensification based on the beachfront location and characteristics of such properties.

### **Proposed Plan Amendments**

The proposed plan amendments encourage redevelopment in the TRC-6 land use category/zoning district by requiring final site plan review rather than ODP review for projects proposing to develop to five stories or in excess of 50'. This represents a shift in planning strategy in order to more effectively direct redevelopment to the TRC-6 land use category/zoning district. It should be noted that the comprehensive plan did not present a strategy for directing redevelopment based on the referendum, but instead relied primarily on the process set forth in Section 158.180, which anticipated a competitive review process whereby development applications utilizing a portion of the 250 additional units would be evaluated and ranked to determine how the allocations would be distributed. For the reasons discussed above, this process was not effective due to the lack of applications. The proposed strategy to prioritize redevelopment of the TRC-6 land use category/zoning district recognizes that it is inherently the most suitable district for such redevelopment and is proposed in lieu of the competitive application process. To implement this revised strategy, certain code amendments are also required.

### **Related Code Amendments**

Staff has proposed complementary code amendments to implement the additional flexibility for height in the TRC-6 zoning district. The implementing ordinance will be forthcoming and will amend Section 128-145 of the code with similar language to the plan amendment to require final site plan review for the additional one story in the TRC-6 zoning district.

It should be noted that Ordinance 07-2013, which the Town Commission heard on first reading on February 4, 2013, includes related code amendments to facilitate redevelopment in the TRC-6 zoning district. Section 158.180 defined development standards, such as floor area ratio, that predated the referendum and were not designed to accommodate the additional density authorized by the referendum. As a result, projects would be required typically to request numerous departures to accommodate the density. Ordinance 07-2013 amends Section 158.180 to incorporate modified development standards that allow for more intense redevelopment based on the additional density authorized by the referendum. These code changes are also intended to respond appropriately to the court order, which challenged both the ODP process and well as the process for granting departures. The proposed code amendments to Section 158.180 incorporate appropriate development standards so that departures would not typically be required for redevelopment within the TRC-6 zoning district. Thus, the code amendments work in conjunction with the plan amendments to encourage redevelopment in the TRC-6 zoning district by facilitating use of the density

authorized by the referendum and by avoiding legal risks associated with the departure process.

**Staff Recommendation:** Proposed Resolution 2013-07 amends the Comprehensive Plan to allow T-6 zoned properties to add an additional story from 4 stories to 5 stories if approved as part of a Site Plan process rather than the current process that allows the extra story through a ODP process. The proposed resolution and attached documents are presented to the Planning and Zoning Board for recommendation to the Town Commission. It is the recommendation of staff that the Planning and Zoning Commission approved the proposed changes to Policies 1.1.10, 1.1.11 and 1.6.4, and recommend them to the Town Commission for approval and transmittal to the State.