TOWN OF LONGBOAT KEY

PLANNING AND ZONING BOARD

MINUTES OF REGULAR MEETING

FEBRUARY 19, 2013

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

Members Present: Chair BJ Webb, Vice Chair Jack Daly, Secretary Lauren Goldner, Members Andrew Aitken, Leonard Garner, Walter Hackett, Allen Hixon, George Symanski, John Wild

Also Present: David Persson, Town Attorney; Robin Meyer, Planning, Zoning & Building Director; Steve Schield, Planner; Donna Chipman, Office Manager

AGENDA ITEM #1
RESOLUTION 2013-07, COMPREHENSIVE PLAN AMENDMENT, FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN

Pursuant to published notice, the public hearing was opened.

Robin Meyer, Planning, Zoning & Building Director, reviewed the staff report noting:

- the resolution related to two items: personal wireless facilities, and building heights in T-6 zones
- state and federal law require all communities provide accommodations for personal wireless service facilities
- required language is not currently included in the Town's Comprehensive Plan to reference wireless communication facility
- Policy 1.6.4 would eliminate current language and substituting for language to provide direction on how the application would be reviewed and viewed within the Town; there was an emphasis on compatibility and the impact on surrounding uses

Mr. Symanski noted several corrections that needed to be made to the resolution.

Gene Jaleski, Cedar Street, discussed that 'facilities' did not mean cell tower, it meant facilities; about not including the wording 'cell tower;' providing Wi-Fi; and, that he did not believe the Town was in violation of federal or state codes.

Larry Grossman, St. Judes Drive North, questioned if wireless facilities were going to be allowed in all zones or restricted to the institutional zones. Mr. Meyer responded no; staff was in the process of developing new regulations for cell towers.

Michael Furen, attorney representing Accursio Sclafani and Doreen Erickson, pointed out that the resolution was dealing with two separate issues and suggested moving forward that those two items be addressed in separate resolutions, because if one section of the resolution was to be a problem, then the T-6 provisions would not be held up. He provided suggested revisions to the Future Land Use (FLU) Policy 1.6.4. He did not believe the draft presented by staff reflected the Town Commission's consensus policy and suggested adding language and a definition for 'tower.'

Mr. Hackett agreed the items should be separated. Mr. Garner noted that the last paragraph and the definition of 'tower' provided by Mr. Furen were reflective of earlier conversations. Attorney Persson commented that bifurcation was the Board's decision, and if the Board felt the need to have additional discussion on one issue, then splitting the two issues would be an option. The Board could have discussion first, and if it was an issue that needs further consideration, they could be separated. Mr. Garner explained there was a comment that the two issues were totally unrelated and voiced concern that the time elements that applied were different. He suggested that the items be separated. Mr. Aitken and Mr. Hackett agreed.

There was consensus to separate the issues.

Mr. Symanski did not agree that the Town ordinances were in violation of state and federal law. Attorney Persson noted there was a significant issue that needed to be addressed as soon as possible. Mr. Symanski discussed the first and second 'Whereas' clauses and his concerns. Discussion ensued on the 'Whereas' clauses

There was a suggestion to redraft the language and bring back at the next meeting.

MR. GARNER MOVED THE P&Z BOARD BRING BACK THE WIRELESS DISCUSSION AT THE MARCH 19, 2013, MEETING IN A SEPARATE RESOLUTION. MR. HACKETT SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

Mr. Meyer reviewed the second part of the resolution related to building height in T-6 zones. The language was consistent with the proposed changes before the Town Commission in Section 158.180, regarding allowing T-6 and T-3 to be developed with tourism units under the ordinance through site plan review. He noted it also added language to Policies 1.1.10 and 1.1.11 and continued with reviewing those changes.

Discussion ensued on the following:

- Relationship between the Comprehensive Plan and Town Code; if the codes were changed, was it policy to go back and change the Comprehensive Plan
- That having specific language in the Comprehensive Plan was somewhat unusual, because it "tied hands" significantly
- The reason for the modification was because staff realized, after reviewing previous changes to the T-6 zone, there were limitations on how they could use

the additional story, which was intended for those properties utilizing the 250 tourism units
- An exception for additional height for an additional story would be reviewed through the site plan process

Mr. Jaleski discussed the Conrad Beach project and the concern with an 80 foot height in the north end noting the changes were specifically for the Hilton Hotel project.

Mr. Grossman discussed amending the Comprehensive Plan based on height, but not including elements of zoning. He believed eliminating the height issue from the Outline Development Plan (ODP) process showed lack of concern.

Mr. Aitken commented that during the last meeting the Board voted for some changes that would assist the Hilton Hotel. He voiced concern that this moved beyond the Hilton Hotel and would impact the north end of the island and its 35 foot height limit. Mr. Meyer noted that the limitation was five stories and 65 feet; it was not going to be an 80 foot high building. Staff would include language that would preclude it from being automatic. He noted it took time to get changes processed through the State, but they would be adopted at the same time by the Town Commission. He mentioned there was nothing being done that was trying to hide anything or give someone an advantage.

Mr. Garner asked if there were any T-6 zoned property on the north end of the key. Steve Schield, Planner, responded that technically the Hilton Hotel was in the Manatee portion of the key, along with the Bleu Claire property; T-3 properties were Positano and Grand Mariner. Mr. Garner questioned which was the most northern. Mr. Schield replied the Grand Mariner.

The Board recessed from 10:10 am - 10:38 am to allow staff and the Town Attorney time to review the resolution.

Mr. Persson reviewed the revisions to the resolution, which included the removal of references to the wireless facilities.

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

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF RESOLUTION 2013-07 AS AMENDED. MR. HIXON SECONDED THE MOTION.

Mr. Grossman and Mr. Jaleski discussed the feasibility of increasing units and increasing building heights.

Mr. Aitken questioned the process one would have to go through if they owned a property that was not zoned T-3 or T-6, but wished to change the zoning to take advantage of the regulations. Mr. Meyer explained the owner would be required to go through a zoning change, comprehensive plan amendment, and a referendum.

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

AGENDA ITEM #2
ORDINANCE 2012-26, PROPERTY MAINTENANCE STANDARDS

Chair Webb thanked the subcommittee for all their work on revising the ordinance. Mr. Daly, chair of the Property Maintenance Code Subcommittee, provided an overview of the committee's work:

- Concluded in the preamble, by adding to the normal language of health, safety and welfare, a goal for maintenance issues to improve the aesthetics and protect property values
- Streamlined Section 104.2(A), which focused on exterior of property and maintenance values
- Made many changes and eliminations that were covered under the Building Code and in other codes
- Modified and streamlined language regarding interior maintenance issues so only addressed rental properties and not owner-occupied
- Discussed issue of properties in the transition stage of foreclosure
- Other recommendation made was as they went through the ordinance and the trailer parking ordinance, issues were raised with respect to parking of vehicles and boat trailers;
- Parking code does not address location of parking of vehicles or surfaced parked on; subcommittee recommends that the board recommend to the Town Commission the issue be addressed
- Tried to recognize there were some issues in regards to property maintenance that the current code does not address
- Tried to develop a balance between the need for protecting property values and not being overly intrusive to owners

Mr. Aitken believed the issue of boat and car parking on a front lawn, in terms of aesthetics, was of as much concern as other issues that were dealt with, but was set aside for more guidance. He re-emphasized that there was a need for guidance and for that issue to be addressed. Mr. Wild agreed, and the committee's recommendation was to request the Town Commission to send the parking issue back to the board and provide more direction.

Mr. Schield reviewed a PowerPoint presentation, which included document edits. He reviewed the ordinance, noting that on page 11 (highlighted version of ordinance) the subcommittee tried to deal with properties that were going through foreclosure and require the banks to come forward and maintain, but the Town Attorney noted the Town could not do that since the property owner, not the bank, still owned the property. As a result, it was eliminated from the edited version. Mr. Hackett questioned why a lender was not held accountable for a property they lent money for and were in the process of taking it back. Attorney Persson explained that the bank did not own the property.

Mr. Schield continued reviewing the edits pointing out that the fire safety requirements were retained. The subcommittee believed they were a duplication of what was currently in the Fire Code; however, the fire marshal and fire chief would like the

requirements to remain. Mr. Daly commented that the subcommittee was not concerned with retaining, but agreed it was a duplicate of what was in the fire code.

Chair Webb noted that the Town needed to ensure that their side of the street was cleaned and maintained; some properties owned by the Town had overgrowth, dead trees, etc.

Discussion ensued on the following:

- Page 2, under 'Scope,' why the word 'existing' was included; it was decided to remove the word from that section
- Page 3, under 'Intent,' not sure whether suppose to mean trying to maintain property values; it was not clearly written, because if it was an unoccupied structure, then it might not apply
- Page 14, section (B), was part of the existing and there was a question of what if it was altered so it was less of a safety barrier, but met the code requirements; there was a suggestion to revise to state that it shall meet the minimum
- Page 14, section related to motor vehicles and painting of vehicles, would it prohibit someone from using touch up paint
- Page 15 required every window to be sound conditioned, and there was a question whether the Town was going to cite someone if they had a crack in the glaze of the window
- Page 18, section 104.19(A), and if next to a waterway and mangroves were they required to maintain; what was the definition of 'overgrowth.' Staff noted that over the years there had been incidents where mangroves were growing to a point where they were blocking navigation and were deemed overgrowth
- Concern with the fact that the Town Zoning Code was based on health, safety, and welfare and now were adding aesthetics as a criteria; believed could not legislate aesthetics
- Why the ordinance eliminated fences in the section dealing with pools (page 14, section 104.13(D)); staff noted it was covered thoroughly in the Building Code

Chair Webb commented that staff would bring back a revised ordinance for the March meeting for public hearing. She urged the board to review the ordinance, and if they believed there were issues with other language, to contact staff with those issues.

AGENDA ITEM #3
ORDINANCE 2013-03, AMENDING CHAPTER 72, STOPPING, STANDING, AND PARKING, SECTION 72.06, RESTRICTIONS ON PARKING AND USE OF TRAVEL TRAILERS

Mr. Schield reviewed a PowerPoint presentation noting:

- Current regulations allowed travel trailers to be parked no more than five days in any 30 day period, unless in a carport or garage
- Storage PODs were not regulated by the Town Code; other jurisdictions regulate temporary storage units, including PODs, noting they may be in the front yard for no more than five days

- The proposed ordinance is proposing to restrict storage trailers and storage PODs in the same way that travel trailers were restricted
- They would be allowed to be parked no more than five days in any 30 day period, unless in a carport or garage
- The ordinance would also restrict boat trailer parking to one boat trailer to be parked in an open parking area, unless in a carport or garage

Chair Webb believed the five day restriction might not be reasonable. Mr. Symanski asked if a trailer was in a garage and part of it was sticking out, was that considered a violation. He suggested the ordinance include language stating, “totally within”. He also pointed out that in section 72.06 where it referred to ‘trailer,’ there was no definition. Mr. Schield responded that definitions were added in section 3. Attorney Persson noted there was a definition included in section 72.06.

Chair Webb commented that a revised ordinance would be brought back to the next meeting for public hearing and review. There was a suggestion on whether the board could request permission from the Town Commission to expand the discussion to include the parking issues. Mr. Meyer responded that he believed the motion during the next meeting to move the ordinance forward could include that language as part of the recommendation

AGENDA ITEM #4
CONSENT AGENDA

The next meeting was scheduled for March 19, 2013.

ADJOURNMENT

The meeting was adjourned at 11:38 AM

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Laurin Goldner, Secretary
Planning and Zoning Board