

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

\*\*\*DECEMBER 17, 2013\*\*\*

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: Kelly Fernandez, Town Attorney; Alaina Ray, Acting Planning,  
Zoning & Building Director; Steve Schield, Planner; Donna Chipman, Office Manager

All those testifying at the following hearings were sworn at this time.

AGENDA ITEM 1  
555 BAY ISLES PARKWAY  
SPECIAL EXCEPTION USE

Pursuant to published notice, the public hearing was opened.

Steve Schield, Planner, provided an overview of the request noting:

- the subject site was the previous Mattison's Restaurant
- the facility would be connected with the new Publix shopping center
- the owner proposes to provide outdoor dining (50 seats) in an existing 1,600 square foot paved area
- the proposed outdoor area has a separate access door to the existing restaurant building
- the applicant currently has 210 seats approved in the restaurant and proposes to add 50 additional seats to the proposed outdoor dining area. This would result in 260 total seats approved for the restaurant, with 81 existing parking spaces
- Town Code Section 158.128 requires one (1) parking space for every four (4) restaurant seats, which would require a minimum of 65 parking spaces
- an approval would be subject to the conditions outlined in Special Exception Order 2013-02

Mr. Aitken commented there was a great deal of rehab needed on the outside of the building, but asked if before the restaurant opened, the Town ensured its safety. Mr. Schield responded the Building Official would have to sign off on the re-opening of the

restaurant. Mr. Hackett questioned the overall condition of the improvements. Mr. Schneier noted the outdoor dining came up to the property line; was there no side yard setback. Mr. Schield explained there was no side yard setback required in a commercial zone; however, there would be additional setback conditions if adjacent to residential, which the property was not.

Howard Rooks, Property Owner, testified that the overall condition of the improvements included the applying for the customary permits, and there were a number of conditions that he would have to comply with. He was thinking of increasing the entranceway from the restaurant onto the patio, so people sitting in the restaurant could see the outdoor dining. He noted other improvements included: the removal of one booth and adding additional code-compliant glass doors; refurbishing and increasing the size of the bar inside and making it a 'horseshoe' shape in order to double the capacity and make it more appealing; and, replacing kitchen equipment.

Mr. Aitken pointed out that the light fixtures outside and the mechanical equipment were aging. Mr. Rooks responded they had not gotten to the point of replacing those items at this time, so he was not sure of their condition. He pointed out there were some parts of the walkway that needed to be replaced due to damage from tree roots. Mr. Wild voiced concern with the color of the paint and noted it should be painted a lighter color to enhance the architectural features and blend in with the new Publix shopping center.

Mr. Schneier questioned the timetable for completion of the project. Mr. Rooks commented he was not sure, but they were anticipating February or March 2014.

Larry Grossman, St. Judes Drive, suggested there be a sign on Gulf of Mexico Drive to direct customers to the restaurant.

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

**MR. HIXON MOVED THE P&Z BOARD APPROVE SPECIAL EXCEPTION ORDER 2013-02 TO ALLOW A 50-SEAT OUTDOOR DINING AREA, SUBJECT TO THE CONDITIONS OUTLINED IN SPECIAL EXCEPTION ORDER 2013-02. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; DALY, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.**

AGENDA ITEM 2  
HILTON HOTEL

Pursuant to published notice, the public hearing was opened.

For the record, Mr. Hixon noted he had been employed by the Hilton Hotel for a number of years, and while he believed he could be fair and impartial, he asked if anyone objected to his participation. No one voiced any objections to Mr. Hixon participating in the hearings.

Mr. Hixon asked if the Board could legally hear the application. He explained that the Town legislated by density, and questioned whether the density requirements allowed

an increase in density of this type of percentage. Kelly Fernandez, Town Attorney, explained the 250 tourism units that were allowed by referendum were designed to be additional to any density tourism units currently allowed under the plan, and the project could exceed the maximum allowed density of the category where the units were being sought.

Steve Schield, Planner, reviewed the staff report and drawings noting:

- the existing hotel was built in the 1970s and had 102 hotel units
- the applicant was proposing to add an additional 85 tourism units
- all existing amenity buildings on-site would be demolished and rebuilt
- most parking will be valet parking
- conditions for approval were added requesting an enhanced shelter at the transit stop, and if the ULI Advisory Committee proposed a need for sidewalks on the west side of Gulf of Mexico Drive, at the time of Certificate of Occupancy (CO), the applicant would be requested to install sidewalks
- the beach access would be stabilized and enhanced to provide emergency access

Mr. Schield reviewed Condition 32, which was a last minute request from the Public Works Director, requesting the words, “and wastewater,” be included in the condition.

Mr. Symanski commented that Condition 27 and 34 both discussed the bus shelter and asked if the two conditions could be combined into one. Mr. Schield commented that Condition 27 was a standard condition included in all resolutions, but it could be combined with Condition 34, which was specific to this approval. Mr. Symanski noted that in the body of the staff report it referenced there was an existing left turn lane for northbound traffic, but staff was also recommending a southbound deceleration lane at the Gulf of Mexico Drive entrance, but it did not include any conditions. The Board should focus on this issue, because it was one of the few times the Board had to improve conditions on Gulf of Mexico Drive. Chair Bishop agreed. She believed a condition should be drafted addressing a southbound turn lane.

Mr. Hackett asked if Windward Bay would still be able to utilize the beach access. John Patterson, attorney representing the applicant, replied yes. Mr. Hackett asked if a warning light should be installed at this point for safety. Mr. Schield responded he did not believe it would be warranted.

Mr. Wild questioned the deceleration lane asking if a sign could be installed announcing that the Hilton Hotel was ahead. Mr. Schield was not sure if it could be accomplished for a private entity. Mr. Wild asked how long the deceleration lane would be. Mr. Schield noted that there was not a recommendation for a deceleration lane, but any lane would have to be designed by a traffic engineer and approved by the Florida Department of Transportation (FDOT).

Mr. Garner commented that a deceleration lane design would be dependent upon the highway speed, and he did not believe the design was a concern of the Board at this time, but the Board could request that a deceleration lane be incorporated into the

request. He was unsure if stop signs were included on the exit from the hotel, and if not, he would recommend they be installed. Mr. Garner suggested the access be covered with shell versus sod to be stabilized. Mr. Schield noted the easement would be maintained by the hotel. Mr. Hixon discussed the parking asking if the Town regulations have a provision for valet parking. Mr. Schield replied yes. Mr. Schneier referred to the deceleration lane asking if there was room for both a northbound lane and a proposed sidewalk. Mr. Schield replied yes. Mr. Symanski referred to the shell access road asking if it was sufficient for emergency vehicles. Mr. Schield believed it was; they were stabilizing the areas out to Gulf of Mexico Drive. Mr. Hixon encouraged a stabilization system with turf.

Mr. Daly asked if the site plan process for the 250 tourism unit distribution was available for T-6 properties. Mr. Schield replied it was only for T-6 properties. Mr. Daly asked if, and when, the Colony Beach situation resolved itself, would they be eligible for the process. Mr. Schield replied yes.

Mr. Patterson discussed the deceleration lane, noting there was information needed from their traffic experts to address that issue. He noted the applicant agreed with the staff report and the conditions set forth within the report. He continued with reviewing the backgrounds of the development team.

Jim Wurst, architect for the project, reviewed the proposed design of the hotel noting the existing building was over 40 years old and needed to be updated. He reviewed the interior design of the rooms, along with the outside exterior and features.

Larry Washmuth, landscape architect for the project, was introduced. Mr. Symanski noted the Urban Land Institute (ULI) representatives recommended a planting scheme for along Gulf of Mexico Drive. He asked if the Town developed the plan in a timely fashion would the Hilton Hotel be flexible in adjusting their plan to take that into account. Mr. Patterson responded the applicant would take that into consideration.

Richard Stiles, traffic consultant for the project, reviewed the issue of a deceleration lane southbound into the project and whether it should be included as a requirement for the project. There were a number of parameters that come into the formulation as FDOT does provide solid guidance on their expert opinion on when to include a right turn lane into a project. He reviewed FDOT recommended guidelines for right turn lanes noting they also used the Institute of Transportation Engineers (ITE) manual with existing trip generation. For peak hour, based on existing distribution of trips into the site, they would expect about 10-12 right turns into the site. He commented that a right turn lane was not desired. He referenced the ULI report pointing out they had stated that Gulf of Mexico Drive was more a highway, but should be treated as a street. He explained that to install a deceleration lane they would have to run a "keyhole bicycle lane" that ran between the southbound through-lane and the southbound turn lane. He agreed that the length of the lane was determined by the speed of the roadway. He mentioned that the deceleration lane would go beyond the next drive, and believed there would be a conflict with bicycles and traffic turning into a drive. He reiterated that he did not believe the lane was needed or desirable.

Discussion ensued on:

- Whether there were statistics on the current actual southbound volume and what was expected for the area
- Southbound volume, at peak hour, was estimated at 337 trips (future); 423 for northbound volume
- The cost of adding a deceleration lane; it was difficult to determine due to other issues, such as drainage or the right-of-way
- Whether there would be another lane of pavement installed; there was a northbound pavement on the east of Gulf of Mexico Drive that served as a 'taper' lane for the driveway for the development across the street, but not sure if pavement could be utilized
- Concern with not taking into consideration people coming for meetings/events at the same time, which would warrant a deceleration lane
- That the trip generations used were based on studies
- The highest flow of traffic for peak season; 337 was the highest
- A deceleration lane was a contribution and would serve as a safety control; a sign at the north end of the property identifying the entrance to the facility for those traveling southbound
- That FDOT had approved the plan and issued a permit for what was designed
- How many cars would the length of the deceleration accommodate; the northbound lane would officially stack two cars, but could get four cars
- Increase/decrease of traffic on the island over the years
- How long the deceleration lane should be
- Concern that 3,000 square feet of conference facility would generate an increase of traffic

Mr. Patterson commented the issue of the deceleration lane had been raised for the first time in the staff report. He asked if there was a recommendation for a deceleration lane, that the Board allow them to work on it. He noted that if the project were approved, the applicant anticipated beginning construction in 2014 as timing was critical. Chair Bishop noted there was language proposed to address the deceleration lane.

The Board recessed from 10:34 am to 10:44 am to allow staff and the applicant to review the proposed language for new Condition 36.

Chair Bishop commented that when she received the agenda materials, she contacted staff who had informed her they had raised the issue of a deceleration lane with the applicant who responded no to the deceleration lane.

After reviewing proposed Condition 36, which read, *"Prior to issuance of a final certificate of occupancy, the applicant shall install a traffic deceleration lane for southbound vehicles turning into the project entrance. Prior to construction of the deceleration lane, the applicant shall provide copies of the applications and approved permits from the Florida Department of Transportation to the Town,"* there was consensus to revise the condition to include the word 'tapered' after deceleration lane (deceleration/tapered lane).

Mr. Garner referred to where it stated, “applicant shall *install*,” and questioned whether it should state, “complete.” He commented as long as it was underway and permits were issued for construction, he would not wish to delay their project. Mr. Patterson responded he had been informed by the engineer that if the applicant was able to obtain a permit for the lane, there would not be a problem with completing it by the time the building was completed. However, both the civil engineer and traffic engineer cautioned that it was a state road and whatever was done would have to be approved by FDOT. FDOT could deny installation of a lane, which was the reason the applicant did not wish to have the project dependent upon installing a lane. He recommended the condition be modified to state at the beginning, “*If approved by FDOT,...*”. Attorney Fernandez commented that the Board could include the language suggested by Mr. Patterson to make it firm. Mr. Patterson noted the cost of adding a deceleration lane ranged from \$50,000 to \$150,000, or could be possibly more depending on the site conditions.

Discussion ensued on if condominiums were removed as a use from T-6 zoning, that the Town would be sued for loss of right; requesting the applicant agree not to sue if the zoning ordinance were changed to provide a pure tourism zone; if staff was clarifying ‘tourist use’ in the definitions; that the code changes would clarify the use and referred to Condition 2; and, that a condominium was both a ‘use’ and a ‘financial arrangement,’ where the applicant could raise money for the hotel by selling units. Ms. Ray noted the tourism use was strictly for someone renting a room per night regardless of the ownership arrangement.

Andy Berger, vice president of Ocean Properties, noted the process had begun four years ago; they were hotel developers and did not develop condominiums; that the market was currently coming back and tourism was doing well in Florida; and, the project had been in development for some time. They were spending \$30,000,000 to build the resort. Mr. Daly referred to an ownership interest information chart noting that Ocean Properties was not showing on the chart. Mr. Patterson reviewed the chart. Mr. Daly asked if Ocean Properties would operate and manage the facilities. Mr. Patterson responded the company would enter into a management agreement with OpRock. He also noted for the record that the additional condition, as submitted by staff, was acceptable to the applicant.

Larry Grossman, St. Judes Drive, voiced opposition to the deceleration lane, especially as a bicyclist. He believed the lane would interfere with access to other driveways, and pointed out that the board and the applicant did not have jurisdiction over the road. He also discussed the easement/beach access for Windward Bay noting there were no sidewalks and the access was in poor condition. He questioned who owned the easement as an easement agreement should be executed between the owner and the Town so the appropriate person was responsible for maintenance and liability.

Gene Jaleski, Cedar Street, discussed that in 2008 the referendum approved the replacement of lost tourist capacity. He believed the Town should not move forward with the application until they determined how much tourism was lost.

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

**MR. HIXON MOVED TO RECOMMEND APPROVAL OF THE SITE PLAN AMENDMENT APPLICATION FOR THE LONGBOAT KEY HILTON HOTEL SUBJECT TO THE CONDITIONS AS OUTLINED IN THE STAFF REPORT, AND ALSO WITH THE ADDITION OF A NEW CONDITION 36, WHICH READS: "SUBJECT TO THE APPROVAL OF THE FLORIDA DEPARTMENT OF TRANSPORTATION, AND PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY, THE APPLICANT SHALL INSTALL A TRAFFIC DECELERATION LANE FOR SOUTHBOUND VEHICLES TURNING INTO THE PROJECT ENTRANCE. PRIOR TO CONSTRUCTION OF THE DECELERATION LANE, THE APPLICANT SHALL PROVIDE COPIES OF THE APPLICATIONS AND APPROVED PERMITS FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION TO THE TOWN." MR. GARNER SECONDED THE MOTION.**

Chair Bishop asked if Mr. Hixon and Mr. Garner would accept a friendly amendment to Condition 36 to add the word 'tapered' after 'deceleration'. Mr. Hixon and Mr. Garner accepted the amendment.

Discussion ensued on the following:

- Mr. Jaleski's comments and that the Town was trying to approve a legitimate short-term rental arrangement
- The need for additional code enforcement to avoid the personal rentals
- That the project would be a great asset to Longboat Key
- That Condition 36 was still ambiguous, and the first and second sentence were not consistent
- That the Hilton Hotel was the only full service public hotel on the island
- Concern with Condition 36, as a bicyclist, but others had no problem as long as the lane was well marked
- That with the deceleration lane, it would not be creating traffic, but was trying to control it; the right turn already exists, and they would only be creating a method to assist the turning
- Support for the motion, with the condition, as it was believed it would also provide an opportunity for the development of the properties to the south

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

AGENDA ITEM 3  
CONSENT AGENDA

**MR. WILD MOVED APPROVAL OF THE MINUTES OF THE NOVEMBER 19, 2013, MEETING AND SETTING THE FUTURE MEETING DATE FOR JANUARY 21, 2014. MR. HIXON SECONDED THE MOTION.**

Mr. Aitken commented that at the end of the previous meeting there was an update on softening the impact of the flood insurance regulations. He believed there was some effort on behalf of Congressman Buchanan to turn the rule into a study. Chair Bishop

responded the Town would request an update from his office, and if provided, an update would be provided to the Board.

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

The January 21, 2014, meeting would begin at 8:30 AM due to a conflict with the Town Commission Regular Workshop.

#### ADJOURNMENT

The meeting was adjourned at 11:25 AM

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John Wild, Secretary  
Planning and Zoning Board