

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

MARCH 17, 2015

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

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

Also Present: Maggie Mooney-Portale, Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Steve Schield, Planner; Maika Arnold, Planner; Donna Chipman, Office Manager

PUBLIC TO BE HEARD
Opportunity for Public to Address Planning and Zoning Board

No one wished to address the board.

AGENDA ITEM 1
ORDINANCE 2015-11, AMENDING VARIOUS SECTIONS OF THE TOWN CODE

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning, & Building Director, commented the ordinance was a lot to digest and wished to make the board aware staff realized it would not move forward today. She suggested they discuss the ordinance and move it forward to the March 31st workshop for further discussion. Staff wished to afford the board the time and opportunity to provide input and formulate the ordinance.

Jerry Murphy, Florida Resilient Communities, provided an overview of the ordinance noting:

- staff attempted to identify all the areas within the current code that addressed nonconformities to see if there was a need to change
- some of the language was 'cleaned up'
- The focus was on Sections 158.138, 158.139 and 158.140, that addressed nonconformities as they stand today
- Trying to work toward conforming the non-conforming properties, and code amendments in the past were to provide opportunity for nonconformities to rebuild and those opportunities had not been utilized by property owners because opportunities were not great

- Resulted in formerly commercial properties rezoning into single-family and multi-family residential
- Have eliminated those provisions that provided, for example, a ten foot setback, and instead developed a new Chapter 161, which provided more generic non-conforming provisions
- When done with the process and have either a Planned Unit Development (PUD) option, 'opportunity areas', or specific zoning categories, there should be very few non-conforming properties

Mr. Garner commented the entire concept was flawed and the opportunity to write a code or law that addresses every conceivable option was wasting the board's time. He has been in the business of building development, and the situations that arise were varied, and will change, so everything done today would not be viable tomorrow. The Board really needs to sit down and try to address where they were going and what they were trying to achieve. Chair Hixon noted that Mr. Garner brought out important points regarding predictability and non-predictability, which went directly to how to analyze what was stable and what had potential. Mr. Schneier had spent time reviewing the proposed ordinance against the current land development code and voiced two concerns: 1) he believed the board had changed the Comprehensive Plan to make it easier to redevelop property, either destroyed or involuntarily disassembled; and 2) there were rules requiring people, who have non-conforming sites, to seek approval for those non-conforming characteristics to continue under a variety of circumstances. He believed it was making it more of a burden for property owners.

Mr. Murphy responded there was a new provision for certification of non-conforming properties. Staff was looking at the long term, in terms of the majority of non-conforming properties have been conformed, and this would be the remaining non-conforming properties. It did place the burden on the property owner to identify that the property was non-conforming and to seek certification for those nonconformities. He mentioned that as the code exists now, there were a lot of criteria for non-conforming properties to redevelop, but there was no way to identify whether or not the property was non-conforming. Chair Hixon asked why there was a need to seek certification when the property would exist until they decided to do something different. He commented at some point they would submit an application at which time it would be determined if they were conforming.

Mr. Garner pointed out that if the property was destroyed, the circumstances would change. The Town had a code in place for addressing properties after a disaster, and they could submit to rebuild what was existing. Mr. Murphy responded the property owner would be required to demonstrate what was existing. Ms. Bishop commented that Mr. Murphy had asked if the board wished to review the ordinance page-by-page, or review the overall policy on the direction the board believes the Town should be moving toward; clearly the board needs to be reviewing the overall policy and making those decisions, because they might, in fact, not have much here to work with.

Mr. Symanski believed in a post disaster situation a problem could be they could rebuild a 'cube,' but not necessarily rebuild the units, and according to staff's memo, no one was going to rebuild the same number of units in the same 'cube,' because they were

not modern facilities. He objected to the memo implying the electors, who voted on the referendum, had the intent of rebuilding the same number of units regardless of size. He objected as he believed the memo implied that the intent did not follow the referendum.

Chair Hixon commented the same density may not be what they were really looking at, because for the 1970s condominium units that were too small, and that the Town thought would be positive if reconstructed, would not reconstruct unless the Town had provided some type of benefit, such as an increase of density. He did not see how a condominium board would consider tearing down and rebuilding. Mr. Murphy explained it was his understanding the Town Commission direction was to allow for additional incentives for redevelopment. He commented the limited opportunities that were based on the referendum, and then made part of the code, were not as effective as they were thought to be and so the opportunity now exists to eliminate those to provide for a more generic non-conforming provision to address what will remain as non-conforming properties when the comprehensive plan and land development code were amended to provide for however those incentives were going to be employed; the board was not at that point.

Discussion ensued on the following:

- If stating the Town Commission direction was to build modern units at the same density, or add density and allow reconstruction to modern standards
- The belief that the Town Commission direction was to explore the opportunity to allow for additional density where it was appropriate in terms of neighborhood characteristics and what was existing on the ground
- Need to look at density for hotel units versus residential units separately, because the density for motel rooms was significantly different than the density for residential units
- recalled that the board discussion was that rebuilding tourism units and condominium units was to provide incentives through increasing the 'cube', but did not recall an incentive for increasing density, other than the additional 250 tourism units
- the proposed ordinance did not include density increases, because there was no policy in the Comprehensive Plan to direct
- confusion with the use of the term 'incentives'; was staff expecting to depart from existing codes

Ms. Ray explained based on the history of the code, the current provisions did not work. A unit that was involuntarily destroyed could build the same number of units in the existing 'cube;' however, there were no provisions to address voluntary rebuild. Chair Hixon noted the motivation back then was to address involuntarily and not the voluntary. Mr. Garner believed the incentives would be height or footprint. Ms. Ray responded under the current code they could not. There were some properties that have more open space than required, but they still could not expand the footprint. She noted staff was attempting to address those few properties that would be non-conforming for a setback, open space, or lot coverage. The density issue would be addressed in a new zoning / land use category.

Mr. Symanski questioned how the board gets from many non-conforming properties to only a few. Ms. Ray suggested the board might wish to place the ordinance on hold, continue to Agenda Item 2, Comprehensive Plan Amendments, which address the categories, and bring back the ordinance for discussion at their March 31, 2015 special workshop. Mr. Symanski voiced concern with having something become conforming without looking at it. Ms. Ray commented staff would be looking at on an individual basis.

Mr. Murphy asked to defer discussion of Ordinance 2015-11 until the end of the meeting to determine, after reviewing Ordinance 2015-10, whether the board wished to continue the discussion to the March 31, 2015, special workshop.

Mr. Schneier commented that as the board was discussing incentives, it was his belief that unless they had material incentives to rebuild, it was going to decay. He recognized the need to 'stage' this project. He asked if the board moved forward with this ordinance, were there examples on how this would work. Ms. Ray explained staff would not carry the ordinance through for adoption until the other portions of the code were revised.

Mr. Aitken asked if staff had heard from parties that would be affected; would they like to do something with their properties. Ms. Ray noted that an example was the Spanish Main Yacht Club, who has gone as far as hiring an engineer and architect, along with a surveyor. They wish to utilize new codes as they believe they could not rebuild the number of units they had existing in any financial way possible. The complex wishes to rebuild in a way that made economical sense and to ensure that everyone that currently owned a unit still had a unit. They were asking for a different configuration and were very interested in the concepts and the direction of the Town as it would be beneficial to them. She mentioned staff had talked with other property owners who were considering doing the same thing as Spanish Main.

MS. BISHOP MADE A MOTION TO TABLE DISCUSSION OF ORDINANCE 2015-11 UNTIL THE BOARD MOVED FORWARD WITH DISCUSSION OF ORDINANCE 2015-10. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, NO; WILD, AYE.

AGENDA ITEM 2
ORDINANCE 2015-10, COMPREHENSIVE PLAN AMENDMENTS, FUTURE LAND
USE ELEMENT

Pursuant to published notice, the public hearing was opened.

Jerry Murphy, Florida Resilient Communities, reviewed the ordinance noting:

- This was the change to the Comprehensive Plan that staff indicated was following the changes to Policies 1.1.5 and 1.1.6
- Looking at changing Policy 1.1.10, which provides the density limitations that exist and the Comprehensive Plan Land Use categories that were existing

- The language changes will “empower” the changes that were provided in Table 1
- Divided the table into two new categories – ‘Stability Areas’ that encompass all of the existing categories, but for the Open Space header, which would be a new ‘Opportunity Area’ category, as well as some general ‘Opportunity’ areas that coincide with the remaining Future Land Use categories, but at a higher level and in a more generic sense
- Would allow staff to go to the Future Land Use Map and identify areas with non-conforming properties, or density, and indicate those as potential ‘Opportunity’ areas. The discussion would then be with the P&Z Board and the Town Commission whether or not they want to provide the opportunity for those properties to elect into or opt out of being changed into a new designation.

Chair Hixon questioned the category for ‘Commercial Tourist’ and whether it allowed tourist units over Publix or the Center Shoppes, etc. Mr. Murphy explained ‘Commercial Tourist’ was properties that were directed toward the tourism community, such as smaller hotels, but placing units over Publix or the Centre Shoppes would be a policy decision that the Board would recommend. There was a potential to allow that type of facility. Chair Hixon noted that they would have to provide beach access and could not expect a tourist to cut through developed properties across the street, because it would adversely impact those properties. Mr. Murphy commented those criteria would be provided in the land development code. Mr. Aitken believed they would also need to provide parking. Mr. Hackett noted that one opportunity area that had not been discussed was the overlay district for the Town Center. Mr. Murphy responded the format was merely empowering the terminology and what gets designated would be an exercise in the Future Land Use Map.

Ms. Bishop commented the Board was discussing land use regulations and zoning and not discussing the Comprehensive Plan language in the ordinance that was presented to them. Chair Hixon voiced concern with the terms being discussing and how they were reasonably applied. Mr. Schneier believed it was difficult to discuss this without a map. He believed opportunity zones were areas right for potential change and some were not. He discussed the Publix shopping center as an example.

Mr. Symanski referred to the second ‘Whereas’ clause and questioned its intent. Mr. Murphy explained they were just providing the opportunity to be open to that; the Charter required a referendum for changes in density. Discussion continued on the referendum and Charter. Mr. Murphy noted the idea of amending the Charter was not taken off the table and was still under consideration. Mr. Hackett questioned whether a Charter amendment required a referendum. Mr. Murphy replied yes.

Mr. Murphy discussed that a ‘Stability Area’ would be a subdivision that had been platted and developed in a residential character and had no potential in the future but to be a residential subdivision. An ‘Opportunity Area’ could be an area that had older, unsuccessful retail shopping areas that needed additional incentives to make economically viable.

Mr. Aitken noted there were a lot of R-4SF areas on the Zoning Map and pointed out they enjoyed protection from single-family homes only; however, Exhibit ‘A’ showed

RM-4 Stability Area, which would incorporate multi-family homes. Mr. Murphy explained the Zoning Map was an implementation of the Future Land Use Map, so the categories were somewhat different; that area would be RL-2 areas, which were low density.

Ms. Bishop recommended a consensus of whether the Board was interested in accepting Exhibit 'A' as part of the plan discussion. There was no consensus. Chair Hixon asked if the Board wished to defer their discussion to the March 31, 2015, special workshop agenda.

Mr. Garner agreed if the Board wished to explore and identify all properties on Longboat Key into two categories, he could be influenced that within those two categories they would be covering all and every eventuality or probability that may exist on the island. He commented whether the identification was in front of us was problematic; staff needs to expand on the identifications to convince the board. Mr. Schneier referred to Table 1 and assumed it took the major categories, and with each major category, added an 'Opportunity Area;' staff was not deleting anything, but only adding the new area. Mr. Symanski was not comfortable with what it meant; he did not agree with some of the 'Whereas' clauses and voiced concern with staff's cover memo.

MR. GARNER MOVED THE P&Z BOARD CONTINUE DISCUSSION OF ORDINANCE 2015-10 TO THE MARCH 31, 2015, PLANNING AND ZONING BOARD SPECIAL WORKSHOP. MR. AITKEN SECONDED THE MOTION.

Mr. Murphy noted he was unclear of the board's direction and did not understand what they wanted to change. Mr. Schneier believed it was acceptable to pursue the idea of taking our current land development, or Comprehensive Plan categories, and adding to each major category, an 'Opportunity' district as a way to proceed forward without any more detail. Mr. Aitken reviewed Table 1 and noted that it looked as if the single-family areas, where the density was 3, 4 or 6 dwelling units per acre, became RM-3, which were mixed and included multi-family. Mr. Murphy explained those areas remain as they existed with no change. The additional category provides to identify areas that were non-conforming, that have more opportunities to redevelop as it currently exists, and designate that as an 'Opportunity Area.' There was no intent to change anything that was existing and stable.

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2015-10 AS PROPOSED.

Mr. Garner commented he did not understand the extent of the new designations and needed more input as to what the designations would include, how they would modify what existed, and their impact on the future of Longboat Key.

Ms. Ray explained the table changes nothing concerning the designation that was currently on the property (Future Land Use designation), and did not move any properties into the 'Stability' or 'Opportunity' areas. The purpose was to provide a new framework that could identify a property that was right for redevelopment, which would give the property owner the option of moving into those areas, and the Land Development Regulations (LDRs) would provide incentives for redevelopment. Mr.

Garner noted the intent was to provide changes; however, he did not like the title 'Opportunity Area,' because it implied the owner was getting something more than they would normally get. Mr. Ray responded staff could change the titles. Mr. Garner asked how one category could embrace all.

Discussion ensued on:

- The 'Stability Area' would not change the current zoning, and 'Opportunity Areas' would be at the option of the owner
- Spanish Main and if they were the only property that wished to take advantage of the 'Opportunity Area;' in theory, they could be the only site on the island wishing to go from a 'Stability Area' to an 'Opportunity Area' to allow them to do something different with their property
- Concern that the board continued to confuse what was done by the Comprehensive Plan as opposed to Land Development Code; they would not be 'spot' zoning, and if the board did not like a word that was used, then they should suggest a revision
- Suggestion to use the word 'flexibility'
- The possibility of a developer buying a large amount of single-family properties, and requesting to be in an 'Opportunity Area' so they could turn into multi-family units in a single family area; it would be possible to request, but whether or not it was approved would be by recommendation by the P&Z Board and approval by the Town Commission

Mr. Symanski voiced concern with the sixth 'Whereas' clause that included language, which stated, "*amending the Comprehensive Plan and regulations to effectuate the will of the electors.*" He did not believe it was correct. Mr. Murphy responded the ordinance did not allow any expansion, and suggested the board strike the language.

There was consensus to delete the language, "to effectuate the will of the electors," after 'regulations' in the sixth Whereas clause of Ordinance 2015-10.

Mr. Garner withdrew his motion and Mr. Aitken withdrew his second.

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2015-10 WITH THE SUGGESTED AMENDMENTS TO THE 'WHEREAS' CLAUSE. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, NO; BISHOP, AYE; GARNER, AYE; HACKETT, AYE; HIXON, NO; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.

Referring back to Agenda Item 1:

Mr. Murphy noted that Ordinance 2015-11 would be forwarded for discussion to the March 31, 2015, P&Z Board Special Workshop beginning at 9:00 AM.

MR. SCHNEIER MOVED THE P&Z BOARD FORWARD ORDINANCE 2015-11 TO THE MARCH 31, 2015, P&Z BOARD SPECIAL WORKSHOP BEGINNING AT 9:00 AM. MS. BISHOP SECONDED THE MOTION.

Mr. Symanski questioned the Spanish Main redevelopment proposal and asked if they needed an amendment which allowed the 'cube' to be increased to build modern units. Ms. Ray responded they wished to retain the same number of units, have higher ceilings, possibly two stories, and in order to do that, they would need a planned unit development (PUD) process, which currently they were unable to do under current codes.

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

CONSENT AGENDA

MS. BISHOP MOVED TO REMOVE APPROVAL OF THE FUTURE MEETING DATE FROM THE CONSENT AGENDA. MR. WILD SECONDED. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.

Ms. Ray pointed out the regular April meeting was scheduled for April 21, 2015, which did not provide sufficient time between that meeting and a workshop on April 30th for staff to provide materials to the board. Attorney Mooney-Portale suggested to the extent there were matters that needed input, the board workshop the changes first, and then bring them back as an ordinance, so that the document would be in draft form in order to incorporate comments before forwarding to the Town Commission.

MS. BISHOP MOVED THE P&Z BOARD ESTABLISH MARCH 31, 2015; MAY 5, 2015; AND JUNE 30, 2015 AS WORKSHOP SESSIONS FOR THE BOARD. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; GARNER, AYE; HACKETT, AYE; HIXON, AYE; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.

STAFF UPDATE

There were no staff updates.

ADJOURNMENT

The meeting was adjourned at 10:55 a.m.

John Wild, Secretary
Planning and Zoning Board