

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

SEPTEMBER 20, 2016

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

Members Present: Chair Jim Brown; Vice Chair BJ Bishop; Secretary Ken Schneier; Members Leonard Garner, Stephen Madva, George Symanski, Mike Haycock

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

AGENDA ITEM 1
SWEARING IN OF NEW MEMBER

Jo Ann Mixon, Deputy Town Clerk, swore new member Mike Haycock.

Maggie Mooney-Portale, Town Attorney, gave a brief overview of the Sunshine Law, Public Records Laws, and other regulations that the Board were required to follow.

AGENDA ITEM 2
PUBLIC TO BE HEARD
Opportunity for Public to Address Planning and Zoning Board

No one wished to address the board.

AGENDA ITEM 3
CONSENT AGENDA

**THE FUTURE MEETING DATE WAS SCHEDULED FOR OCTOBER 18, 2016
REGULAR MEETING.**

PUBLIC HEARINGS

Agenda Item 4 Chase Bank, 545 Bay Isles Parkway Site Plan Amendment Quasi-Judicial

Pursuant to published notice, the public hearing was opened.

Maggie Mooney-Portale, Town Attorney, questioned if any board member had any Ex Parte communications or conflicts of interest with the application. None were noted.

All those providing testimony were sworn at this time.

Steve Schield, Planner, reviewed the staff report noting:

- The property involved redevelopment of Parcel 'A' of Bay Isles
- The original site plan approval was in 2012, which resulted in the rebuilding of the entire center
- The site was .87 acres and had been vacant for some time; it was an out-parcel shown on the original site plan as 'future office building'
- There was a clause included in the original Planned Unit Development (PUD) approval that subsequent amendments would go to the Town Commission with a recommendation from the Planning and Zoning Board
- The property was currently a vacant lot, located at 545 Bay Isles Parkway; each individual parcel and/or shops have separate addresses
- The proposal was for a 3,113 square foot bank building, two teller drive-thru lanes and 34 parking spaces
- The existing buffer would be extended a short distance for the bank building
- The proposed architectural style compliments the existing buildings
- The majority of the existing trees were being preserved; the same landscape architect for the original plan was being used for this application
- The site will utilize the existing egress/ingress points to the shopping center
- The applicant will be providing 34 parking spaces with two handicap spaces; they were only required to have 11 spaces

Mr. Schield continued with reviewing the PowerPoint presentation.

Mr. Schneier asked if shoppers will be able to use spaces at the bank. Mr. Schield responded there was perimeter parking all around the site, as well as spaces interior to the site. He believed the spaces on the bank site would be limited to banking customers. He continued with reviewing the walkway connection to the restaurant and shopping, and the connection to Bay Isles Parkway.

Matthew Campo, Campo Engineering, representing the applicant, reviewed the original site plan that showed the building on those plans, but was referenced as 'retail /office'.

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

MS. BISHOP MADE A MOTION TO RECOMMEND APPROVAL OF RESOLUTION 2016-19, SITE PLAN AMENDMENT APPROVAL FOR CHASE BANK. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

Agenda Item 5

Ordinance 2016-09, Comprehensive Plan Amendments
(Continued from the June 21, 2016 meeting)

Chair Brown commented that during the last meeting there was lengthy discussion of the issues being reviewed, in particular because the board was discussing the PUDs, and they tried to set the direction they wished to go. He has since had discussions with the Mayor, Town Attorney and staff of where he saw the Town going. He mentioned that during the last meeting the board provided most of the discussion, and he would like to see staff and the consultant have an opportunity to present the materials first and then the board would hold their discussion.

Ms. Ray explained that staff was working on formatting cleanup, and due to staff being out, they were not ready to present for final recommendation. She noted that the amendments did not include the Future Land Use Element (FLUE) as that portion of the Comprehensive Plan has not been rewritten at this time.

MS. BISHOP MADE A MOTION TO POSTPONE DISCUSSION OF ORDINANCE 2016-09, COMPREHENSIVE PLAN AMENDMENTS, UNTIL THE OCTOBER MEETING. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

Agenda Item 6

Draft Zoning Code – PUD District addressing Non-conforming Properties
and Mixed Use Properties

Mr. Symanski asked for clarification of the elements that had been adopted and the Future Land Use Element. Ms. Ray explained the board adopted 'Opportunity Areas' in 2015 and added the categories to the Comprehensive Plan as new Future Land Use (FLU) categories. The full rewrite of the FLU Element has not been done; staff will review, reformat, and put it into a more usable state. In the process of reviewing the Land Development Codes, there might be other updates that need to be made to the FLU Element, which was the reason why staff had held back on the full rewrite.

Mr. Symanski voiced concern with the board adopting the PUD, and then someone coming in the next day and applying for a PUD. He would like to know what the plan was so when the PUD was submitted, what was it measured against. Ms. Ray responded that the discussion will include the eligibility criteria for a property becoming a PUD and 'Opportunity Area.' Chair Brown requested that the Board allow staff and

the consultant to make their presentation and determine whether they have addressed the issues that were discussed. The Board would not be forwarding anything to the Town Commission until they were satisfied with what was being presented. Mr. Garner believed it should be addressed as a whole, and not in parts, because everything being discussed was “interfaced and interlocked.”

Chair Brown commented that he believed some of the terminology was confusing people. He referred to the ‘Opportunity Areas’ and noted he was unaware where the term came from, and had never heard of it or how it applied. Ms. Ray explained the ‘Opportunity Areas’ were discussed at length in early 2015 and were intended as Future Land Use (FLU) categories for properties that the Town would like to see redeveloped, such as older properties, or those properties that might be over their density and need to be redeveloped to become conforming. She mentioned that both the P&Z Board and Town Commission had a lot of discussions on what to refer to the categories as, and ‘Opportunity Areas’ was one of the suggestions. The ‘Established Areas’ were those areas that were not likely to redevelop.

Discussion followed on:

- What would be developed; how did the Town provide a guide to maintain the historic mix (enough tourism, but not too much)
- One of the problems with the tourism district, which had been that way since the 1970s, was it allowed, by right, multi-family, so a hotel could be demolished and in its place could build condominiums
- Whether the Board should establish a PUD-Tourism District and a PUD-Multi-Family District; the remainder of the 250 tourism units could only be applied for if they submitted for a PUD-Tourism
- The possibility of establishing sub-categories under the PUD
- If someone wished to submit for a PUD, they would have to request a change on their Comprehensive Plan FLU designation into an ‘Opportunity Area’
- The ‘Opportunity Area’ in the FLUE did not have multi-family by right; the uses were established by the Board and Town Commission, and if they did not want multi-family on that property, then they could prohibit that in a PUD for that property
- Going back to the 1970s, there was a movement to eliminate commercial on the key, but that had changed and there was a realization there was a need for balance – not so much commercial, but needed services

Ms. Ray continued with reviewing a PowerPoint presentation noting staff had received direction to provide a code of PUD zoning districts that allowed properties that were non-conforming for density to redevelop at their existing density and become conforming; to provide a method or methods to request additional density for properties that wished to develop under a PUD; to allow redevelopment to utilize unique and flexible design parameters; and, also provide a method for properties that were non-conforming for density, that might not want to redevelop, to become conforming. Chair Brown referred to item 4 on slide 2, which discussed a condominium development that wished to be conforming but not redevelop (they were legal when built, but the Town made them non-conforming due to changes in the Town Codes), and asked why that

process could not be approved administratively. Ms. Ray explained that if it was processed as a zoning district, it had to be heard at a public hearing. Attorney Mooney-Portale pointed out that under state law, for rezoning, they were required to provide due process; however, she mentioned there might be ways to streamline the process.

Mr. Garner commented currently there was a conflict between existing facilities and new facilities, and as was pointed out, there were certain things in the codes that would overlap. He believed the existing non-conformity is an issue that needs to be addressed on its own, and using as a PUD district would only add to the complexity. Ms. Ray responded this PUD was designed specifically for redevelopment of those properties that were currently non-conforming for density.

Discussion ensued on:

- During the August meeting, discussion was held on making properties conform as much as possible, but there was a concern with allowing properties that did not wish to redevelop being allowed to maintain the non-conformity
- That if someone did not want to redevelop, but wished to become conforming, they would be considered for the PUD-SP (Special Purpose) district, which was specifically for those properties that did not wish to redevelop, but it would declare them conforming; their development regulations were written to what currently existed on the site
- If years later a property wished to redevelop, it would be considered a rezoning, and they would be allowed to go into a regular PUD; their land development regulations would be written at that point
- what would they be measured against if they were considered conforming; going into a new PUD they could possibly have setback reduced
- PUDs allow maximum flexibility for boards and commission to design a project based on surrounding properties and best interest of community

Concerning the 'SP' idea, Mr. Schneier believed when the discussion took place a year ago, there was a consensus there would be an option for non-conforming properties to get their non-conformities 'blessed' if they did not wish to change their project at the moment. He commented that someone had asked if it could be done administratively, which it could not because it involved a zoning change, and the next question was how simple would it be to make the zoning change for someone that wished to only get their current zoning 'blessed.' Ms. Ray explained it could be streamlined and made less detailed. Attorney Mooney-Portale cautioned the board on using site specific locations; they could discuss zoning districts and non-conformities, but not specific sites.

Ms. Ray continued with reviewing the PowerPoint and the eligibility criteria (slides 3 and 4). Mr. Symanski questioned what was meant by restraining flexibility. Ms. Ray explained that during the previous meeting concern was expressed on the PUD being too flexible; the board requested additional standards. Mr. Symanski asked why they did not just establish a PUD, which could also be used for this; why was it limited to redevelopment of nonconformities. Ms. Ray responded that was the direction from the Board from the August meeting. Chair Brown discussed he could only recall three sites on the key that had never been developed, and they were small commercial sites; they

had not been developed, because commercial does not thrive on the key. He believed the board was only discussing redevelopment of existing sites, and most were probably going to redevelop the way they existed. Ms. Ray noted anyone could ask to go into a PUD, and during the August meeting, a lot of concerns were raised towards restricting it, which was the reason staff brought the criteria forward. Chair Brown discussed smaller tourism units that were zoned residential, pointing out that on the Sarasota County portion of the key a number of the properties were already PUDs; but there were properties on the Manatee County portion that were zoned residential, but used as tourism. He commented the board was trying to make it so it was not difficult to redevelop and allow them flexibility and creativity. He recalled the concern was about the uses on the site, such as mixed use; adding residential with tourism on the same site. Mr. Haycock asked would the board not want new property/new development to comply with current zoning laws, and was there not a variance process to change that. Ms. Ray explained if someone was zoned tourism, commercial, or residential now, and that was what they wished to redevelop as, and they had the ability to comply with the codes, trying to change the future land use and zoning was an onerous process.

Mr. Schneier believed the consensus was to have the PUD apply only to redevelopment. He commented that an owner would need to apply to be placed in an 'Opportunity Area.' He asked how will they appear on the zoning map and FLU map. Ms. Ray noted they would show with existing zoning. Chair Brown asked if they should set minimum lot sizes or thresholds for a PUD. Ms. Ray responded she has seen various minimum sizes as it depended on the jurisdiction. This PUD was intended to allow the potential for mixed uses. Discussion ensued on residential units on commercial, and they would have to go through the referendum process. Ms. Bishop discussed PUD acreage noting she disagreed with not having a minimum acreage for a PUD, but she also recognized that due to the size of the island, it should be a smaller acreage than most larger jurisdictions. Chair Brown believed a minimum should be imposed on smaller parcels, but if they combined with surrounding smaller parcels, then they could do. Mr. Garner commented he had not seen a PUD that was less than five acres. He believed it was confusing the issue trying to identify this as a PUD. He would like to isolate the issues over redevelopment from new development. Mr. Symanski agreed with Ms. Bishop's comments; they need to be careful in limiting the size so as to hinder smaller 'mom and pop' establishments from redeveloping as a PUD. Mr. Schneier asked if a property applied for an 'Opportunity Area,' would the next step be to become a PUD, or could they use that qualification to request a rezoning. Ms. Ray replied they would have to develop as a PUD.

The following was discussed:

- Whether a smaller hotel, who wished to redevelop as a hotel, and were zoned 'R', as opposed to 'T', would need to go through additional steps to be rezoned, or would they continue to be non-conforming
- Under the Voluntary Rebuild ordinance, they could demolish the units and rebuild the same size and number of units, but were confined to the same cubic content, existing setbacks, and height, which might not be economically viable for the owner

The board recessed from 10:30 am to 10:42 am

Ms. Ray asked if she was hearing a consensus that the Board did not want to place the restrictions, as far as eligibility, on a property and allow the owner to submit and then decide. Discussion continued with:

- If someone submitted for a PUD, there was a list of criteria that were automatically under consideration; this was supposed to provide the developer, and the community, the ability to develop something that might be unique and met the needs of the community
- Concern with the area of flexibility on the uses on a site; if there were tourism sites, and the Town had experienced the effects of losing those sites, then they did not want all tourism sites to become residential; would like to provide guidance to people not to do that
- Currently, in a tourism district, someone could take their tourism use and convert it to multi-family (they were allowed it by right for years); they were not required to do any tourism; however, under the PUD, they would first have to decide whether they wished to apply for the 'Opportunity Tourism Area,' 'Opportunity Multi-Family Area,' or 'Opportunity Commercial Area'
- If they applied for the 'Opportunity Tourism Area,' their principle use would be tourism
- The word 'principle' seemed to open up an area to place things that the Town might not want; there was an understanding there would be ancillary uses on a tourism site, but there was a question of whether up to 30 percent of the site could be residential
- Whether there should be a stipulation that stated if they wished to rezone into an 'Opportunity Tourism Area' and go into a PUD, they would be required to build at least as many tourism units as already existed, no less; if they wished to do any mixed use, that would be in addition, but they would be required to rebuild what existed
- Belief there was not a need for more residential in a tourism zone
- Unless have a definition of 'principle use' in the code, the percentages could be of concern; would like to find a way to preserve what they have and provide incentives to construct what existed
- Concern with Bert Harris Act, and it could be costly if the Town was taking away rights that were imbedded in that property interest
- If someone came in indicating they might want to construct residential, there were very low existing densities on the key; they could have residential, but they had to build at their existing density, and if they wished to do a PUD, then they would have to comply with the current tourism use

Attorney Mooney-Portale believed there were legally available incentives that were part of the presentation. Ms. Ray continued with reviewing slide 6 of the PowerPoint, which provided discussion on Mixes Uses: Criteria/Limitation Options.

Mr. Symanski wanted to ensure pure tourism in tourism districts. Chair Brown commented if they wished to do more units, then the additional density would have to become a PUD, and it had to be pure tourism. Ms. Ray noted the Board could review incentives, but as far as creating a special zone for only tourism and its uses, staff would need to review. There was discussion on the Vision Plan that was developed for the key and the direction that the Town wished to go. Ms. Ray explained the direction had always been to 'preserve the tourism.' She believed it could be done under the PUD easier than under the existing tourism zoning. She commented under the PUD, there could be a stipulation that states if the property was used for tourism, they must redevelop the same number of tourism units that were existing; if they wished to have additional density, then include the minimum had to be the existing number of units. Ms. Ray pointed out that when the Board had a joint meeting with the Town Commission, there was a lot of discussion as to whether they should have the ability to have mixed uses, and the discussion was raised for tourism properties as to whether there should be some flexibility to consider if the Town would allow any residential on those properties (combination of tourism and residential). There was a lot of discussion as to whether it was a justified, economic driver or not, and the final decision was the developer should be the one to decide. Chair Brown noted there were very few sites on the key that the Board would like to see mixed uses. Mr. Symanski commented he has been asking for a pure tourism zone with accessory uses (not condominiums or multi-family) for a long time. Mr. Schneier agreed with Chair Brown, but voiced concern if they limited the existing tourism use, would it eliminate the desire to redevelop those properties. Ms. Bishop agreed that the thing that was lost was the 250 units and how would they ensure bringing back the balance.

Luis Serna, Calvin, Giordano & Associates, explained their first report discussed replacing the units that existed before through incentivizing redevelopment. He believed he was hearing that the Board wished to incentivize tourism. Chair Brown responded the Board wished to incentivize the continuation of existing tourism. Mr. Serna commented they could write the code to require they maintain the number of existing units. Ms. Ray noted she was hearing that tourism could not have any residential. Mr. Symanski replied that was his feeling, but he would allow a caretaker unit. Attorney Mooney-Portale pointed out that it be clear that the questions were directed towards a tourism PUD and not to the existing tourism zoning districts that were in place at this time.

Ms. Ray requested clarification of whether the Board, if the applicant wished to add additional density, wanted that additional density to only be tourism and no residential. Chair Brown explained that if there was a project that currently had 100 tourism units, and the owner wished to redevelop under a PUD, if they requested additional units, they had to develop them as tourism; if they wished to develop as residential, then it would not be a PUD, but developed under the existing zoning, which would restrict the density.

Ms. Ray requested a consensus on the issue of potential additional density requests and the tourism/mixed use issue. She asked if the Board wished for staff to bring back incentives for pure tourism. Chair Brown asked for clarification of the words 'potential additional density.' Ms. Ray explained if a multi-family condominium project wished to redevelop, and in order to make it cost effective, they might need 'x' number of

additional units to help pay for it. She suggested building in some of the density guidance/limitation on how much they could ask for, such as basing it on the size of property, which was a good standard to go by.

There was consensus to go along with Ms. Ray's suggestion.

Discussion ensued on how staff would develop the limits with the Board discussing the following:

- Would it be imposed as a blanket limitation or by individual site
- Incentives could be provided based on property size
- Concern with the criteria creating problems; should not include guidelines that devoted to the size of the property, because the smaller properties might be the ones that could use the density
- Suggestion to state, "not to exceed ten units per acre," and it would be up to the Planning & Zoning Board and Town Commission to make the decision and determine whether it was compatible to the surrounding properties, the various site conditions, amount of open space, etc.

Steve Reid, Longboat Key News, addressed the Board concerning the process and the discussion of redeveloping a currently zoned tourism property.

Ms. Bishop informed the Board that former Mayor, and Planning & Zoning Board member, John Redgrave, passed away. His memorial service was scheduled at All Angels by the Sea Episcopal Church on September 24, 2016, at 11:00 AM with a reception following.

Ms. Bishop left the meeting at 11:48 AM.

Chair Brown commented there were so many conflicts and flaws in the current zoning code. Mr. Serna responded the greater work will be rewriting the entire zoning code section. Mr. Symanski disagreed with the requirement for a neighborhood information meeting and believed it should not be written in as a requirement. Concerning the height and lot coverage on Page 7, he read that it would allow adding three feet to the existing stories, which did not make sense to him. He suggested there be some standard. Chair Brown thought the Board had discussed that ten feet would be a good level.

Mr. Haycock asked what the Board would receive at the next meeting, and what information and decisions would be needed. Ms. Ray explained these types of issues, such as working through the code revisions, were typically brought to the Board in workshop format until the Board got to a point where they were comfortable in making an official recommendation to the Town Commission. Staff will bring proposed revisions to the Code based on the last conversation, along with a list of talking points with the options being reviewed. Mr. Haycock suggested staff list what items they wished to receive a consensus on.

NEW BUSINESS

No new business.

STAFF UPDATE

No staff update provided.

ADJOURNMENT

The meeting was adjourned at 11:56 PM

Ken Schneier, Secretary
Planning and Zoning Board