

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

OCTOBER 18, 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 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

Mr. Symanski referred to the September 20, 2016, Planning & Zoning Board minutes and pointed out that on page 7 the word 'principle' should be changed to 'principal.' He noted several places where it was misspelled.

MR. GARNER MOVED APPROVAL OF THE CONSENT AGENDA TO APPROVE THE MINUTES OF AUGUST 23, 2016 AND SEPTEMBER 20, 2016, AS AMENDED; AND SETTING THE FUTURE MEETING DATE FOR NOVEMBER 15, 2016. MRS. BISHOP SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

Agenda Item 4
Ordinance 2016-09, Comprehensive Plan Amendments

Pursuant to published notice, the public hearing was opened.

Maika Arnold, Planner, reviewed the proposed ordinance noting:

- a more user friendly plan that is easier to read, understand and apply
- policies in the Comprehensive Plan that remain essential to the Town are preserved, while any extraneous content is eliminated
- new format also delineates strategies for successfully implementing the goals, objectives, and policies
- at the last meeting, the Board decided to add language that stated, **“the Town will continue to collect fees for the Land Acquisition Fund until acreage and improvements/amenities are met”**
- also added language in Parks and Recreation, ROS Strategy 1.2.1.1, “The minimum Level of Service.... **will be measured by the number of facilities** and the following....’.

Mr. Symanski referred to page 2, Public Art, and commented that he believed they had discussed funds being allocated for art. Alaina Ray, Planning, Zoning & Building Director, responded they had decided on a general policy that would direct the Town on developing an art plan program; that was where the funding mechanism would be described. The Comprehensive Plan would only direct as to the development of a plan.

Mr. Haycock questioned where the Town stood on the 12 acres per 1,000 residents requirement. Ms. Arnold replied the Town was almost at that threshold, which was the reason to add the facilities, so the Town could collect funds to meet those number of facilities the Town has added to the plan. This was done every five (5) years, and the list included a mix of current facilities and those that they wish to have. Chair Brown pointed out that there were several parcels added to the acreage – Bayfront Park, the Town Center, and the property purchased at the north end of Bayfront. Mr. Haycock asked if this was a Comprehensive Plan of where the Town wished to go, knowing where they were today and what remained was important, and he wished to know where he could find the list. Ms. Ray noted that a number of municipalities have a parks master plan, but the Town did not have one. She was in discussions with the Public Works Director about possibly developing a plan for the Town.

Maggie Mooney-Portale, Town Attorney, reviewed the proposed ordinance pointing out several revisions: 1) language on Page 2 of 3, third ‘Whereas’ clause, include “the Town’s Planning and Zoning Board, as the local planning agency,”; and, 2) Ninth ‘Whereas’ clause should remove the date of September 20, 2016, and replace with October 18, 2016

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

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-09, AS AMENDED. 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 5
Draft Zoning Code – PUD District addressing Non-conforming Properties and Mixed Use Properties (Continued from the September 20, 2016 meeting)

Luis Serna, Calvin, Giordano & Associates, Inc., the Town's consultant, provided an overview of their presentation outlining:

- They would be addressing nonconforming properties with respect to density
- Addressing current redevelopment restrictions
- Providing a Planned Unit Development (PUD) zoning district
- The PUD section of the code has a lot of policy issues; might be some issues that were outside the scope of PUD and would need to be addressed in the main Comprehensive Plan
- direction from the joint meeting in 2015 with the Town Commission resulted in discussion on:
 - Allowing properties that are nonconforming for density to redevelop at their existing density and become conforming under a new PUD Zoning District
 - Provide methods to request additional density for properties that wish to redevelop under a PUD
 - Allow redevelopment to utilize creative and flexible design parameters
 - Provide method for properties that are nonconforming for density, but may not desire to redevelop, to become conforming
- The Town's Vision and Mission statements
- There were five issues that required direction from the P&Z Board:
 - Opportunity Areas – where should PUDs be allowed
 - Additional Density- as an incentive for redevelopment, should additional density above the current developed density be permitted
 - Additional Uses – should additional uses be permitted through the PUD process
 - Residential and Tourism Uses – should a mix of residential and tourism uses be permitted
 - Height – should increases in building height be permitted

Mr. Symanski asked if the Board was proceeding with a PUD ordinance before the Comprehensive Plan revisions were in place, and if so, he did not believe that made sense. Mr. Serna responded there were some issues that were larger, but he believed they could proceed with a PUD zoning code without addressing these, and the Town could address them later. However, if the P&Z board believed they should be addressed now, then they could be part of the recommendations. Mr. Symanski commented that if the Town adopted a PUD ordinance, someone could come in and apply, but the Town's plan would not be in proper shape. He voiced his concern with the use of the word 'dynamic' for 'dynamic redevelopment,' which he believed implied something the Town did not want. Mr. Serna explained that the applicant would need to

provide justification as part of the review and approval process when submitting an application for a PUD and a Comprehensive Plan amendment. Mr. Symanski noted he would not vote for a PUD ordinance until the Board addressed the “dynamic development” issue.

Chair Brown noted that he had met with staff and reviewed the presentation, and had also stated what Mr. Symanski mentioned. The Town Manager had agreed that using the word ‘dynamic’ redevelopment was out of context for Longboat Key; the Town was in redevelopment. He pointed out there were other words used in the documents that were continuing to trouble everyone on the Board, including the term ‘Opportunity Areas,’ and commented that the Board should discuss the words used to describe the various areas. He would like to replace ‘Opportunity Areas’ with ‘Revitalization.’ Chair Brown also pointed out that while the consultant had referenced items from the Urban Land Institute (ULI) Report, they were not all agreed to – one of the items was relaxing the 30-day tourism rental restriction. Mr. Serna recognized that and also recognized that between the Town’s Vision Plan and ULI Report there would be conflicts.

Mr. Garner referred to the PUD title and commented that the idea of a PUD was for existing unusual properties to lend themselves to some innovative suggestions by a developer. He noted that there was a need to identify what the Town was trying to accomplish in much better language than what was presented; there was a need for more specificity. The Board was discussing properties that were developed prior to the 1984 zoning change, and which were aging, and were properties that the Town wished to encourage to maintain and do what was necessary economically and aesthetically. He did not see anything in the proposed code that encouraged that type of format.

Mr. Schneier believed a year ago there were meetings between the Town Commission and the P&Z Board that discussed how to proceed to provide flexibility for redevelopment of properties that were historically non-conforming. The P&Z staff and Commr. Younger provided a list of properties that were non-conforming, and the idea was to take those properties and rezone into new zoning districts, relative to their size and giving them additional flexibility; however, they decided that was not the best way to move forward, and the decision was to move away from that idea to a more general, potentially more flexible, methodology.

Mr. Symanski believed the Board was supposed to plan and provide direction on what they wished to see. Ms. Ray explained the idea that the Board was not doing any planning and were delegating it to the landowners was not correct. Staff have requested a number of times if the Board wished to develop criteria, to identify which properties were appropriate for the ‘Opportunity Areas’ based on various criteria, which was planning; there were three different types of Opportunity Areas (multi-family, straight tourism, and mixed use), and the Board could determine, on a planning basis, which properties were most appropriate for that. The PUD ordinance will not change the character of the island; it provided ample opportunity for the Board and Town Commission to safeguard that. She commented that she had reviewed the last several years of meetings and heard the words that were used to develop the terminology, such as: 1) keeping up with the current and future trends; 2) encouraging vibrant development, and, 3) redevelopment that had vitality and innovative/creative design to

keep up with the market and changes. PUDs were used everywhere, and there was plenty of opportunity in this for the Board to plan where these things go and establish the areas that were appropriate.

Mr. Serna commented there was a referendum process, but there was a list of policies that an applicant would have to first demonstrate compliance with. Mr. Haycock asked the Board whether they wished to review and decide whether they want to move in that direction. Chair Brown discussed the 250 tourism units noting the Board was trying to be careful on what they did, because of its future effect. He believed it should state they did not want to increase above the 250 units. Mr. Schneier agreed with Mr. Haycock and suggested the Board review the list and make a determination.

Item 1, slide 11 (Do not allow PUD zoning for new development):

Mr. Symanski commented he did not understand the concept of no PUD for new development, because a PUD was flexibility and provided a more innovative way to develop a site. He believed the Board was planning by 'ad-hoc' amendment; if someone wished to do a PUD, they would be required to apply for a FLU amendment. Mr. Serna responded it was not 'ad-hoc,' as the applicant would have to provide justification based on the Comprehensive Plan before the P&Z Board and Town Commission. Mr. Symanski noted it was a plan amendment each time the site wished to do a PUD. Mr. Serna commented the alternative was to review parcel-by-parcel and establish the zoning district and what could be done; the Town had used that before and decided it was not an appropriate process. He noted there were policies in place to review when someone applied for a FLU amendment; it was not automatic.

Ms. Bishop noted that she had reviewed the joint workshop minutes, along with the P&Z Board meeting minutes, and could not find where it stated they did not wish to allow PUD zoning for new development.

There was consensus to revise the direction and allow PUD zoning for new development.

Item 2, slide 11 (Require a Future Land Use Amendment to an Opportunity Area designation):

Chair Brown commented he would like to change that to 'Revitalization' area. Mr. Symanski voiced concern with requiring a plan amendment every time someone applied; the community needed to know what was planned. He mentioned with this process, the community would not find out what was happening until it went before the Town Commission, and they made a decision. Chair Brown pointed out there were a number of 'Mom and Pop' hotels on residentially-zoned land, and asked if Mr. Symanski was suggesting the Board go back and overlay what the Board thought those areas should be when they redevelop. Ms. Ray explained the Future Land Use Map (FLUM) that was adopted was what the community and the Town Commission said they wanted. She noted if a property owner wished to change that to something not on the FLUM, they would have to justify to the P&Z Board and Town Commission why that change was appropriate.

There was consensus to retain the policy recommendation, and the Board would address the specifics when it was presented to them.

Item 3 (Add criteria to encourage the protection or enhancement of scenic views and natural vistas):

No changes were recommended.

Item 4 (Encourage the preservation of existing or increase in the number of tourism units):

Ms. Bishop voiced concern with the language believing that increasing the number of tourism units left it “wide open.” Ms. Ray suggested revising the language to state, “preserve the existing tourism units,” and not include a hard number. Mr. Symanski noted that the Board might wish to revisit the issue, commenting that there could be language to reconsider and possibly draft guidelines. Mr. Garner pointed out this was not a Zoning Code; the language did not bind the Board to anything as it was only a guideline.

Mr. Schneier suggested language to state, “to encourage a balance of tourism and residential units sufficient to maintain services on the island”. Mr. Madva asked if there was a way of knowing how many tourists were on the island at any one time. Ms. Ray replied staff had the ability to know how many designated tourism units were on the island; a Business Tax Receipt (BTR) was required for any property that rented. She pointed out that every single-family home had the ability to rent their home out every 30 days, but staff was not sure if it was actually rented. There was no way to find the exact number of tourists on the island at any given time. Chair Brown commented the Town knew, with the online rental of homes, there had been a tremendous increase on Longboat Key. Ms. Ray responded that the state has placed severe restrictions on how municipalities can regulate tourism rentals. The Town could not revise their tourism code without risking the loss of all the regulations. Attorney Mooney-Portale explained that the Town was not making any amendments to their rental ordinance out of concern the Town would lose its grandfather status. The Florida law recognizes those short-term rental ordinances pre-dating 2011, which were grandfathered and could continue to be enforced; however, the City of Vero Beach has been in litigation with the state after they made a minor modification to their code after adoption of the state amendment.

Mr. Symanski suggested language to state, “encourage preservation of the historic balance.” He commented that this would restrict someone requesting additional density, because they would be above the historic balance.

There was consensus to include the language, “encourage preservation of the historic balance.”

Item 5 (Streamline the process for PUD-SP projects – existing projects that are not proposing redevelopment):

There was consensus to maintain this item.

Mr. Serna continued with reviewing slide 12, Item 1, Opportunity Areas. Discussion ensued on:

- Option 1 provided some degree of certainty of where such Opportunity Areas could be located; there was concern it could be overly restrictive and could remove the eligibility of certain sites for redevelopment through the PUD process
- The process someone would go through under Option 2 would require the applicant to demonstrate how the property was suitable for 'dynamic redevelopment,' consistent with the FLU policy, and the Comprehensive Plan
- That if one of the existing residential zoned sites were currently tourism, and they wished to build residential zoned condominiums, they could do it without a referendum, as long as they stayed with the zoning density allowed; if they wished to add density, then they would be required to go to referendum and request a FLU amendment
- The Bert Harris Act with the Town Attorney explaining that as long as the Town was not taking away what someone has, and as long as the Town provided options and encouraged something else on the site, it would be okay
- Clarification of the phrase 'dynamic redevelopment'
- That there was a need for further discussion of the Opportunity Areas and other terms used in the document
- What were the controls and bringing them in as criteria
- the need to bring the elements, such as heights, into the criteria
- justification for Option 2 was to place the burden on the applicant to convince the Town that it was the appropriate location

The Board recessed from 10:35 am – 10:47 am.

Chair Brown referred to the phrase 'Opportunity Areas,' commenting that he did not agree with the term, but he was open to hearing staff's argument; his suggestion would be to revise to 'revitalization areas'. Ms. Ray responded staff could review the possibility of making changes to the Comprehensive Plan to address those issues, but in the meantime, staff could add some language in the 'Intent' section of the PUD ordinance, which would 'flush out' that idea and provide some guidance as to what that meant. She noted it could be done in two parts: 1) move forward with the PUD ordinance without problems, but 'flush out', in the Intent section, the guidance surrounding that; and 2) bring forward a revision to the Comprehensive Plan that mirrors that guidance.

There was a concern with the word 'dynamic', and Ms. Ray commented staff could add language that addressed the definition and make it clear that 'dynamic' meant what was compatible to the island and its environment. Mr. Haycock pointed out that Chair Brown was wanting to change the word and not provide a definition. Ms. Ray explained the word was not part of the PUD ordinance, but part of the Comprehensive Plan that was already adopted. She pointed out that was the reason she mentioned it could be done in two parts. Ms. Bishop questioned if staff was bringing back the definition of 'dynamic' and what it implied, or were they going to provide other phrases for consideration. Ms. Ray responded staff will provide the ability to do both. Mr. Schneier suggested changing 'Opportunity Area' to 'Revitalization Area,' and remove the word 'dynamic.'

He noted it could say it was suitable for redevelopment under the criteria for Revitalization Area. Ms. Ray commented staff will bring back some options on that so the Board could determine what phrase was more comfortable. Mr. Symanski pointed out the amendment to the word 'dynamic' needs to happen prior to the PUD ordinance approval. Chair Brown agreed. Ms. Ray explained the Board could provide guidance in the PUD ordinance to make it clear what was expected.

There was consensus to go with Option 2, Do Not include Criteria. Ms. Ray noted staff would revise so the word 'dynamic' was not included in that sentence.

Additional Density: (slide 14)

Chair Brown commented it would depend on the site and whether it was within the criteria for development, and he could think of sites that were nonconforming as to density, but they still had a lot of open space and potential for development. Mr. Serna explained that it only allowed someone to ask for additional density; the PUD application required submittal of a plan for development and was a process. Chair Brown noted the recommendations that were made set a limit where it might be higher than that. Ms. Ray responded the consensus from the last meeting was to set a minimum; the applicant would have to ask the voters for the permission to submit to the Town to request additional density. Chair Brown did not wish to change the requirement for obtaining voter approval for the density, but believed it was placing an onerous task after that on the P&Z Board and Town Commission. Attorney Mooney-Portale discussed the ability in the Town Charter for the referendum vote noting it was exclusive to density. The scope of the Town's referendum was very limited, but there was a small part of Florida law that allowed the Town to have a referendum. There were only four jurisdictions in the state: Miami Beach, Key West, Yankeetown, and Longboat Key. Each of their Charter provisions were unique, but there was a handful that had the ability to go to the voting residents to ask whether or not they wished to allow density increases.

Mr. Serna commented it was not part of the PUD process. Mr. Garner addressed the issue of existing properties that were nonconforming and making them conforming, but noted that it seemed now to be merging into new development. He commented there was a need to isolate and establish criteria for redevelopment. Mr. Serna pointed out that the PUD ordinance being reviewed was for redevelopment. Ms. Ray clarified that she was hearing from the Board's discussions that they wish to include vacant properties, that had never been developed, to use the PUD process for development.

Mr. Schneier referred to slide 15 and suggested going with Option 6. He commented that as for Options 4 and 5, he was concerned with having some sort of maximum that would be a target for developers when the property may not allow more than a certain number. Chair Brown and Mr. Symanski agreed with Option 6.

There was consensus to go with Option 6, "Do Not Recommend a Maximum Density".

Additional Uses:

Ms. Bishop concurred that Option 1 (Do not allow uses to be added through the PUD process) gave the PUD all the needed flexibility. Mr. Symanski referred to the words 'primary use' on slide 16, Option 1, and the 'Commercial Tourism Destination' (CTDO) area and asked if it included multi-family. Ms. Ray responded it would include the limited concierge-type residential units, where residential had access to concierge and all other tourism amenities. Mr. Serna replied they could tighten up that language. Mr. Schneier referred to the uses and commented that CTDO area should not have anything other than tourism, except for accessory uses as discussed. Mr. Symanski requested clarification of CTDO. Mr. Schneier believed that a commercial zone should not involve condominiums, but just accessory uses. Chair Brown discussed the historical balance in the Town, and noted that in a redevelopment that included residential on a tourism site, as long as the existing tourism was not lost, then he did not have a problem. Ms. Ray referred to slide 15, Option 5, and noted staff could include a requirement that any additional requests for additional uses, or density, will not result in the loss of existing tourism units; or staff could go further and state that tourism units need to be built first. Mr. Schneier clarified whether someone could come in after receiving a tourism map designation and change to hotel rooms and residential units. Ms. Ray explained the applicant would have to submit as a mixed use. Staff could place a restriction in the PUD ordinance that required any proposal that included property currently used, or zoned for tourism, that the tourism use must be preserved and must be built first. Mr. Symanski questioned whether residential units were allowed in a tourism zone. Ms. Ray replied under commercial/tourism, the hotel and tourism accessories were primary, and they could include timeshares or fractional ownership. The limited concierge-type units were not part of the Comprehensive Plan.

Mr. Symanski asked that the Board clarify that the tourism category did not mean residential units.

There was consensus to go with Option 1, Do not allow uses to be added through the PUD process.

Residential and Tourism Uses:

Ms. Ray explained that Option 2, Allow residential and tourism uses within the same PUD, was recommended, but noted they would have to go into the mixed use category and staff would provide standards.

There was consensus to go with option 2.

Height:

Ms. Ray discussed that this section would include language that specified the height that must be placed on the property to directly enhance the views from neighboring properties. Mr. Garner asked if this would limit older buildings from redeveloping or loss of units. Ms. Ray responded it would allow an increase in height, if they could increase the setbacks. She explained most of the properties have ample open space, but there were properties that were spread out and low to the ground, and in order to redevelop in their current situation, they would not be able to increase height. She noted if they allowed the properties to build up, they would be able to maintain the same number of

units, but it provided additional open space. Mr. Garner asked if a property was currently exceeding their setback, would they be allowed to develop. Ms. Ray commented if the Board wished, it could be changed to 'above the code.' She pointed out the Board could remove the requirement for additional setbacks and open space and state that any increase in building height must be designed in order to improve view corridors. Discussion ensued on impact to views on neighboring properties and how to enhance those views.

Chair Brown suggested allowing redeveloping properties to build up to the existing allowed height with a potential for increases if they could allow additional open space and setbacks beyond their current zoning.

There was consensus to include Chair Brown's language.

Mr. Serna questioned what would happen if the property was currently exceeding those parameters. Chair Brown explained the Town already had a voluntary rebuild ordinance. Ms. Ray suggested stating that anything above the existing height, or existing allowed height, under the current zoning, the applicant would have to provide that additional setback or open space.

The board did not choose Option 1 or 2 as suggested by the consultant.

Amy Shuman, Unicorp National Developments, stated as a developer it was critical to build innovative and creative designs, and provide planning staff the flexibility to allow creative projects to be built. They believed the PUD allowed collaboration between not only staff and the developer, but the P&Z Board and Town Commission.

Chuck Whittall, Unicorp National Developments, discussed:

- If there was going to be designations, would the Town be able to speed up the process
- Currently, the Town required three public hearings for new plans or amendments; this would discourage people from redeveloping their property due to the cost
- If an applicant came in and wished to designate their property, a FLU amendment was costly
- Concerning height, his plan for redevelopment of the Colony Beach & Tennis Resort went up in height; however, they created a plan that had great open space

Ms. Ray informed the Board staff would bring back an ordinance at their November meeting that included all the discussion recommended at this meeting. Mr. Symanski requested an ordinance to amend the Comprehensive Plan to revise the word 'dynamic.'

NEW BUSINESS

There was no new business.

STAFF UPDATE

Ms. Ray informed the Board that staff had been working on purchasing iPads for the members for uploading their agenda materials, similar to the Town Commission. She noted when they were purchased, staff would schedule the IT Department to come and provide training on how to pull the agenda materials from their iPads.

ADJOURNMENT

The meeting was adjourned at 11:55 PM

Ken Schneier, Secretary
Planning and Zoning Board