

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

\*\*\*NOVEMBER 15, 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, George Symanski, Mike Haycock

Members Absent: Stephen Madva

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

Lynn Larson, Yardarm Lane, informed the Board that she had voiced her concern to the Town Commission at their November 14, 2016, workshop regarding the density and height of buildings. She mentioned that it had come to her attention that in an R-4 Zoning District, they were allowed 30 feet, or two (2) stories above FEMA. She believed it only applied to condominiums and commercial buildings. Staff was approving an additional ten (10) feet of elevator shaft, or mechanical. The Town Commission decided they would forward the issue to the Planning & Zoning (P&Z) Board for review and recommendation. She urged the P&Z Board to make a recommendation to the Town Commission, so the Town Commission could make those policy decisions in a public hearing. She also requested that the P&Z Board recommend the Town Commission issue a moratorium on this practice until such time they completed their review, including what was the criteria and what were the standards.

Chair Brown responded he was aware of the issue, and if the Town Commission has asked for the P&Z Board to review, it will be placed on an agenda. Ms. Larson noted she was concerned with the Town allowing more to be permitted.

AGENDA ITEM 3  
CONSENT AGENDA

Alaina Ray, Planning, Zoning & Building Director, asked the Board if they wished to reschedule their December meeting, since it fell during the week of Christmas. She suggested that it could be rescheduled to the prior week.

**MS. BISHOP MOVED APPROVAL OF THE CONSENT AGENDA TO APPROVE THE MINUTES OF OCTOBER 18, 2016; AND TO RESCHEDULE THE FUTURE MEETING DATE FROM DECEMBER 20, 2016, TO DECEMBER 13, 2016. MR. GARNER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARINGS

Agenda Item 4  
Developer Agreement, Zota Beach Resort, 4711 Gulf of Mexico Drive

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, reviewed the proposed Developer Agreement noting:

- the agreement was due to improvements and supply of water and wastewater through the Public Works Department
- involved a fee to be paid to the Town, as the Town is providing water and wastewater service to the resort
- there was a subsequent change after the distribution of agenda materials – the developer had made an error in the calculation in their letter, which resulted in a larger fee being due the Town
- there is a change on page 2 of the agreement regarding a change from a six (6) inch pipe to an eight (8) inch pipe; it did reference the eight (8) pipe in the supporting materials, but they did install an eight (8) inch fire line
- the installation of the fire line resulted in a change in Section 3, Facility Investment Fee, of an increase of the fee to \$5,516 and in Section 4, a total fee of \$74,076

Mr. Schneier commented in the letter there was reference to the fee total, and then there was a connection fee charge of \$163,000. He asked how those two fees interacted; he assumed they were separate fees. Juan Florensa, Public Works Director, explained they were two separate fees; the connection fee was set by the Town and was the cost for the developer to connect the line into the meter and the associated work, and the Town's work to connect it to the system. He pointed out that the Facility Investment Fee (FIF) was based on the Town's purchase of water from Manatee County, where the Town had an allotment of 2.5 million gallons per day and if the number was exceeded, then the Town would pay a higher rate for using more water than allotted. He noted that because the development increased the amount of units in

the hotel, the Town can apply to Manatee County to purchase additional reserve capacity, and charge the developer the cost of the additional reserve capacity.

All those testifying were sworn at this time.

Maggie Mooney-Portale, Town Attorney, asked if there were any Ex Parte Communications that should be disclosed, and also if there were any Conflicts of Interest that should be noted. No Ex Parte Communications or Conflicts of Interest were noted for the record. Public Works Director Florensa swore and affirmed that his prior testimony was true and correct.

Chair Brown asked why the P&Z Board heard these agreements. He believed it could be something that was approved administratively. Attorney Mooney-Portale explained that when the Town approved the resolution authorizing the redevelopment of the Hilton property, one of the conditions in the approval was that the parties (the Town and the developer) execute a development agreement associated with the FIF fees. The use of the word 'development agreement' had particular meaning in the Town Code. In the Town Code, development agreements were subject to two public hearings - one before the P&Z Board and the second before the Town Commission, and required certain notice and due process notification. The Town was complying with the Town Code by going through this process, and the fees associated were governed by Manatee County ordinance, which the Town did not control. Ms. Ray noted that staff would be reviewing that section of the code during the rewriting of the codes.

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

**MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF THE DEVELOPER AGREEMENT FOR ZOTA BEACH RESORT, AS REVISED. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

Agenda Item 5  
Ordinance 2016-35, Comprehensive Plan Amendment  
Future Land Use Element

Pursuant to published notice, the public hearing was opened.

Ms. Ray explained that the P&Z Board had requested, during their October meeting, for staff to bring forward a change to the Future Land Use Element to remove the word 'dynamic' from the 'Opportunity Areas.' Staff also provided information on how the 'Opportunity Areas' were named (different variations of naming were provided to the P&Z Board and Town Commission in 2015), and how the Town Commission ultimately came to their decision. She mentioned the intent language of the 'Opportunity areas' was tightened up in keeping up with the language that has been contemplated by the P&Z Board in the Planned Unit Development (PUD) ordinance. The language was lifted from the PUD ordinance and imbedded in this ordinance so that the Comprehensive

Plan has the additional guidance established within it. Ms. Ray commented the only other item was that initially when the 'Opportunity Areas' were adopted, they were adopted for all the land use areas, but after further consideration, it was felt two of the categories were superfluous (Open Space and Single-Family categories), and staff was requesting those be stricken from the ordinance.

Mr. Symanski believed he had requested consideration of the use of the word 'revitalization.' Ms. Ray responded the Board had requested staff bring forward the information related to the 'Opportunity Area' naming, and she indicated she would bring forward the information from the previous meeting where the terms were selected. She did not recall there was a consensus at the last meeting from the Board to change the name to a specific term. Chair Brown commented that he had also suggested the name 'revitalization,' and the minutes reflected that. Ms. Ray pointed out that the Board had also indicated they wished to allow the 'Opportunity Areas' to be used for new development, and not just redevelopment; however, the term 'revitalization' suggested redevelopment. She noted that staff would change the term to whatever the Board agreed upon. Chair Brown commented he was not privy to the discussion before the Town Commission; he did not know anything about the reasons. He did not understand how they came to the terminologies. Ms. Ray pointed out the 'Established Areas' in the Future Land Use Element (FLUE) would not be used for a PUD. PUDs were only for the 'Opportunity Areas.' Chair Brown questioned what was a PUD-SP. Ms. Ray explained that a PUD-SP were for those properties developed above allowed density or otherwise non-conforming, that would like to rezone so their properties become conforming. They were not moved into an 'Established Area,' but become an 'Opportunity Area – SP.' She explained 'Established Area' were those areas that were conforming and do not plan to redevelop. Chair Brown commented they could be one of the other PUDs. Ms. Ray pointed out they would have to change their FLU category and rezone. Chair Brown commented that an 'Established Area,' if they wished to request anything other than what they have, would have to go into a PUD. Ms. Ray responded that everything on the island would be considered an 'Established Area,' because there were no properties that have moved into an 'Opportunity Area' FLU category. She explained that in 2015 all FLU categories were put into 'Established Areas,' because they were built; however, if the non-conforming properties wished to redevelop and keep their existing non-conforming density, plus other areas that might be non-conforming (height, setbacks, open space, etc.), those properties would first ask for a change to their FLU category out of the 'Established Area' they were currently categorized as, and would request a change into an 'Opportunity Area' FLU, and then rezone into a PUD.

Discussion ensued on:

- If there was a conforming property in an 'Established Area,' and they wished to change from residential to commercial, they would need to request a rezoning under the existing rules
- Request for staff to define 'historic balance'; idea was to have a measurement or range, but also there was a question of whether the Town wished to use the remaining units from the 250 tourism units

- Staff had researched the numbers from the 1990s to 2000s, and the total units on the island in the late 1990s to early 2000s was approximately 80 percent of the units were residential and 20 percent were tourism; current day was 14 percent tourism and 86 percent residential
- The 14 percent included the Colony Beach & Tennis Resort units, the additional units at the Hilton Hotel site, but did not include the 165 units remaining in the pool
- Whether should have a ratio or a number; the problem with a number was that the residential unit numbers changed, and if the Town wished to maintain a balance, then need to look at the ratio between the two
- The main intent of allowing the additional 250 tourism units was because the commercial component was impacted by the lack of tourism units
- That this was guideline, and why they could not approve both

Mr. Schneier believed it sounded like the percentage was a good way to target the future. Ms. Ray explained if the Board decided to imbed the number into the Comprehensive Plan, then if there was a proposal that was presented for a conversion to an 'Opportunity Area,' then staff would bring information to the Board as to what it would do to the ratio and what the hard numbers of residential and number of tourism units looked like. Mr. Symanski did not understand the ratio; the purpose of tourism was to support the level of commercial, which required 'x' number of rooms and not a ratio. Ms. Ray commented they could use a percentage, but could also state, "and work not to reduce the number of tourism units below that hard number." Mr. Symanski replied "or approximately 'x' units." Ms. Ray believed the number was between 1,700-1,800 tourism units. She mentioned it could state it needed to be 20 percent or 'x' number, whichever is greater, or approximately.

Chair Brown explained the referendum request for the 250 units was a reaction to the shock in the decline in commercial business activity. He believed people booking residential units were effecting some of the numbers, because there was no way of knowing what was being rented. Ms. Ray pointed out the town had seen a significant decrease in year-round population; in the last ten years the town has lost approximately 1,000 full-time residents.

Chair Brown noted the reason the Board was asking all these questions, because the Board had concern with the terms as they seem to imply 'dynamic' redevelopment. He commented the word 'opportunity' indicated there was an allowance to do what they wish; as opposed to using terms 'revitalization,' which is what the Town wished to do – revitalize the area. In other words, the Board's concerns were with terms that seem to imply something different. Ms. Bishop agreed and commented that instead of obscure terms, why they did not use 'redeveloped' or 'developed' areas, and 'redeveloped' would clearly include those that choose to rezone, and 'develop' for those that wish to expand. Mr. Schneier commented that many years ago there were tough steps to control the growth on the island and believed it has been addressed as there was a reduction in residents. He thought the purpose of the process was to get attention of the older facilities that were becoming decrepit. He voiced concern with placing too many restrictions.

Mr. Symanski also voiced concern with 'Commercial Tourism Destination Opportunity Areas,' which were not only tourism. He believed a major part of the exercise was to renew or redevelop what existed, and this district did not fit that category. He referred to page 5 of 12, TRC-3 and TRC-6 zones, pointing out that it noted uses included multi-family dwelling units, which he believed historically was a mistake to place tourism and multi-family in the same district. The 'Commercial Tourism Destination Opportunity Areas' district does not rehabilitate, renew, or revitalize anything existing, but created something different with unknown affects. He did not believe it should include residential; It should be only a tourism zone. Ms. Ray explained the 'Tourist Resort Commercial Established Areas' was what existed at this time and had been in the Comprehensive Plan for years, and everyone zoned T-3 and T-6, by right, were allowed to have multi-family. The 'Commercial Tourism Destination Opportunity Area' was that pure tourism district the Board was asking for, but the Board also indicated they wished to allow a residential unit for an on-site manager or groundskeeper, so that was the reason it stated a limited number of residential units may be permitted for on-site personnel. Mr. Symanski questioned the term 'limited,' with Chair Brown noting the Board needed to say what was the limit. Ms. Ray pointed out it was entirely up to the Board and Town Commission to make that determination. Mr. Symanski asked what were 'limited concierge-type apartment style tourism units.' Ms. Ray responded it was similar to the Colony Beach Resort; they were apartment style tourism units that may have access to concierge services that were provided by the resort. She noted it was a pure tourism use.

There was discussion on the following points:

- The conversation has been on creating a guideline for the future of Longboat Key, but the one overriding factor was the financial impact to a developer; the Town can legislate anything, but it would not happen if it was not economically feasible
- The words 'Opportunity Area' was significant, because it encouraged development programs; the Town wants to promote flexibility to encourage the opportunity of submission of development plans and then make a decision
- Concerning the 'Commercial Tourism Destination Opportunity Area,' they could note that residential uses were not permitted, strike '*as a principal use,*' except that a limited number; could eliminate the word 'full' before 'full resort amenities'
- That 'limited concierge type' meant the majority of the resort would be the typical small hotel room and not an apartment style
- Not sure why the Board was discussing 'concierge-type' or 'timeshare-type' as it was up to a developer as to how they wish to mix the project; not sure why the language was in the ordinance
- The Board wished to only state 'tourism unit;' and tourism was defined in the LDRs and included the 'concierge-type, 'timeshare -type,' etc. tourism units
- Staff could remove the 'whole allowable uses' sentence, or state, 'allowable uses include, but are not limited to...'; suggestion to remove the word 'limited' before 'concierge type' in order to provide flexibility

Ms. Bishop noted the definition was included in the LDRs, and asked if there was a consensus that the Board had defined 'tourism units' as units not occupied for more than 30 days.

**MR. GARNER MOVED THE BOARD USE THE LANGUAGE 'TOURISM UNITS,' WHICH WAS A UNIT OCCUPIED FOR NO MORE THAN 30 CONSECUTIVE DAYS AND ELIMINATE THE LANGUAGE REFERENCING 'CONCIERGE-TYPE' AND 'TIMESHARE-TYPE,' BECAUSE IT WAS ALREADY INCLUDED IN THE LDRs; AND INCLUDE THE REVISION TO REMOVE THE WORD 'FULL' RELATED TO THE RESORT AMENITIES.**

Chair Brown referred to the 'Commercial Tourism Destination Opportunity Areas' commenting that he had reviewed 1000s of codes across the country and most always had the ability to have a manager's apartment. He was not sure they had to reference it. Ms. Ray responded the Board needed to include and say that it was allowed for that purpose in order for it to be included. She mentioned the last sentence from Mr. Schneier's recommendations was, *"residential uses were not permitted, except that a limited number of residential units may be permitted for on-site personnel."*

**MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

Mr. Symanski questioned how staff would handle addressing the historic balance. Ms. Ray responded she had in her notes that the Board decided on 20 percent or approximately 'x' number. Staff would insert that number in the ordinance when it went for adoption before the Town Commission.

The Board recessed from 10:10 am - 10:20 am.

Chair Brown commented when reviewing the CTDO zoning district, staff stated the terms, that the Board just voted to remove, were included in the LDRs and questioned their location. Ms. Ray pointed out the terms were in the LDRs definitions and in the description of tourism in those regulations. Chair Brown asked if the Board needed to review those terms, because they were trying to clarify the definitions and the language for these things, and was concerned with having conflicting language elsewhere. Ms. Ray replied there was not conflicting language. She discussed the definition of 'tourism use' in the code. Mr. Symanski questioned if there would be a problem having a Comprehensive Plan term defined in the LDRs rather than in the Comprehensive Plan. Attorney Mooney-Portale replied no. Ms. Ray reiterated that the Board wished to: 1) keep the first sentence, but remove the word 'full;' 2) remove the 'allowable use' sentence; and, 3) retain the 'residential use' sentence; but remove 'as a principal use' and insert 'except that a limited number of residential units.'

- Proposed revisions would state: *"This category is intended for destination resort developments with resort amenities and uses which enhance the purpose of the tourism use. Residential uses are not permitted except that a limited number of residential units may be permitted for on-site personnel. Additional development*

*criteria, parameters, and standards are provided in the land development regulations.”*

Attorney Mooney-Portale reviewed the definition of ‘Tourism Use’ that was in the LDRs.

**MS. BISHOP MOVED THE APPROVAL OF THE LANGUAGE AS PRESENTED BY STAFF. MR. HAYCOCK SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

Mr. Haycock referred to page 3, Exhibit ‘A,’ and suggested the Board ensure there was consensus for the definitions for ‘Opportunity Areas’ and ‘Established Areas.’ Chair Brown commented he did not know how they could determine that ‘Established Areas’ were not anticipated to change; it was more determined by the economy. Ms. Ray reiterated everything on the island was an ‘Established Area’ unless a property owner came and asked to be placed in an ‘Opportunity Area.’ Mr. Haycock suggested the Board was really defining a process than a category. Ms. Ray responded it was a floating land use category that someone could avail themselves of if they made the argument to the P&Z Board and Town Commission that their property was appropriate for an ‘Opportunity Area,’ because of either anticipated redevelopment or development, or because they wished to memorialize some non-conforming issues, such as density.

Chair Brown voiced concern with the use of the word ‘Opportunity.’ He understood the Town Commission approved it, but asked what options they were provided. Ms. Ray noted the Town Commission had discussed a number of options. Mr. Haycock commented that the statement was made that all the property on Longboat Key was an ‘Established Area,’ and now someone wishes to do something with their property; why did they have to go through the process in order to become an ‘Opportunity Area.’ Ms. Ray explained if someone wished to either ask for additional density, or wished to memorialize certain non-conforming density that might exist, or other certain non-conforming conditions, then they would need to change the FLU category. She mentioned that if someone wished to redevelop, but wished to lower the density and conform, then they were not required to rezone, they were not required to go into another FLU category, but only submit a site plan.

**MR. GARNER MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-35 AS AMENDED. MS. BISHOP SECONDED THE MOTION.**

Brenda Patten, attorney with Berlin, Patten & Ebling, representing Unicorp National Developments, Inc., commented that her understanding of the FLU standards for ‘Opportunity Areas’ was taken from the last sentence in the description – *“additional development criteria parameters and standards are provided in the land development regulations”*. She pointed out that in Table 1 of the proposed ordinance, there was no development criteria for the ‘Opportunity Areas,’ and she assumed those would be handled through the LDRs, based on the underlying zoning and the criteria of the Opportunity Area Zoning District, which was being created in the LDRs. She voiced concern that during the Board’s discussion of Ordinance 2016-32, they would be discussing proposed ways to increase height in the ‘Opportunity Area Zoning Districts’ if

they provided greater open space or setbacks; Table 1 did not recognize those opportunities. She suggested the addition of a footnote to Table 1 (page 12 of 12) for the 'Opportunity Areas,' which stated: *"additional height may be approved within 'Opportunity Area' Future Land Use categories through a rezoning to 'Planned Unit Development- 'Opportunity Area' (PUD-OA) consistent with the Land Development Regulations."* Ms. Ray commented the language was not necessary, because the Comprehensive Plan did not have limits, so there was no reason to add language that implied there was; there was nothing in the Comprehensive Plan that limits the height. Chair Brown noted if they made changes in the LDRs, then they would have to change in the Comprehensive Plan. Ms. Ray replied yes. Ms. Bishop asked Attorney Mooney-Portale if she was comfortable with staff's opinion on the issue. Attorney Mooney-Portale responded since the issues were just brought to her attention, she would need to review the language more before providing an opinion.

Chair Brown questioned the impact if the Board approved the ordinance, and then made changes to the LDRs. Attorney Mooney-Portale noted if that was the direction the Board wished to go, they could delay a decision and continue this proceeding, as opposed to voting and then reopening the issue for discussion.

**MS. BISHOP MOVED TO CONTINUE DISCUSSION OF AGENDA ITEM 5 UNTIL AFTER DISCUSSION OF AGENDA ITEM 6. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

#### Agenda Item 6

#### Ordinance 2016-32 – Amending Chapter 158, Planned Unit Development

Pursuant to published notice, the public hearing was opened.

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

- They had changed the section numbers
- There was a current PUD process that was contained within Section 158.065 – 158.071
- Proposal to add Sections 158.063 – 158.064 in the Land Development Regulations (LDRs)
  - Provides new zoning districts: Planned Unit Development – Opportunity Area (PUD-OA) and Planned Unit Development – Special Purpose (PUD-SP)
  - The PUD-OA would be for new development or redevelopment of existing project; and PUD-SP would be for existing non-conforming projects that wished to memorialize what currently existed
- the Future Land Use (FLU) designation would determine the uses that were allowed on the property
- the intent language has been revised, and when it comes to standards, they mentioned that this will be to maintain a historic balance between tourism and residential units

- reviewed the process for submitting for a PUD, the PUD development standards, and the review criteria
- There were three types of PUDS - PUD-OA (PUD-Opportunity Area); PUD-SP (PUD Special Purpose) and PUD-MUC (PUD Mixed Use Community)

Mr. Symanski referred to page 2 of 3 (staff report), Item 8, and asked how it would work. Mr. Serna noted this would not be for the pure commercial tourism opportunity area; this would be for one of the mixed use categories. Ms. Ray included it was for one of the commercial residential mixed use 'Opportunity' areas. Mr. Symanski believed the Board specified no residential in the tourism, but it can be done in the second. Ms. Ray explained it was the direction from the Board during their October meeting to allow that within the mixed use 'Opportunity Area.' There was a concern there would be an instance where someone might build the residential component first and not build the tourism units; the board directed staff to include language that the tourism units had to be constructed first, or at least, be substantially underway. Mr. Symanski thought it had been removed. Ms. Ray commented it was existing in the Comprehensive Plan. Mr. Symanski noted he did not support the mixing. Mr. Schneier pointed out if there was a property that wished to redevelop as commercial-tourism, then they would file for a PUD 'Opportunity Area,' such as the Commercial Tourism Destination Opportunity (CTDO) area. Ms. Ray replied correct; if someone wished to develop a pure tourism area, they would apply for the CTDO, and then apply for the PUD. She noted that if someone wished to apply for a mixed use, then they would apply for the PUD-OA-Mixed Use area.

Concerning the requirement where it gave a foot of height for two feet of setback or two percent of open space increase, Mr. Schneier questioned if it had been tested to see whether the type of properties that might use it could do that. Ms. Ray explained that including those types of criteria was a standard thing; it placed that parameter on it, because there was only so much height they could get without narrowing the building envelope to a point where it was not feasible. Chair Brown referred to page 3 of the ordinance, specifically the PUD-OA district. Ms. Ray noted if there was a non-conforming use now, they could embed that use as an allowed use in their PUD. Chair Brown discussed the notification on page 4 of 25 and wondered if there was a need to include neighborhood meetings in the requirements. He voiced concern with scheduling the meetings during times when people were not on the island. Ms. Bishop understood the concern, but if an owner received notice, they could contact staff, the applicant, or their neighbors to gather more information. She believed they should leave the language in place. Mr. Symanski suggested it could be removed, because a good developer would proceed with neighborhood meetings. Mr. Haycock and Mr. Garner believed the language should remain.

**There was consensus to retain the neighborhood meeting language in the ordinance.**

Mr. Symanski discussed the bottom of page 3 of 25 of the ordinance, last sentence, "Approval of a referendum for increased density..." and pointed out he would add some language to state, "*Approval of a referendum for increased density is merely permission for consideration of a proposal and does not guarantee approval...*"

Chair Brown mentioned that in several locations it noted that ‘once the voters have approved the density,’ and it implied the voters were approving the density. Attorney Mooney-Portale requested the language be revised to state, “...consideration of an application” versus ‘approval.’

Ms. Ray confirmed that the Board wished to revise the language to state, “*Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the PUD-OA rezoning process.*”

Chair Brown referred to page 6 of 25, Item 1, Height, and pointed out if there was an existing project, and it exceeded the 50-65 foot height, then they could retain that height. He reviewed the maximum height referenced in the paragraph commenting there should be a limit, and he suggested the limit should not exceed 80 feet. Ms. Bishop agreed. Mr. Garner noted he had raised the issue in the previous language, and noted that setting that criteria would not work, because there were so many variables that contribute; they could not tie a setback to the height of a building – they were not interrelated. Ms. Bishop asked if Mr. Garner concurred there should be a maximum allowable height. Mr. Garner agreed. Mr. Haycock questioned what was the criteria used. Discussion ensued on the 1984 Charter change concerning density.

Ms. Bishop suggested that they amend the language to incorporate a maximum height of 80-85 feet, allowing those who currently have over 100 feet, but noting that if they redevelop, they could not exceed the existing height. Chair Brown took into account they had discussed where if there were requirements by Code that pushed them up, he did not believe they could limit that. He pointed out that most of the tall development was on the south end of the island, and the south end was more planned development than on the north end of the island. Discussion ensued on setbacks from Gulf of Mexico Drive with Ms. Ray noting that staff could include additional language in the code that stated, “*preference will be given to building placement that improved scenic views from adjacent properties and maintains the character and separation from neighboring properties on Gulf of Mexico Drive.*”

**There was consensus to set the maximum height at 80 feet.**

Concerning lot coverage, Chair Brown discussed they did not wish to over increase the density, and suggested language to state, “*additional units may only be approved if the proposed development meets height, lot coverage, and open space requirements in Table 1.*” Ms. Ray suggested that staff could add that it must meet open space, height, and lot coverage requirements. Mr. Serna noted that Table 1 was in the Comprehensive Plan, and did not include those maximums for the ‘Opportunity Area’ designations. Mr. Symanski reiterated his request to amend the language that the referendum was only merely permission. Ms. Ray responded that staff would review and make those changes where it was referenced. She also noted that they would remove reference for a neighborhood meeting in this language, but the applicant would still be required to have a pre-application meeting with staff.

Mr. Schneier left the meeting at 11:44 AM.

Chair Brown referred to page 15, Section 158.025, noting it was not new, but re-designated. Ms. Ray discussed the MUC districts were subject to court orders, but staff wished to isolate those areas; they were not mixed with the new zoning districts. Chair Brown commented on page 23, Section 158.068, it denoted the PUD acreage of two acres. Ms. Ray pointed out that was currently existing in the Code. Chair Brown asked if they should set PUDs at a larger site area. Discussion ensued on setting a minimum on acreage for a PUD and Section 158.069 (Open Space). Ms. Ray noted that staff would remove the last underlined sentence in Section 158.069.

Chair Brown raised the issue of the referendum language in Section 158.070. Ms. Ray mentioned that staff would replace with the previous referendum language that was discussed.

Chair Brown commented on the chart of footnotes. Ms. Ray pointed out those were to address the MUC zoning districts. Attorney Mooney-Portale clarified the table with Mr. Spikowski, the Town's previous planning consultant; the language in the footnote was crafted during the Longboat Key Club rewrite effort and was in response to a judicial order. Chair Brown suggested clear language in '(B)' on page 24 and in Section 158.071(c)

Commissioner Phill Younger requested permission to address the Board. There were no objections to allowing Commr. Younger to speak.

Commr. Younger explained that the Board had spent a lot of time talking about having residential and tourism, and expressed a desire to not have them together. The PUD-mixed use was in total conflict with that statement, because it allowed tourism and mixed use. It negated what the Board previously stated. Chair Brown believed, in the discussion of the commercial tourism, they said it was limited to one manager's apartment, but did not eliminate a mixed use; they placed limits on it, and if it was existing tourism, they could not diminish the existing units. Commr. Younger believed the way he read the PUD-MUC was they could do exactly what the Board limited. Chair Brown noted they did not change any of the MUCs. Ms. Ray explained that under the commercial-residential mixed use, which was separate from the MUCs, during their October meeting, the Board proceeded and allowed mixed use that would allow tourism and residential, but placed a limitation in the language that it would not reduce the balance, and also that all proposed tourism units must be completed prior to Certificates of Occupancy (COs) for residential units. Mr. Symanski questioned where the zone came from. Ms. Ray responded that T-3 and T-6 zoning districts currently existed and allowed mixed use. Mr. Symanski pointed out that has been the problem historically (i.e. Holiday Inn), and suggested removal of that district. Chair Brown disagreed; the goal was to keep low-density, and restrict density over a certain amount. Ms. Ray pointed out that was the intention of the Board and Town Commission – to sell some residential units to provide financial incentive to build tourism units. Mr. Symanski suggested correction of the definition and the use of the word 'complimentary.' He also noted that the Town Commission should adopt the Comprehensive Plan amendment prior to the PUD District amendment.

Donald Hemke, attorney with Carlton-Fields, representing the Colony Beach & Tennis Association, commented the PUD was designed to be a flexible concept and provide flexibility for innovative solutions. He continued with discussing his concerns with: that the height would no longer be a flexible concept for a property and would become a mechanical formula; that it would not be a PUD-like category, but more towards the strict zoning categories; concern with a series of buildings higher than eight stories; and, believed the Town might be precluding certain things from happening if they embed all the rules being discussed into law. Chair Brown responded the Town wished to create limits; they were trying to provide guidelines for development.

Brenda Patten, discussed suggested amendments:

- height – provided chart comparing heights of condominiums on the south end of Longboat Key
- in the code amendment there was a need to provide appropriate flexibility
- page 6 – height – believed unfair and penalizes larger sites
- proposing leaving language about one-foot height for two feet setback, but proposing additional provision which would only apply to sites larger than a certain acreage.
- gives the Town the ability to consider the proposed amenities would justify and mitigate the additional height

Gerald Hamburg, Fair Oaks Way, voiced his concern with development and the traffic impact.

Mr. Symanski asked if staff had concerns with the percentage that the Town was using. Ms. Ray replied no. She explained that currently the Town required 30 percent open space on any site. Mr. Symanski pointed out the proposed language on page 6 of 25, submitted by Attorney Patten, provided possible extra height with parking and traffic mitigation, which was totally impossible to enforce or have staff address.

**MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-32 WITH THE AMENDMENTS AS STATED BY STAFF, SPECIFICALLY REGARDING THE REFERENDUM LANGUAGE, MAXIMUM HEIGHT, AND OTHER ITEMS SUGGESTED TO STAFF. MR. GARNER SECONDED THE MOTION.**

Mr. Symanski noted his intent to vote against the ordinance, specifically for the reason that he disagreed with the one zone relating to tourism.

**MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SYMANSKI, NO.**

Agenda Item 5  
Ordinance 2016-35, Comprehensive Plan Amendment  
Future Land Use Element  
(continued discussion)

Ms. Bishop commented the Comprehensive Plan should make specific reference to land development ordinances for all requirements in the 'Opportunity Areas.' Ms. Ray replied staff would include a note in those specific cells to refer to the LDRs. Attorney Mooney-Portale explained that staff would include language that stated "*height standards were provided within the LDRs for PUD-OA areas.*" The footnote, with an asterisk, would state as such. Ms. Ray noted staff could put in the language and fill in the cells in Table 1.

**MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-35 WITH SPECIFIC CHANGES TO TABLE 1 AS DISCUSSED, AND OTHER ISSUES PREVIOUSLY DISCUSSED INCLUDING THE HISTORIC BALANCE. MR. HAYCOCK SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SYMANSKI, NO.**

The Board recessed for lunch from 12:28 pm – 1:07 pm.

Agenda Item 7

Ordinance 2016-34 – Amending Chapter 157, Section 157.32, Lot Line Adjustments

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, review the proposed ordinance commenting:

- staff had recently discovered an issue with the Town's subdivision regulations
- subdivisions were governed by Chapter 177 of the Florida Statutes and Chapter 157 of the Town's Land Development Code
- the Town Code requirements conflicted with the state statutes
- staff was recommending that the definition in the Town Code be changed to three lots to be in conformance with state law
- staff was also recommending a revision to Section 157.32, Lot Line Adjustments – when it was adopted in 2008, it was in conflict with state law
- under Florida law if someone has a lot and wishes to split into two lots or more, if those lots were conforming, the Town was obligated to approve it

Discussion ensued on density and whether a referendum would be needed. They would not need a referendum, because their density was not being increased.

Ms. Ray informed the P&Z Board staff had brought this proposed ordinance to the Town Commission Workshop on November 14, 2016, because there was an owner waiting for the revision, and pending the Board's review and decision, the ordinance will be forwarded to the Town Commission Regular meeting on December 5, 2016, for a public hearing.

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

**MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-34 AS WRITTEN. MR. SYMANSKI SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.**

NEW BUSINESS

There was no new business.

STAFF UPDATE

Ms. Ray informed the Board that the height issue will be brought to the Board at their December meeting.

ADJOURNMENT

The meeting was adjourned at 1:20 PM

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Ken Schneier, Secretary  
Planning and Zoning Board