

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

JANUARY 17, 2017

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; Donna Chipman, Office Manager

AGENDA ITEM 1
PUBLIC TO BE HEARD
Opportunity for Public to Address Planning and Zoning Board

Gene Jaleski, Cedar Street, asked for help in creating a more inclusive government on Longboat Key. He suggested the Town create a website, with a feedback group, to provide an area for people to see what the issues were and provide their input. He believed the Town should be proactive in trying to get participation in the meetings.

AGENDA ITEMS 2 AND 3
CONSENT AGENDA

MS. BISHOP MOVED APPROVAL OF THE CONSENT AGENDA TO APPROVE THE MINUTES OF DECEMBER 13, 2016, AS WRITTEN, AND SETTING THE FUTURE MEETING DATE FOR FEBRUARY 21, 2017. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

AGENDA ITEM 4
ORDINANCE 2017-02, HEIGHT REGULATIONS

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, provided an overview of the changes noting:

- They included splitting single-family into its own paragraph
 - Restrict the square footage footprint of the allowable features to the minimum required by Florida Building Code
 - Restrict the height to the minimum required to provide the allowable uses
 - If providing for an elevator, they would require the additional required access (stairwell) to comply with the height restrictions for that zoning district
 - If they were only using a stairwell, the stairwell would be required to be placed as a single run of stairs
- Added clarifying language regarding the required components of elevator shafts and stairwells according to the Florida Building Code
- Included a definition for 'adjoining' in Section 158.006

Mr. Symanski suggested, and **consensus was provided**, to revise the language to state 'shall' versus 'should' in section (B) (1) (a) and (b). He asked if there were situations where it was not a public right-of-way (ROW), it might be a private street where it should apply. Ms. Ray replied that the Bay Isles subdivision is private. Mr. Symanski asked if a private street was considered a ROW. Ms. Ray commented if the Board wished to include private streets, then staff would have to add 'private streets.' Chair Brown asked if the private streets were considered a state, public or private ROW. Ms. Ray explained that it would depend on whether it was designated as a ROW in their legal documents, because it might be an easement; the language could state "public ROW, private street or public canal."

There was consensus to add 'private street.'

Chair Brown asked if there were any private canals. Ms. Ray noted the water was actually public. **Chair Brown recommended, and there was consensus given, to remove the word 'public' and just state 'canal.'**

Mr. Haycock asked if this requirement was in place, how it would affect residents of Country Club Shores. Ms. Ray explained the owner would be allowed an elevator or stairwell, but would not have been allowed to have both; however, they were at eight percent of total roof area versus the 15 percent that was allowed. If they had only provided for an elevator, the elevator would have been the minimum required by the Florida Building Code. The vestibule was currently the minimum allowed, so the restriction would decrease the footprint of that structure to about four- to five-percent. Mr. Haycock asked if they could still include the utilities. Ms. Ray replied yes; there would still be an allowance for mechanical equipment to be enclosed.

Mr. Schneier commented there was a minimum height necessary to accommodate the features, and there was a minimum square area according to the Florida Building Code. He questioned if those were attainable numbers. Ms. Ray explained the Florida Building Code dictated the minimum area for the vestibule and landing in order to make it attainable. The minimum height necessary was slightly objective; there was not a

definitive way to review everything and determine the height. Staff would be reviewing the plans for ways to keep the height to a minimum. Mr. Garner commented the rooftop equipment would be limited to the ability to provide the rooftop equipment, but questioned how it would be accessed for service. Ms. Ray responded the access would be provided from below as the Florida Building Code allowed that access.

Gene Jaleski, Cedar Street, discussed cupolas and the Conrad Beach Subdivision, noting that at that time, if an owner wished to include a roof deck, they were required to have a 'trap door' that did not exceed the height to access the roof. Chair Brown informed Mr. Jaleski that the Florida Building Code had been revised, and they no longer allowed roof hatches. Mr. Jaleski responded if they had an elevator, and they placed the hydraulics at the base, then it voids the rule to have the mechanicals above. Chair Brown pointed out that the staff would review for those items to make those determinations; the Town was only allowing the owner to use what was needed on the roof.

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

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2017-02 WITH AMENDMENTS AS APPROVED BY CONSENSUS OF THE BOARD. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED BY A 7-0 ROLL CALL VOTE, AS FOLLOWS: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

AGENDA ITEM 5

ORDINANCE 2016-32, AMENDING CHAPTER 158, PLANNED UNIT DEVELOPMENT

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, reviewed the ordinance pointing out:

- The 12-12-16 Town Commission Regular Workshop discussed the recommendation from the Planning & Zoning Board, and the Commission asked for clarification and additional consideration regarding a narrow scope of issues:
 - Additional compatibility language related to requests for potential additional height
 - Consideration of larger setbacks on Gulf of Mexico Drive when additional height is requested
 - Clarification as to how to apply the additional setbacks – one side, all sides, etc., and how to determine where they should be applied
 - Requirement of 'shadow plans' when additional height is requested with particular attention to the winter months when the sun is at its lowest, so as to determine potential impacts on neighbors, Gulf of Mexico Drive, and the beach
- Section 158.063(D)(1) has been revised to add language addressing the four requested points of consideration
- Section 158.063(E)(6)(g) has been added to require submission of Shadow Plans for any request for increased height

- Mr. Symanski referred to the amendments notated on page 7 of 31, and asked if they did not ask for increased height, what would be the setback from Gulf of Mexico Drive. Ms. Ray explained the setback from Gulf of Mexico Drive was 50 feet for all properties. Mr. Symanski voiced concern with the language that if the applicant requested only one floor of additional height, the increased setback would be twice the height of the building.

Discussion ensued on the following:

- The Town Commission requested fairly significant increases in setbacks for Gulf of Mexico Drive
- The zoning district allowed 50 feet in height, but if using a PUD for development, it could go up to 65 feet; the P&Z Board said they would allow up to 80 feet, but for every foot above 65 feet, they were required to have two additional feet for setback, or two percent of additional open space
- That the discussion at the Town Commission level was that it should be at least twice the height of the building, because they did not want Gulf of Mexico Drive to look like a “canyon”
- Currently, under straight zoning, they could go up to 65 feet and still only need a 50 foot setback; the Commission discussion was centered around making it at least twice the height of the building

Mr. Symanski believed it should be for everything. Mr. Haycock commented that it felt arbitrary, from an architectural standpoint, because when you drive down Gulf of Mexico Drive you can tell what was in scale and what was out of scale. He suggested there was a need for an architectural study as to what the Town wished for it to look like while driving along Gulf of Mexico Drive. Ms. Ray pointed out that the buildings that were taller were set back considerably from Gulf of Mexico Drive – some were 200 feet or more. The buildings that were the tallest were located on the south end of the key, but were not located along Gulf of Mexico Drive. Ms. Bishop noted there was considerable discussion on how the structures could impact Gulf of Mexico Drive, but questioned what discussions the board had concerning pushing the buildings back towards the beach and their impacts. Ms. Ray responded they would have to show it did not increase the ‘shadowing’ on the beach or on the adjacent properties, because if it did, they will not be allowed the additional feet.

Ms. Bishop asked if the Town was being arbitrary and capricious in defining height. Maggie Mooney-Portale, Town Attorney, explained the board was defining height for a new zoning district (PUD), and how you want to allow for any increases. The board was developing it through a legislative process where it was being discussed, and to that point, it was not considered arbitrary when there has been evidence in the record as to why they developed a formula approach. She noted that if the board or Town Commission wished to review further, they could continue to investigate whether the new formula was best. She cautioned the board on establishing restrictions for existing zoning districts, or creating new setback requirements for existing districts, as it may result in Bert Harris Act violations.

Mr. Garner voiced concern with the definition of 'shadowing.' He noted there could be a 'shadow' several times per day; it was a movable determination, and he believed it was impossible. He believed they needed another way to discuss impact to neighboring buildings other than 'shadowing.'

Mr. Schneier asked about the discussion at the Town Commission meeting where these issues were sent back to the P&Z Board. Ms. Ray responded the Town Commission wished to have additional guidance; believed there was some vagueness in the area regarding height; wanted additional assurances and guidelines as to how the additional height would be reviewed and applied; and, wanted to ensure they preserved that strong vegetative corridor and not create any type of building 'canyon' effect. Ms. Bishop commented the Town Commission was not comfortable with the board's initial guidelines, which was the board felt strongly that the consensus on Longboat Key was they did not wish to see taller buildings, and the Town Commission seemed to want the flexibility to grant additional height. Ms. Ray explained there were mixed feelings regarding additional height, but in the end, the Town Commission directed staff to bring back to the P&Z Board some discussion on allowing the flexibility, but providing some additional guidance.

Chair Brown discussed there was quite a bit of discussion at the meeting concerning the 80-foot height cap. He noted that some of the commissioners did not believe they should be allowed 80 feet, some believed there should not be a cap, and as a result, the Town Commission sent the ordinance back to the board for review. He pointed out the language clearly states 'setback from closest property line,' and, asked what if it has the same basic setback from all property lines. Ms. Ray explained if it was equal distance from two different property lines, staff could include language that they would split the additional setback and apply equal amounts to both sides. Chair Brown believed it might be something the board should do. Mr. Schneier recalled the point of the revision was to encourage redevelopment of older properties; and, they knew the Town had very material density restrictions with referenda required to increase the number of units on any property. He commented that one of the goals in redevelopment was, not to add units, but just to increase items, such as ceiling height in units, to allow existing properties to be modernized, but not expanded in density or scope. He noted that if discussions with the experts suggest these rules would preclude people from doing what the board wants the change to encourage, he was not sure why they would want to add these additional kinds of restrictions onto essentially what resulted from the board's previous discussions

Mr. Symanski asked if the Town Commission was acceptable of a 65-foot building being setback 50 feet from Gulf of Mexico Drive (GMD); there was no proposal at this time to change that. Ms. Ray commented if the board wished, and the Town Commission approved, they could state the minimum setback was 50 feet for the GMD setback; however, any buildings over 50 feet shall be setback a minimum of twice the height of the building. Mr. Symanski questioned if this would cause properties from not being able to redevelop. Ms. Ray explained it would make it more difficult; make the placement of the buildings more crucial; and would limit the envelope on which it was placed.

Discussion ensued on:

- The original ordinance was based on two feet for one foot of height and it referred to setback
- The setback would apply to the closest property line, and staff could add language if there was a building that was equal distance to a couple of property lines or more
- If there was some architectural basis for the “2 for 1 rule” the board had decided to have that rule apply, maybe in addition to a side line, definitely to a setback from GMD
- Suggestion that the “2 for 1” rule would apply, at a minimum, to the GMD setback and the side setback as well

Mr. Symanski voiced concern with the issue of increased height noting the effects of adding one floor and doubling the setback was contrary to the idea of a PUD. Ms. Ray explained when staff had first presented the ordinance to the board, there was language that did not have layers of regulations or the maximum of 80 feet, but that any increased height would be based on whether the scenic views from adjacent properties were improved. Chair Brown commented if a 50-foot setback is acceptable for a 50-foot building, then why not 65 feet for a 65-foot building; when you get to a high rise (80 feet), then apply the formula discussed, which was two feet additional setback for every foot of additional height. He noted it also stated it could be two percent additional Open Space, so they would need to build into that the additional Gulf of Mexico setback would apply. Ms. Ray suggested eliminating the Open Space part, because with the increased setback there would be Open Space. Chair Brown responded that the opposite was if the developer chooses to provide additional Open Space, then there might be tall buildings right up against the property line. Ms. Ray recommended striking the requirement that addressed Open Space, and simply use the language ‘setbacks at two feet for every one foot in height.’ Chair Brown agreed. Mr. Symanski responded if there was concern with 80-foot buildings not being compatible, then they should not be allowed.

Mr. Symanski referred to page 8 of 31 in the ordinance, Section (D) (1), Height, subsection (a), which stated, “*Whether the proposed height is compatible with existing structures located on surrounding properties and/or is consistent with the character of the surrounding area; and*” suggesting the word ‘increased’ be inserted before ‘height,’ and before ‘structures’ the words “or potential.” In section (b), insert the words, ‘with increased height’ after the word ‘placement;’ in section (c), insert the word ‘increased’ before the word ‘height;’ and also in (c), remove the word ‘and’ after Gulf of Mexico Drive and replace with ‘or;’ and in section (d), insert the words ‘increased height’ and ‘or potential structures.’ Ms. Ray commented there was not a way of evaluating what those potential structures might be, where they might be, or how tall they might be. She noted the adjacent property owner was not penalized from doing what their zoning allowed.

Attorney Mooney-Portale discussed it was important to keep in mind the abutting landowners would have a right, and be noticed, to attend any rezoning into a PUD. Those arguments about future development plans, or existing status of their building or structure, can be heard at a public hearing.

Mr. Symanski commented that the existing structure property owner would also have a voice. Concerning potential structures, the adjacent neighbor also has a right to a certain height and certain setback, but it was stated that unless they provided a request, the Town Commission should not take into effect that the 'shadow,' or that it was so close that it made the adjoining site less viable for development. The Town Commission should also take into account if it negatively impacts the potential of the adjoining site. Chair Brown believed that was correct. Mr. Schneier suggested removing 'with existing structures located on' and replacing with 'compatible with' surrounding properties. Ms. Ray agreed with that suggestion. **There was consensus to remove 'with existing structures located on' and replace with 'compatible with.'** Mr. Symanski the language should still state 'increased height.' Ms. Ray agreed.

Chair Brown referred to page 2 of the ordinance noting approximately four years ago there were four PUDs on the key. Ms. Ray pointed out that MUC was a zoning district. Chair Brown noted it was labeled as 'PUD-MUC,' and asked why the PUD was not removed. Ms. Ray explained a PUD was simply a process, but MUC was a zoning district.

Ms. Ray commented the suggestion was to maintain what existed throughout the land development regulations; the language would be incorporated into it. Staff was drafting changes to make it consistent throughout. Chair Brown asked if the language would encourage residential on a different floor than tourism. Ms. Ray noted the word 'vertical' could be removed from the language. **There was consensus to remove the word 'vertical' from the language.**

There was continued discussion on:

- The question of whether the board was comfortable sending the ordinance back to the Town Commission for their consideration; they would workshop at their March meeting, along with the Comprehensive Plan revisions
- That the height issue was a scale issue – request to see some examples of different setbacks from building height
- That staff could bring the ordinance back to the board in February, if they wished to see examples; staff could take photos of existing buildings and report how tall and how far setback from Gulf of Mexico Drive
- Belief that this was "anti-PUD;" a PUD provides flexibility and the proposed language did not make sense – should develop a formula, which would be a policy question
- Suggestion that if 50 feet was appropriate for a 50 foot building, and 65 feet was appropriate for a 65 foot building, then when it was an 80 foot building, they would need to provide an additional two feet of setback for every foot over 65 foot high; this was to discourage tall buildings
- Proposal for the language regarding the increased setback and open space – add "and Gulf of Mexico Drive;" delete the next sentence, which has twice the overall height, but include in the last sentence, 'with the additional considerations that have to be taken into account,' which would include a number of things

- Staff suggestion to remove “or open space” in the first sentence – will need to review to make sure they understood they could not split the setback and place part of it on the property line and part on Gulf of Mexico Drive

Ms. Bishop voiced concern that the board was deliberating a number of issues that the board had already provided consensus; she did not wish to see 80-foot buildings. She asked why the board was reviewing this for something that was not compatible with what the residents wished to see for development on Longboat Key. Chair Brown commented the board was not asked to reconsider the height, but were requested to provide additional criteria for determination.

Gene Jaleski, Cedar Street, suggested the Town might designate neighborhoods where the compatibility issues were different.

Pat Zunz, Lands End Drive, commented that most of the buildings setback from Gulf of Mexico Drive were not considered “bulky.”

Blake Fleetwood, Gulf of Mexico Drive, discussed the vision for the future of Longboat Key, which was not to look like Miami Beach, but to have low-rise, single-family communities. He voiced concern that if the Town did not maintain the residential ambience of the key, future retirees will move to quieter places. He urged the board to consider economic policies. Mr. Symanski questioned Mr. Fleetwood’s conclusion. Mr. Fleetwood responded that he did not believe additional height should be encouraged; 65 feet was the upper maximum that should be considered. Chair Brown pointed out that how the residents voted on density in 1984 was an indication of what they wanted for the island.

Ms. Bishop suggested that staff bring back the ordinance at the February meeting, including photographs and solidifying the language. She noted that she could not support the ordinance if it provided for additional height.

There was consensus for staff revisit the ordinance and bring back to a future meeting.

Mr. Symanski suggested the board address the height. Chair Brown responded the Town Commission was very specific on their direction of what they wished the board to review. He voiced concern with discussing something other than what was directed by the Town Commission. Mr. Symanski referred back to the height section of the ordinance and provided some modifications: in section (a) suggesting the word ‘with’ before ‘surrounding properties;’ and the other paragraphs should include ‘with the increased height.’

NEW BUSINESS

There was no new business.

STAFF UPDATE

Ms. Ray informed the board their iPads were available through the Town's IT Department. Staff will be contacting the members to schedule a time to come in and have their iPad set up with an account. Staff is anticipating beginning using the iPads with the February meeting.

ADJOURNMENT

The meeting adjourned at 10:31 am.

Ken Schneier, Secretary
Planning and Zoning Board