

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

\*\*\*SEPTEMBER 13, 2011\*\*\*

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

Members Present: Chair BJ Webb, Members Jack Daly, Laurin Goldner, Walter Hackett, Leonard Garner, George Symanski

Members Absent: Vice Chair Allen Hixon, Secretary John Wild, Member Phineas Alpers

Also Present: Nancy Stroud, Special Counsel; Kelly Fernandez, Assistant Town Attorney; Monica Simpson, Planning, Zoning & Building Director; Steve Schield, Planner; Ric Hartman, Planner; Donna Chipman, Office Manager

AGENDA ITEM #1  
COMPREHENSIVE PLAN AMENDMENTS

Bill Oliver, Tindale-Oliver, reviewed the state law that eliminated a state-mandated development concurrency review process, which had the potential of prohibiting the Town from issuing permits for expansion and new development. He noted staff was moving towards opening the Comprehensive Plan, Transportation Element, and growth management process to less independence on the automobile and moving towards a multi-modal transportation system for circulation. He discussed a Traffic Context Study, which was a more comprehensive review process that looked at a larger geographic area, and looked at a longer term view into the future. The study would look at congestion levels on Gulf of Mexico Drive (GMD) for a fairly broad geographic area, and the Town would, as part of their development approval process, be able to attach conditions and requirements for mitigation to the development. The study would look at the short term view and immediate operations on GMD and would ask the applicant to also provide a longer term view. In terms of a geographic study area for this study, it would limit the scope to go no further south than St. Armand's Circle and north up to SR789 and Cortez Road. He reviewed the second study type, which was a Site Access Analysis, which included site specific issues and how it connected to GMD, either directly or through another street, and the need for turn lanes on GMD. He provided an overview of the review processes, including the comprehensive plan, planned unit development (PUD), site plan, and administrative site plan review, and the type of study that would be required.

Mr. Garner questioned where the review process could dictate, or deny, anything that might show up in the studies; what right did the Town have to object. Mr. Oliver explained the board had the right to approve or deny land use plans and rezones. He believed one of the initial processes in the PUD process gave the board the discretion to approve and deny a development based on incompatibilities, inadequate infrastructure, and other similar community issues. Mr. Garner asked why someone would be required to do the study.

Mr. Oliver responded the state law allowed the community to retain, on its own, a development review process that enabled those decisions to be made. Mr. Garner commented that the state had eliminated the mandate, but had not taken away the Town's right to regulate their traffic volume. Mr. Oliver replied correct.

Ms. Simpson commented that the Town has requested Tindale-Oliver, now that there were proposed policies in place, to provide basic step-by-step methods of looking at transportation given the various review processes. She noted that if the Town Commission moved in that direction, then staff would begin working on the land development regulations (LDRs). Mr. Symanski asked where rezoning fit into the chart. Ms. Simpson pointed out it went along with the comprehensive plan amendments. She noted that, as discussed with Tindale-Oliver, the Town's Future Land Use Map (FLUM) was basically the zoning map, and the differences were little, if any, which was not typical of most jurisdictions. She noted that on Longboat Key if someone wished to change the zoning, it would require a Comprehensive Plan amendment. Mr. Symanski voiced his concern about having the discretion to deny if the Town Commission felt the proposal would be harmful.

Mr. Oliver reviewed the specific requests before the board for direction: 1) authorize the staff to move forward and present these concepts to the Town Commission; 2) to approve the recommended interface and the two stage traffic study concept, and where those two studies interface with the Town's development review and approval process; and 3) moving forward to implement the various regulations that had to occur. He also discussed the development of a multi-modal transportation plan, and a second issue which was a mobility fee concept. The Town currently participates in Sarasota and Manatee Counties' transportation impact fees, and those fees for both counties were based on improvements to the road system. If the Town wished to use some of the money to enhance the transit system, the two agencies might have some concern. There needed to be some discussion about the ability to use current impact fee program monies to enhance facilities within the Town.

Chair Webb noted part of the challenge was the design of projects that encouraged people to park their vehicles and walk to various areas. Discussion ensued on the aging population and making it easier for them to get to various facilities. Mr. Oliver commented the other dimension of the multi-modal was getting land uses in closer proximity to origin destinations.

Ms. Simpson asked if there was concurrence from the board that the system proposed for future development was acceptable to forward to the Town Commission. Mr. Garner noted it was not clear concerning the two types of traffic review being proposed, that there was an opportunity to require both. He believed it was vague and appeared that it was either / or. Mr. Oliver pointed out that it depended on where the development enters the development review process. He explained that if they went through the land use plan amendment, through the rezoning and PUD process, then both studies were required. He commented that if they did not have to go through those processes, and it was only a site development approval, then only the site access study was required. Ms. Simpson noted there were a number of properties that would not require a complex study.

Chair Webb asked if the board was comfortable transmitting the document.

**MR. GARNER MOVED THAT THE BOARD TRANSMIT THE DOCUMENT. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL VALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; SYMANSKI, AYE; WEBB, AYE.**

### Comprehensive Plan Amendments

Nancy Stroud, special counsel, continued with reviewing changes made to the Comprehensive Plan, noting that one change that was not included in the materials addressed the incentives in the overlay districts in the Future Land Use Element (FLUE). She mentioned that because this element was reviewed prior to the transportation discussion, the board had looked at an incentive that would include not applying transportation concurrency to the overlays. However, since the transportation element did not apply concurrency anywhere, it was removed from the FLUE. She noted the board also requested a policy that addressed telecommunication, and she continued with reviewing her memorandum, dated 9-9-11, regarding wireless communications (Objective 1.6, Policy 1.6.5).

Ric Hartman, Planner, provided a memorandum related to an additional five feet in building height for waterfront restaurants. He noted that the board had previously discussed the issue in the spring, but there was a consensus to continue until such time there was discussion of all the comprehensive plan amendments, because it was going to require a comprehensive plan amendment to implement the additional five feet. The policy would add the option of an additional five feet in building height for waterfront restaurants.

### Policy 1.1.10

Mr. Garner commented that in both proposed overlay districts, specifically in the Town Center area, there were multiple ownerships, and he believed it was the same for the Whitney Beach Plaza. He noted that any application for use of the opportunity for zoning should have all properties within the district included. Attorney Stroud asked if he was stating that the overlay would not apply unless all owners agreed to the application. Mr. Symanski believed the board had voted, and agreed, to include in the language 'substantial consolidation.' Discussion ensued on 'substantial consolidation,' whether the board should consider a percentage of consolidation, or whether the board could include language that gave the board the discretion to determine whether the proposal worked. Ms. Simpson commented when the board had first approached this subject, one of the key components the board wished to do was to enable the owner to use the overlay.

Chair Webb discussed what percentage of the property was in the overlay district. Discussion ensued on Whitney Beach Plaza and utilization of the surrounding area. Mr. Garner commented it should state 100 percent or substantial. Chair Webb believed it did need to be included in the comprehensive plan, because if there was not language to address it, there would be a "piece-meal problem" and the overlay district would fall apart. Mr. Hackett pointed out that if one looked at the map, and look at Broadway Street, it was a public street, and anything north of that street might not fit in the design of the overlay. Ms. Goldner voiced her concern with including 100 percent. Mr. Symanski asked if there was any preclusion of having a development that included both north and south side. Attorney Stroud responded that she believed the north side was included, so the residential density could be used to create a mixed-use project; it was an incentive to try to get more mixed uses in that area.

Mr. Symanski pointed out there were also non-residential, and asked about including “*substantial consolidation including all critical properties.*” Mr. Garner did not wish to change the outline of the overlay, because they were trying to accomplish something, but the overlay created different problems. The idea of an overlay district was to specify something that flowed together. He thought that possibly the design of the overlay district should be modified, and if not, then continue with the discussions. Attorney Stroud explained that was the reason they started with minimum acreage – it started with five acres, and then discussed three acres. The board had decided, for maximum flexibility, a minimum number of acres were not necessary. Ms. Simpson reviewed an overlay illustration noting the northern parcels would be more difficult to redevelop or develop. Policy 1.1.10(11) discussed additional lot coverage and administrative waivers, which were what those parcels would need for any type of major redevelopment. Mr. Garner asked if Whitney Beach Plaza took advantage of the policy and developed the property, which would leave the properties to the north of Broadway, would those properties still be subject to the overlay district. Attorney Stroud responded they would have the option of the overlay district, and they would still have the underlying land uses.

Mr. Symanski discussed that all the properties have zoning and can do things by right, but this was an option. The idea was to create incentives for people to come together and do something favorable. He noted he did not see any ‘substantial consolidation.’ Chair Webb asked if the board was comfortable with including the language ‘*with substantial consolidation.*’ Mr. Symanski commented he agreed, but he was still opposed to the 30 percent residential.

**There was consensus to include the language “with substantial consolidation,” but for the Whitney Beach Overlay only.**

#### Town Center:

##### Policy 1.6.1

Mr. Symanski asked that the issue of the Town Center Overlay be revisited to include residential. He reviewed the history of the Einisman Property, which introduced straight residential into the town center. He asked that ‘straight residential’ be removed, but continuing care/retirement facility should remain. Mr. Garner and Chair Webb agreed.

**There was consensus to remove the language ‘straight residential’.**

Attorney Stroud noted the sentence would be revised to state, “*Residential uses are limited to continuing care/retirement community uses.*”

Mr. Garner asked if the board had decided on ‘substantial consolidation’ for this area. Chair Webb asked if there was consensus that the Town Center overlay would include ‘substantial consolidation.’ Ms. Simpson recommended that there be no substantial consolidation in the Town Center; it would not happen, and it would make it difficult to develop. Chair Webb hoped that the area could include a pedestrian access and transportation mode that would come together and work with the Town Center redevelopment.

**There was consensus to move forward with Policy 1.6.1, including the two changes.**

### Policies 1.6.2 and 1.6.3

Mr. Symanski discussed street vacations and voiced concern with the language that the “Town will do...”. Attorney Stroud explained it was qualified by “available and appropriate;” if the location was not appropriate for the design or the proposal under the ODP process, it did not bind the Town to approve it.

**There was consensus to amend Policy 1.6.3 to change the word ‘will’ to ‘may.’**

The board recessed from 10:08 am – 10:15 am.

### Transportation:

Chair Webb noted that one of the challenges was when looking at the proposed changes, she did not have the benefit of reviewing prior minutes, which made it difficult.

There were no comments concerning the Recreation and Open Space Element, Infrastructure Element, and Intergovernmental Coordination Element.

### Capital Improvements:

Attorney Stroud noted that adjustments were made to reflect the changes in the transportation concurrency system. She recalled there was a question whether “be detrimental to” was the correct verb in Policy 1.3.2. Staff revised to state, “Detrimental to public health, safety, and welfare.”

Mr. Garner had discussions with the Public Works Director, Juan Florensa, on the public facilities and services and the standard to encourage less usage. He believed that somewhere they should have standards to encourage conservation. Chair Webb asked where the language should be included. Mr. Garner suggested that Policy 1.3.1 state, “*Maintains the following level of service standards in reviewing impacts of development, but encourages development through conservation measures.*” Kelly Fernandez, Assistant Town Attorney, noted that it might be in another provision of the comprehensive plan. Ms. Goldner suggested it should be included in this element.

**There was consensus to include conservation language in Policy 1.3.1 of the Capital Improvements Element.**

### Telecommunications:

Chair Webb referred to Attorney Stroud’s memorandum, dated 9-9-11, noting that the board was only discussing the objective, as it would be included in the Future Land Use Element, and they were not speaking of any specifics for any application or issue.

Jim Eatrdes, Alpha-Omega Communications, commented that he was in attendance to answer any questions that might need clarification. He had listened to the presentation made by Attorney Gary Resnick at the September 1, 2011, meeting and had reviewed his PowerPoint presentation. He mentioned there were points that were raised that were questionable. Chair Webb reiterated that none of that language would be a part of the discussion.

Objective 1.6

Policy 1.6.4

Attorney Stroud informed the board that the Comprehensive Plan did not address wireless infrastructure at all, and staff was trying to create something that was consistent in scope. The policy would read, "1.6.4. *Because adequate Town-wide wireless communication infrastructure is important to safety and the continued economic and social vitality of Town life, the Town will encourage the location of such infrastructure in suitable areas, consistent with criteria that include safety, aesthetics and neighborhood compatibility and as provided by state and federal law.*"

**There was consensus to move forward with the objective as written.**

Waterfront Building Height Standards:

Mr. Hartman explained this issue was discussed at the board's March meeting, and due to circumstances of a potential applicant, staff was delayed until the last minute in moving forward until this time. Chair Webb asked if there was a consensus to allow an additional five feet for waterfront in commercial districts. Mr. Hartman replied yes, the board believed there should be an opportunity for a restaurant that was located on the waterfront to take advantage of the additional five feet.

Mr. Symanski recalled that Mr. Hixon and Mrs. Zunz had requested that item, and he had suggested a different zoning category. He asked about adding an option for Moore's Stone Crab Restaurant to go back to commercial if they chose, and asked if they could take advantage of this revision. Mr. Hartman responded not at this time, because they were a legal non-conforming facility. Attorney Fernandez pointed out that Moore's was in a different land use category. Mr. Hartman noted they would not be allowed to expand the non-conforming use. Mr. Symanski asked if they were not considered a waterfront restaurant. Attorney Fernandez pointed out the request was for a commercial future land use category, and Moore's was not in that category.

**There was consensus to move forward with recommending allowing an additional five feet for waterfront in commercial districts.**

Mr. Hartman continued with reviewing the table that was included with the memorandum, explaining that the state required the Town to show how high and intense they would be for commercial.

**There was consensus to move forward with the chart.**

Mr. Symanski referred to the discussion of the Moore's and Mar Vista restaurant properties, and asked about the possibility of Moore's going back to commercial zoning; was there any reason to not put an option in the plan for Moore's. Attorney Stroud explained the Town would have to change the non-conforming language. Mr. Symanski commented that if they wished to rezone back to commercial, the language in the comprehensive plan would be in place, and they would not be required to go through another amendment.

Attorney Stroud pointed out there would need to be a Future Land Use Map amendment to place it back into a commercial land use category.

The regular meeting scheduled for September 20, 2011, has been canceled.

Pursuant to published notice, the public hearing was opened. No one wished to be heard, and the hearing was closed.

**MS. GOLDNER MOVED TO RECOMMEND APPROVAL OF RESOLUTION 2011-26 TO THE TOWN COMMISSION AS AMENDED. MR. HACKETT SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; SYMANSKI, AYE; WEBB, AYE.**

Ms. Simpson informed the board that at this time, staff has no applications that have been deemed complete for the October meeting. The deadline was September 20, 2011.

AGENDA ITEM #3  
REQUEST TO THE TOWN COMMISSION FOR THE PLANNING AND ZONING  
BOARD TO HOLD PUBLIC HEARINGS

Ms. Simpson noted that according to the Town Code and Charter, the board, in order to hold public hearings on their own initiative, must request permission from the Town Commission. She commented that in order to hold public hearings concerning telecommunications, the board needed to formally request permission.

**MR. GARNER MOVED THAT THE P&Z BOARD REQUEST PERMISSION FROM THE TOWN COMMISSION TO HOLD PUBLIC HEARINGS ON THE ISSUE OF TELECOMMUNICATIONS. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; SYMANSKI, AYE; WEBB, AYE.**

ADJOURNMENT

The meeting was adjourned at 10:47 am.

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John Wild, Secretary  
Planning and Zoning Board