

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

JUNE 21, 2011

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

Members Present: Chair BJ Webb, Vice Chair Allen Hixon, Secretary John Wild, Members Jack Daly, Leonard Garner, Laurin Goldner, Walter Hackett, George Symanski

Members Absent: Phineas Alpers

Also Present: Kelly Martinson, Assistant Town Attorney; Monica Simpson, Planning, Zoning & Building Director; Ric Hartman, Planner; Donna Chipman, Office Manager

AGENDA ITEM #1
LIGHTHOUSE POINT SUBDIVISION
OUTLINE DEVELOPMENT PLAN AMENDMENT

Pursuant to published notice, the public hearing was opened. Ms. Chipman swore all those testifying.

Steve Schield, Planner, reviewed the staff report noting the request was to reconfigure the boat mooring areas for the community dock, located adjacent to 15 Lighthouse Point Drive, to provide better access to the mooring areas, and greater protection of seagrass areas located adjacent to the mooring area. He continued with reviewing the history of the approvals for the site. The increased projection was 59.6 feet, and the total deck area was 1,891 square feet. The additional projection of 10 feet was from the original approval (49.6 feet), and the 480 square foot increase was for finger piers. Mr. Schield noted that the owner of Lot 6 has objected to the application due to possible impacts to their view. The applicant agreed to limit the length of the finger piers to 30 feet, but was requesting two departures: 1) allow the docks to project 29.6 feet beyond the code requirement of 30 feet; and 2) a total dock area of 1,891 square feet, which was an additional 480 square feet beyond the code requirement.

Mr. Symanski asked if they were requesting departures or variances. Mr. Schield replied departures. Mr. Symanski questioned how constructing a larger dock would be better for the area. Mr. Schield explained that it would be protecting the sea grass areas. He also pointed out that others in the area had been granted variances. Mr. Symanski asked how they were able to obtain variances. Mr. Schield responded they had a shallow shoreline.

Mr. Wild asked if the request was to balance the use of two docks so they were not oriented toward one. Mr. Schield believed it was more to improve the access. He noted that four of the moorings were shore parallel, and a large seagrass area was located on the front and sides of the docks. Mr. Hackett asked if the application was still subject to the Corps of Engineers. Mr. Schield replied yes. Mr. Schield continued with reviewing a PowerPoint presentation showing the existing site and surrounding conditions.

Mr. Symanski noted the areas were private properties. Mr. Schield responded yes; they had access by easements. He noted the six lots located along New Pass, under the site plan approval, were not allowed to have a boat dock on their property. Those properties were required to have a 100 foot setback; whereas, those located on the lagoon only required 20 feet.

Kristi Tignor, engineer representing the applicant, agreed with the staff recommendations and assessment of the project. She explained that the proposed site plan amendment improved on the navigation and safety in the area. The conditions that existed today on the site were probably not present when the original dock was permitted. She reviewed the site plan for the dock noting the site conditions and impacts from accretion and erosion. She pointed out there were a lot of shallow areas located from the existing dock platforms back to the shoreline. The mangroves had not been trimmed and were very large, encroaching into the waterway, and minimized any view impacts to upland property owners. The proposal will allow mooring perpendicular to the shoreline, and they were not asking for an increase in the number of slips. The setback on the east side was increased for that property owner, but there was no change for the property owner to the west. She mentioned they had submitted their application to the regulatory agencies, and they were very close to approval; however, the state agency allowed them to place their review in abeyance while they worked through the Town process. Ms. Tignor pointed out that one of the state requirements was those properties that were not allowed to have docks would be put into a conservation easement. The original permit application to the Army Corps of Engineers was submitted in June 2006; however, they would provide a new application asking for the revision for the 30 foot fingers, which will reset the time clock for the construction deadline. She discussed that there was an issue raised recently concerning riparian right lines, and one of the first pieces of information provided was a survey showing the riparian lines, perpendicular to the channel. They were in compliance with the setback from the riparian lines. She noted they had received a letter from the Longboat Key Club supporting the project.

Mr. Symanski asked if the conservation easement ran through the state. Ms. Tignor replied yes. Mr. Symanski asked if the state enforced the easement. Ms. Tignor replied yes. Mr. Garner asked if there was anything in the submittal that commented on the boat length to restrict boats from protruding past the fingers. Ms. Tignor responded the boat length would be regulated through the state, because they were allowed a certain amount of square footage under a lease threshold, which they intended to comply with the state. Mr. Garner asked if it was possible for the board to place a restriction on the length of the boat, and asked what would be the maximum. Ms. Tignor believed the owners were considering 40 feet as the maximum for the slip length. The slip length would include any setback from the platform and all the outboards. Mr. Garner asked if that could be incorporated into the application. Ms. Tignor responded that she believed it could, but the Town Code did not regulate the length of boats.

Robert Betegole, 90 Lighthouse Point, and owner of a lot that could not have a dock, commented when the docks were originally constructed by the developer, the docks were unequal in size. The six docks on the eastern pier and two docks on the western pier were not equal. He noted the docks were allocated on a first come, first serve basis. He pointed out that by including the four fingers, each home on the water would have an equal size dock. He presented a video whereby Lighthouse Point property owners indicated their support of the application.

James Smith, Custom Dock and Davit, commented that he had worked on a number of the existing docks in Lighthouse Point, and noted that the design of perpendicular parking for a vessel versus shoreline parallel was more desirable. The ingress/egress from the centerline of the channel was directly to the dock rather than through the adjacent property owner's riparian rights area. The design was a more user friendly design that one could have along a shoreline. He noted they would follow any and all of the requirements set forth by the regulatory agencies.

Bud Schaberg, 25 Lighthouse Point Drive, noted he was owner of Lot 6, which was the property contiguous to the proposed dock project. They did not object to the purpose of the dock facility, as there were six property owners that were unable to have docks, and they would not want their neighbors to not have that ability. However, they do object to the current design. Mr. Schaberg explained that the remaining ten property owners (Lots 1 – Lot 30) currently had boat docks. They purchased their home in 2007 from the developer, and shortly thereafter, they learned for the first time that the Lighthouse Point Homeowners Association board had planned to reconfigure the docks. He reviewed a sworn affidavit of no objection submitted by Fred Niedrich and commented that Bob Betegole, president of the association, had approached the developer with the affidavit, because the riparian line on Lot 7 was located over the property line for Lot 6.

Chair Webb asked if the affidavit was available at the time he purchased his lot. Mr. Schaberg responded the document was signed before they purchased their home, but they were not aware of the document. He explained that in order to be in effect and follow the land, the association failed to record the document; therefore, when they purchased their property the document was null and void. He noted that in response to their objections to the board of directors, at their meeting in March 2008, the association board agreed they would not do any expansions to Dock 'A,' which was validated in the minutes of the board meeting. He entered a written statement into the record. Discussion ensued on the riparian line, and Mr. Schaberg's request that the two finger docks on the westerly dock (Dock 'A') be eliminated. Mr. Hixon asked Mr. Schaberg's opinion if one of the fingers was eliminated and there was a parallel docking space in place of that, and then the other finger was added, which was outside their viewscape. Mr. Schaberg indicated he would prefer no finger piers, but would look more favorably on Mr. Hixon's suggestion.

Mr. Hackett discussed a document he had viewed where Mrs. Schaberg had approved a 44 foot x 20 foot boat, and asked if it would have been positioned perpendicular. Mr. Schaberg replied no; that was always parallel to the dock, and the entire boat had access directly from the dock into deep water.

Ms. Tignor clarified that the Sworn Affidavit of No Objection, signed by the previous property owner, was for a different plan. She reviewed Exhibit 'A,' which showed a shaded area that was proposed for the mooring for the slip, and was within 25 feet of the approximate riparian line. The state required that if they were going to have a structure or mooring within 25 feet of a riparian line, they were required to get a sign off on the plan from the impacted owner. Ms. Tignor continued with reviewing the site plan, location of mangroves and vegetation, and view from Lot 6.

Ms. Goldner referred to the new slips that were proposed and asked if there would be no davits or lifts. Ms. Tignor responded they were not asking for lifts, but they were shown on the plans. She explained that from an environmental standpoint that was very preferable, because if they got the lifts out of the water, it improved water quality. Also, there was a concern in this area, because it was somewhat constricted due to the configuration of the shoreline for "flushing and water quality." Mr. Garner questioned whether during the time the existing docks had been installed had there been occasions where all eight slips were in use at the same time. Ms. Tignor replied no. Mr. Garner asked if the concept of submitting for eight docks was repetitive of what existed, and there was no usage that would prevent the existing to reduce to six docks. Mr. Betangole explained that the original developer had studied this issue, and constructed the eight docks. The six people that were entitled to lease the docks provided a commitment to agree to lease a dock.

Mr. Hixon questioned how many leases the association currently had with the owners. Mr. Betangole replied three. Mr. Symanski asked if the owners on the pass, who could not have a dock, did not lease the docks, would the association be able to lease to someone who already had a dock. Mr. Betangole explained that the current regulations did not allow it.

Janet Schaberg, 25 Lighthouse Point Drive, was sworn. Ms. Schaberg noted over the past year there had been only one boat on the dock, and there were three people paying into the fees for those docks. She commented there was no supervision of the docks. She pointed out the photo showing the view of the docks from the easement was not a realistic view as it was taken very far back on the easement. They did not have a problem with a boat, but did not understand when there were six lots that were allowed to have docks, why there was a need for eight. She questioned who would supervise the eight docks.

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

**MR. WILD MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2011-14 AS WRITTEN.
MS. GOLDNER SECONDED THE MOTION.**

MR. HIXON MOVED TO AMEND THE MOTION TO DELETE THE WEST FINGER FROM THE WEST DOCK ALLOWING PARALLEL DOCKING THERE, WHICH RESULTS IN THE DELETION OF ONE SPACE. MR. GARNER SECONDED THE MOTION.

Ms. Simpson commented the direction of the motion, if passed, would require staff to attempt to provide the Town Commission with some measurement that a finger dock shall not be located any further west than 'x' amount of feet from the end of the shoreline parallel dock. The site plan amendment would be where the board would reference the west finger. Mr. Wild questioned whether this item should be addressed under the next agenda item.

David Persson, Town Attorney, responded the board should make the change at this time, as the ODP sets the zoning for the underlying site plan. He commented that if the board was going to make a modification as to the allowance of that finger, this would be the appropriate time to do it and follow Ms. Simpson's suggestion.

The board recessed from 10:39 am – 10:47 am.

Ms. Simpson asked, if the board chose Attorney Persson's suggestion, that they also recommend adding, as Exhibit 'C,' the actual plan sheet. This would provide a description and location for the finger being eliminated.

Mr. Hackett requested the hearing being reopened to hear comments from the association.

The public hearing was reopened.

Bob Betangole, 90 Lighthouse Point Drive, president of the Lighthouse Point Association, commented that whatever the board did at this meeting would be "cast in concrete," and he was not sure they should be burdening future owners by removing a dock. He did not believe the six owners on the water should have restrictions that were not placed on those that have docks. He believed the owners of Lot 6 would not have any impacts as the docks were located behind Lot 7 (owner Bob Martin), who did not have an objection to the proposal. Mr. Wild asked if he understood that Mr. Betangole would prefer the original staff recommendation and not favor the amendment. Mr. Betangole replied correct.

The public hearing was closed.

MOTION ON AMENDMENT FAILED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, NO; HACKETT, NO; HIXON, AYE; SYMANSKI, AYE; WEBB, NO; WILD, NO.

Mr. Symanski raised the issue of the boat length that was discussed by Mr. Garner.

MR. GARNER MOVED TO AMEND THE MOTION TO LIMIT THE USE OF THE DOCKS TO A BOAT LENGTH NOT TO EXCEED 40 FEET ON ALL THE DOCKS. MR. SYMANSKI SECONDED THE MOTION.

Mr. Garner commented he was suggesting 40 feet in length, but whatever the association believed was sufficient would be fine; there needed to be a limit on the length. Mr. Hackett noted the 40 foot restriction would eliminate a lot of vessels that were 42-46 feet.

The public hearing was reopened.

Mr. Betangole responded that he was not sure how they could lease the docks with a size restriction. He pointed out there was not a way for a 50-60 foot boat to access the area, because if there was more than a three foot draft they would be unable to get past the lagoon as it was very shallow. He noted the piers were 30 feet in length, and nothing extended beyond the 30 feet. He questioned how it would be enforced. He suggested no limit, but if the board believed there should be a limit, then he would recommend 50 feet in length.

MR. GARNER REVISED HIS MOTION TO REFERENCE THE LIMIT TO A 50 FOOT BOAT LENGTH. MR. SYMANSKI AGREED TO THE AMENDMENT. MOTION ON AMENDMENT CARRIED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

ORIGINAL MOTION, AS AMENDED, CARRIED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, NO; SYMANSKI, NO; WEBB, AYE; WILD, AYE.

AGENDA ITEM #2
LIGHTHOUSE POINT SUBDIVISION
SITE PLAN AMENDMENT

Mr. Schield reviewed the request reiterating that the applicant was requesting approval of an amendment to the site plan to reconfigure the boat mooring areas at the Lighthouse Point Community Dock to provide better access to mooring areas, and for greater protection of seagrasses located adjacent to the mooring area next to 15 Lighthouse Point

MR. WILD MOVED TO RECOMMEND APPROVAL OF RESOLUTION 2011-14 AS WRITTEN. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, NO; WEBB, AYE; WILD, AYE.

AGENDA ITEM #3
ORDINANCE 2011-28, COMPREHENSIVE PLAN AMENDMENT
FUTURE LAND USE ELEMENT

Pursuant to published notice, the public hearing was opened.

Nancy Stroud, special counsel, provided an overview of the amendment noting it included slightly more detail requested by the Department of Community Affairs (DCA). She explained the more substantive changes, which were: 1) the end date for the planning period was brought back to 2020 rather than 2025; and 2) Table 3 of the Data & Analysis, page 20, the word 'dwelling' should be reinserted in the words 'dwelling unit.'

Mr. Hixon referred to page 5, Policy 4, and commented he did not understand the language, "Medium Density, Single-Family, Mixed Residential." Attorney Stroud responded this was not a change, but was an explanation of the Future Land Use category that was similar to the zoning category for 'Medium Density,' 'Single-Family,' and 'Mixed' (multi-family). She continued that it sets the purpose for the district and also says what was allowed for uses and densities. Mr. Hixon asked for a definition of 'tourism unit.' Attorney Stroud referred to the definition of 'tourism unit' located in Section 158.006, Definitions, of the Town Zoning Code. Discussion ensued concerning the success of tourism units on the beach versus the bayside; reasonable beach access for those units; use of the public beach accesses; and the proximity to residential use.

Ms. Simpson explained that the proposed amendments were an attempt to clarify what was currently in the Comprehensive Plan.

She noted the board's discussion concerned "re-crafting policy," which should be addressed under the next agenda item. She mentioned that the discussion also was contrary to the work completed by the Town Commission and the P&Z Board in 2008 with the adoption of the 250 tourism units and where those units could be distributed, which included all the commercial zoning districts on the island.

Brad Saivetz, Golf Links Lane, discussed density and tourism units. He referred to a letter he wrote to the Board pointing out that it should refer to MUC-2 and not MUC-3. He commented the question was how many dwelling units could be placed in MUC-2. He believed MUC-3 was not a mixed community, but a planned development. Concerning the MUC-2 district, he believed the numbers did not relate as there were actually 354 units approved to be built; the 196 units that were proposed for tourism units were not related in Table 3, and he believed they should be included.

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

MR. GARNER MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2011-28 AS WRITTEN. MR. SYMANSKI SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, NO; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

The Board recessed from 11:26 am – 11:29 am.

AGENDA ITEM #4
COMPREHENSIVE PLAN AMENDMENT DISCUSSION

Attorney Stroud discussed that local governments were now not required to have a Transportation Concurrency program, so one major option that the Town might wish to consider was whether transportation concurrency worked for the Town, or if it did not, whether they wished to continue it. She pointed out that at the same time the planning act required the Town continue to have a Transportation Element and continue to consider level of service (LOS), system needs, growth trends and travel patterns, a projected transportation system based on the Future Land Use map, and how to correct existing facility deficiencies. The new planning act allowed the Town to shift its focus to other things that might be local and important to the local residents. Discussion was held with staff and the Town's transportation consultant, Tindale-Oliver. She introduced Demian Miller, Tindale-Oliver, who provided a PowerPoint presentation which outlined the changes enacted by the state.

Mr. Garner asked if the Town was responsible for all of the restrictions, or regulations, of LOS on Gulf of Mexico Drive (GMD), or is it part of the state's responsibility because it was a state road. Mr. Miller responded the local jurisdiction sets the LOS on Gulf of Mexico Drive; the only facilities the state sets by administrative rule (Florida Department of Transportation) were interstate/highway system, or facilities that use a specific type of state funding.

Mr. Wild commented that the Town Commission had requested a traffic study several years ago and questioned the results from that study. Ric Hartman, Planner, believed Mr. Wild was referring to the The Center for Urban Transportation and Research (CUTR) study, and it showed that a majority of the traffic on GMD was "pass-through" traffic.

Mr. Hackett believed there was a traffic count that was several years old that showed a significant traffic decrease. Ms. Simpson noted that Tindale-Oliver just recently did their study. She pointed out the discussion for today was how the Board wished to address potential issues, and whether or not the Town wished to continue with concurrency, and if not, then there had to be something in place to address transportation.

Mr. Miller commented the question was whether the limited amount of improvements that could be done to GMD was the best investment for the transportation needs of the Town. He noted if the Town continued with concurrency, then they were discussing automobile LOS on the one road. Some alternative approaches was to look at other types of transportation investments, and considering how the Future Land Use plan compliments those, see if they better serve the Town. He mentioned that concerning other elements of concurrency, the one issue that was discussed with staff and needed to be dealt with, whether it was called transportation concurrency or part of the site plan review process, was the threat of an outsized impact at a specific point. Mr. Miller commented when there was a concurrency ordinance in place, because they were reviewing LOS on a roadway, all the other site specific issues tend to get bundled into that analysis. He noted that if the Town were to decide to no longer look at roadway LOS, they needed to ensure in the site plan review process, or a development permit, that sufficient language was in the code to ensure there was a measure to evaluate, and deal with, any acute site specific issues.

Mr. Garner commented if they chose to impose impact fees they would come to Longboat Key, however, any modification to GMD would be paid for by the state. Mr. Miller responded that to the extent the Town could ask the state to pay for modifications to GMD, it may, but if the state did not wish to do those improvements, they were not required to, no matter the LOS. He noted that the improvements might be contracted by the state, but they would be done using the Town or county funds.

Mr. Garner asked how they determined what the initiation of a vehicle was that was exiting the island north or south. Mr. Miller explained there was a theoretical way, which included transportation models that looked at land uses of business and homes with guests; or by placing a person at one end of the island writing down license plate numbers, which was called an Origin/Destination Study.

Attorney Stroud noted there was a need for discussion concerning the concurrency issue and other strategies that the Town might wish to build into the Comprehensive Plan. She anticipated another session where staff would provide something in writing, including options that would guide discussion and obtain board direction. Discussion ensued on possible dates over the summer for further discussion on the Comprehensive Plan. Chair Webb noted that staff would set up teleconferencing ability for those that were unable to attend in person, but wished to participate by phone.

Chair Webb noted the meetings scheduled through the summer included: July 19, 2011, August 16, 2011, September 1, 2011, and September 13, 2011. All meetings to begin at 9:00 am. Ms. Simpson included there was a regular meeting scheduled for September 20, 2011; however, Attorney Stroud would not be available for that meeting. She pointed out that dependent upon how far the board was in their discussions, they might be able to eliminate one of the meeting dates. The meetings referenced by Chair Webb were scheduled to only discuss the Comprehensive Plan amendments.

AGENDA ITEM #5
CONSENT AGENDA

MR. GARNER MOVED APPROVAL OF THE MINUTES OF THE MAY 17, 2011, REGULAR MEETING AND SETTING THE FUTURE MEETING DATE FOR JULY 19, 2011. MR. DALY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

Ms. Simpson informed the board that the Town Commission created a committee to work over the summer to draft a mission statement for the Town, and possibly discuss further strategies and objectives to either be incorporated in the Comprehensive Plan, or in a separate planning document. The Town Commission members of the committee include, Vice Mayor David Brenner, Commissioner Jack Duncan, and Commissioner Patricia Zunz. She explained that the board needed to appoint two members of the Planning and Zoning Board to be included as a part of the group. She noted that the committee would eventually include two members of the public that would be selected by the commission and P&Z Board members.

There was consensus to appoint Chair BJ Webb and member Leonard Garner to serve on the committee.

ADJOURNMENT

The meeting was adjourned at 12:10 pm.

John Wild, Secretary
Planning and Zoning Board