

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

\*\*\*MAY 5, 2011\*\*\*

The special 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 Phineas Alpers, Laurin Goldner, Walter Hackett, Bradford Saivetz, George Symanski

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

Chair Webb noted that George Spoll wished to make a statement concerning the Revitalization Task Force. He introduced those members who were in attendance: Tom Friewald, Vice-Chairman, Dick Levin, John Sandford, and Larry Grossman.

Mr. Spoll read a prepared statement into the record (attached to minutes).

Mr. Symanski questioned Mr. Spoll's statement. Mr. Spoll responded they were suggesting the more constraints placed on ideas the less ideas the Town might see submitted. The process of informal hearings was "exciting and encouraging" to a developer and provides ideas that might not have been thought of at the time. Staff was provided standards in the Zoning Code, and as a result, they properly talk with applicants. However, there was no opportunity for the applicant to discuss with the community. Mr. Symanski noted the developer could submit under existing zoning as opposed to being encouraged to consolidate to have a unified development. Mr. Spoll supported the idea of consolidation, and they used the five-story construction as an example. The area at the north end had many two story condominium buildings that could be rebuilt and raised one story. Mr. Symanski commented that his intent was to not allow wall-to-wall five stories, but allow the option to allow something that was sufficiently setback in the middle. Mr. Spoll believed the concern was to set it as a standard.

Mr. Hixon discussed Mr. Spoll's statement noting that it was exactly the same direction the board wished to proceed. He believed if they did not set some type of limits, the applicant could submit anything. He explained that if they followed that philosophy without a limit, then an applicant could submit a plan with a ten story height, but if the Town set a limit, then they have the flexibility to work with that. Mr. Spoll noted that the committee wished to emphasize that the base standard should be compatible with the neighborhood. There was no reason they could not state the Town would be open to departures on an individual, proven case basis. Mr. Hixon pointed out that one area he would think differently was not only the Village, but also Gulf of Mexico Drive and the arrival onto the key. There was an opportunity to create a new entrance. Mr. Spoll replied they totally supported that idea. Mr. Hackett commented the premise for considering the five stories was to broaden the appeal to the developer, and not to inhibit. Discussion ensued on respecting the characteristics of the north end.

Nancy Stroud, special counsel for the Town, commented there needed to be parameters under the state statute, including the mix of uses and the allocation of those uses. The parameters also needed to include intensity measures for the uses, and that was the reason for the height and lot coverage.

AGENDA ITEM #1  
COMPREHENSIVE PLAN AMENDMENTS

Attorney Stroud noted that during the previous meeting, the board had made changes to increase some of the flexibility for the overlay. The language was changed to reflect the board's discussion.

Policy 1.6.1 (April 29, 2011 memorandum)

Mr. Hixon commented that during the last meeting someone indicated that continuing care community use was a good concept and should be included. This would modify the residential component and in order to gain flexibility, the committee should not delete the existing multi-family residential element in the town center. Mr. Symanski disagreed and commented that it was not a place for it.

Mr. Saivetz mentioned that there was a long discussion about this matter, and he was the one that suggested senior residential. He believed to limit it to continuing care would be difficult. He agreed it should not be limited to, but reflect it could include continuing care. Chair Webb agreed with Mr. Saivetz and Mr. Hixon. Mr. Hixon suggested removing the words, "shall be limited to" and insert "may include." Chair Webb commented that if the Town was going to create a mixed use town center, then mixed use noted they could have residential, business, and an office component. Mr. Symanski mentioned if they were not replacing something else, then where would it go. Chair Webb responded there were vacant land and a restaurant on the Town Plaza site.

Mr. Alpers voiced concern with some of the language in the first line as it states 'vibrant town center.' He commented that when he was talking with people, they indicated their wishes to have a green area between the shops. He discussed Publix and whether there would be a unified town center. Mr. Wild also voiced concern they would try to limit the potential by stating they could only have certain items. He did not wish to limit Whitney Beach and others who owned property at the north end, and agreed with those that noted there should be a more welcoming entrance at the north end.

Chair Webb asked if the board agreed with Mr. Alper's suggestion to remove 'vibrant town center' from the language in Policy 1.6.1. **There was consensus to leave 'vibrant town center' in the current language in the draft.**

Chair Webb asked if the board wished to remove the reference to 'commercial, office-institutional, residential and tourism units.' **There was consensus to leave the current language in the draft.**

Chair Webb asked about the language addressing 'additional non-residential lot coverage and additional non- and residential height'. **There was consensus to leave the current language in the draft.**

Chair Webb asked about the language, 'residential may include continuing care, retirement community uses'. Attorney Stroud revised to state, 'may include, but is not limited to.' **There was consensus, with the exception of Mr. Symanski and Mr. Wild, to revise the language in the draft to follow Attorney Stroud's suggestion.**

Mr. Hackett discussed Publix and suggested there be a dialogue to determine their needs. Ms. Simpson responded that the Town, in various forms and stages, has been in discussions with the Publix Corporation. Chair Webb noted that what the board did with the Comprehensive Plan updates would not be in any form that would help Publix to move forward. Ms. Simpson explained that the Comprehensive Plan was always going to be "broad stroke generalizations" of the overall concept and ideas they wished to see. The land development regulations (LDRs) would then be tweaked or amended to be specific in various areas, but they should not tie themselves into something too specific so it limited the Town, future developers, and everyone involved.

Mr. Symanski asked if there was any limitation on residential and where it could be placed. Ms. Simpson responded under the current Outline Development Plan (ODP) process anyone could ask for residential to be placed anywhere in the Bay Isles PD. She commented that if someone wished to redevelop the land Town Hall sat on someone could propose that, but the Town did not have to grant. Mr. Symanski asked if it would have to go to referendum. Ms. Simpson replied unless they were within the limits of the available density. Mr. Hackett asked if it included tourism use. Ms. Simpson explained it could, but the approvals were clear as to what type of units were available. Mr. Saivetz discussed density limitations noting that he had questioned how many units were available. He believed this had to be discussed, because he believed there were no units available.

#### Policy 1.6.2

Attorney Stroud noted there were no proposed changes from the last meeting.

#### Policy 1.6.3

Attorney Stroud commented that the Board had suggested one way to create incentives was to include public street abandonment.

**There was consensus to move forward with including 'public street abandonment.'**

#### Policy 1.6.4.

Attorney Stroud noted there were no proposed changes from the last meeting.

Mr. Saivetz referred to the language "exempt from traffic concurrency requirements," and commented that he did not believe they could arbitrarily say it can be exempt. He believed requirements were needed. Mr. Wild noted that Mr. Saivetz's concern related to traffic during a hurricane, but he wished to reiterate prior board member Patricia Zunz's comments noting that hurricanes happened when there were less people on the Key, so it was believed to be a moot point.

#### Whitney Beach Shopping Center Overlay

Attorney Stroud reviewed the changes proposed from the last meeting. She noted there was concern about whether the standards were too flexible and whether they would work on the site. She understood that staff had developed a few scenarios to test whether a proposed development on the site could occur with these standards, and it was determined the standards would work.

Brian Kenney, owner of Whitney Beach Shopping Center, expressed that he was very pleased with the conversations held with the Town and residents. He believed there was a tremendous opportunity and appreciated the feedback from the island. Their focus was on retail, and they have not heard anything negative about the redevelopment of the site. He pointed out they were under agreement for the two properties to the north of the Whitney Beach site (Conrad property and bank building). He mentioned it was not their desire to build a huge development, and they have reviewed the impact of the views and environment. They envision pushing the height to the side, so it would not impact anyone. He commented that all combined, the acreage was an eight acre parcel, and they were wishing to build something that was welcoming to the island.

Mr. Wild questioned the feasibility of garden villas and access to the beach. Mr. Kenney commented there was a vacant parcel across the street, but the price was prohibitive. There was also a public beach access directly across the street. He noted that if they created a development, and received the support, then the Florida Department of Transportation (FDOT) might revisit the issue of installing a traffic light; a bridge, or tunnel, would not be a good idea. Mr. Wild commented that he was discussing garden villas in a condominium-type development on the north end. Mr. Kenney responded that economically it would not make sense; he was not opposed to a residential component on the site, but he would not construct “pure” residential on that site.

Mr. Hixon commented that if he was considering a hotel, then they should think the “biggest, possible picture, and a public easement to the “wet sand area” of the beach would not satisfy the needs of the tourist community. He believed Mr. Kenney should think about the one parcel across the street as it would provide private beach. Mr. Kenney responded that he did not disagree, but another concern was the ability to draw some retail component on their parcel and the parcel to the north. He noted that approving the overlay would allow them to create more value in that location, which was enticing to retailers. He commented that retailers were always concerned with barrier islands, traffic counts and fluctuation in population during season.

Mr. Symanski referred to the issue of height and noted he was going to suggest that the intent was to not build “wall to wall” five stories, but allow some “well positioned opportunity.” He was not happy with the language that indicated residential uses were not to exceed 20 percent. He was suggesting it be linked to some consolidated development and the square footage, not 20 percent of the land area. Ms. Stroud asked if he was referring to 20 percent of a single project. Mr. Symanski replied a consolidated development that would submit with 20 percent of the residential integrated in the development. Mr. Hackett believed 20 percent was a low figure. Chair Webb suggested that they research to determine how those percentages played with commercial, retail, and residential. Mr. Wild noted they could make it a higher number. Mr. Hackett suggested 30 percent. Mr. Wild responded if they did so, the nature of the project would still be subject to review, and supported changing the number. Ms. Stroud was not sure the word ‘consolidated’ had an understandable meaning, and suggested it state, “30 percent of a mixed use project.” Mr. Symanski believed the word ‘residential’ could be removed. Mr. Wild deferred to counsel, but did not wish it to be limited to single-family residential; it should include tourism. Ms. Stroud believed the residences were allowed to be rented, but with tourism restrictions. She commented that residential could include limited types of tourism uses.

Ms. Stroud suggested the modification read, “Residential uses shall not exceed 30 percent of a mixed use project.”

**There was consensus to move forward with the language as suggested by Ms. Stroud.**

Discussion ensued on building heights and shadowing. Chair Webb noted her concern with allowing up to a total of five stories at the Whitney Beach location. She was concerned it would create a “canyon effect.” Mr. Symanski suggested allowing up to five stories, but include language encouraging flexibility of the application and design. Kelly Martinson, Assistant Town Attorney, explained that even if the state was not closely examining what was submitted, there was still an opportunity for citizens, or interested parties, to challenge the submittal. The Town would still be required to meet minimum standards.

Mr. Hackett commented the height restriction was more for the residential component. Mr. Symanski believed tourism was separate from residential. Ms. Simpson pointed out that tourism and residential were different land uses; density and units were treated essentially the same, but how they were looked at from other planning perspectives, they were different items. Discussion ensued on tourism and residential uses, and the height restrictions. Chair Webb asked if they had to include numerical standards. Ms. Stroud replied yes; tourism units that would be non-residential would be a maximum of five stories. She explained that if they wished to allow tourism units above 40 feet, then it needed to be allowed in the Comprehensive Plan. This was one of the few things that the statute required (measure of intensity). Following a brief discussion of the suggested height limitation of five stories, and several board members voicing concern, **there was consensus to limit the requirement to up to four stories.**

Mr. Hackett referred to Policy 1.1.10 where it noted that residential uses shall not exceed 20 percent in the Whitney Beach Overlay, and commented that the board had revised it to 30 percent. He asked if it could be designated residential and tourism. Ms. Stroud responded if they wished to limit tourism to 30 percent of the mixed use project, then they would need to add ‘tourism,’ especially as a use, in the sentence. Ms. Stroud was not sure that was what the board wished to do; if they were trying to ensure that tourism, as a use, was allowed in the overlay, then it was. Ms. Simpson explained that the Zoning Code had very specific definitions for residential and tourism use; it was based on the use, configuration of units and other items.

The Board recessed from 10:28 am – 10:39 am

Chair Webb commented there was a question related to the four stories in height, because in various areas it denoted four stories at 50 feet or four stories at 55 feet. She questioned which measurement the board would like to move forward with in the language. **There was consensus for four stories at 55 feet.**

#### Density Numbers:

Ms. Stroud commented the issue of density was previously addressed, but she believed it was still a concern. She read an excerpt from the Town Charter (Section 22(b)), which states, “*The present density limitations provided in the existing comprehensive plan as adopted March 12, 1984 shall not be increased without the referendum approval of the electors of Longboat Key.*” She discussed: that the 1984 Comprehensive Plan had density limitations for both PD categories; that density was calculated over the whole community; whenever the Town reviewed proposals to change or add units in either district, there would be a need to make a calculation to determine if the proposal would exceed the average density; and a report prepared by attorney, Bill Pomeroy, which was reviewed by Attorneys Persson and Stroud and was the standard by which the Town determined what density was available.

Ms. Stroud noted there had been several concerns expressed related to amendments currently being reviewed by the Department of Community Affairs (DCA), which would come back to the board once the Town received the Objections, Recommendations and Comments (ORC) report. She has reviewed the concerns, met with DCA and mentioned a few of the concerns to see if DCA had any problems, and DCA did not have a problem. She addressed Mr. Saivetz's concern referencing Table 3 in the Data & Analysis (D&A) that was prepared for the amendments that were transmitted. The table was in an earlier plan and was updated to reflect what kind of development has occurred since it was originally produced in 2005. She continued discussing how the table works, noting it was a reflection of a very detailed study by the staff going parcel by parcel looking at what lands had been platted, what has been built, and determined what number of dwelling units, under existing approvals, could be built in each category.

Ms. Stroud noted there was also concern that private covenants and restrictions on land make it impossible, or not legal, for the Town to rezone the land. She believed it was a misunderstanding of the role of private covenants and restrictions versus zoning, which was a public police power. The Comprehensive Plan disclosed that private covenants might be more restrictive than zoning, and zoning might be more restrictive; however, whatever was most restrictive would be what the owner needed to comply with. The Town did not have authority to enforce private covenants and restrictions; it was between the private parties.

Mr. Saivetz discussed column 3 on the table and Ms. Stroud's response. He believed column 3 was the density limitation and not the density. He referred to Sections 158.003 and 157.09 of the Town Code. He commented that if it was the will of the town that everyone wished to have more density, then they should go to a referendum.

#### Transportation:

Ms. Stroud commented there were several matters for the board's consideration to improve the Transportation Element of the Comprehensive Plan. The first item was whether the Town wished to continue transportation concurrency, even though the new state legislation would not mandate it. She noted that if the Board wished to maintain the concurrency system, what staff would recommend was that the Board clarify, and "tweak", in the system what would be the highest hour traffic volume issue. She pointed out that if the Town wished to not have Transportation Concurrency, then they were required to adopt a Proportionate Share Mitigation Strategy, which was a traffic impact fee for other transit-related transportation alternatives.

Bill Oliver, Tindale-Oliver, commented that the new state law did not require concurrency, but it was something the Town might wish to require. He noted that the short term items to consider were: 1) whether the Town was just focused on redevelopment, where someone might tear down and rebuild something newer, but had the same transportation impact; or 2) allow some sort of latitude that would be applicable to anyone. There were six key issues that should be a concern as development was proposed: location, density, intensity, compatibility with surrounding land uses, consistency with long-range transportation planning, and cost of infrastructure. He discussed the traffic conditions in St. Armands Circle and Bradenton Beach, and commented that if the Town wished to do something proactive, they should ask if they wanted conditions that existed outside of the island to limit their ability to redevelop within the island. Mr. Oliver noted that if there was a limit on the intensity and duration of the congestion that the Town would deal with, then it had to be articulated so it could be included in a set of LDRs that would make sense for the Town.

Mr. Wild addressed the issue of through-traffic versus local and commented that his concern was there was through-traffic that did not go through quickly. He asked if Mr. Oliver had thoughts on passing lanes or working with FDOT to straighten out some of the curves. Mr. Oliver responded by providing a temporary passing lane, there was a disadvantage of increasing vehicle speed from a vehicle passing. Mr. Wild discussed traffic generation assessment, where the development, based on the number of parking spaces, had to pay for additional costs to the town for traffic lights, or deceleration/acceleration lanes. Mr. Oliver commented it was referred to as a transportation impact fee. Mr. Wild asked if the Town had collected such a fee. Ms. Simpson responded if it was applicable; the Town had not had any projects that would require the fee.

Mr. Saivetz addressed the issue of hurricane evacuation and asked how long it would take to get off the island. Mr. Oliver commented that he had not looked at the hurricane evacuation study, but they have recently done traffic counts at the south end of the island. He reviewed a chart that showed the traffic volumes, noting that the Saturday volumes at the south end were impacted from St. Armand's Circle. Mr. Saivetz asked how additional units would impact the evacuation time. Ms. Simpson commented that the Town had to follow the Southwest Florida Regional Planning Council (SWFRPC) and Manatee/Sarasota counties with regard to what the Town stated in their comprehensive plan as to evacuation hours. Staff had received notification from Sarasota County that their evacuation time was 64 hours.

Mr. Oliver reiterated there were two strategies for review: short term strategies, including some immediate short term policies that the Town might wish to implement to facilitate development that may be submitted in the near future, and longer term strategies as to how the Town wishes to deal with a mobility plan and land use strategies.

Ms. Stroud believed there was a recommendation from staff to change the plan to adopt the 100<sup>th</sup> hour "tweaked" level of service. She would bring back to the Board for their discussion and recommendation. She commented the next major issue for review was traffic concurrency, and whether the Town wished to maintain, or wish to state, at least for Whitney Beach and the Town Center, that in certain circumstances it would not apply.

Mr. Wild questioned the risk of not having traffic concurrency until there were development proposals submitted. Ms. Stroud noted there was a provision that for redevelopment projects in the overlays, it would not require concurrency. Mr. Wild asked if the Town would be limiting the creativity of a proposal by requiring something that may not be needed by the state. He asked what would be a minimal traffic concurrency rather than something that was specific by neighborhood. Ms. Stroud responded in most states there were traffic studies required in certain circumstances and standards that were adopted, but were not considered concurrency. Mr. Saivetz argued that there needed to be concurrency between the Future Land Use Element, Transportation Element, and the Capital Improvements Element; if they were changing one, they needed to review the others.

**There was consensus to review Mr. Oliver's suggestion and direct staff to provide suggested language at the next meeting for review and recommendation.**

Mr. Symanski commented there was a reference in the paper to the legislature and the creation of a law that would overturn the referendum requirement. Ms. Stroud explained the law was part of the Growth Management Reform package, and would prohibit referendums for amendments to comprehensive plans.

Ms. Simpson commented that she had spoken with David Persson, Town Attorney, and he would be providing an official opinion as to the impacts to the town.

Mr. Hackett voiced concern with the residential and tourism use discussed in Policy 1.6.1 and asked if the board could revisit the issue. Chair Webb suggested the board would have another opportunity to revise the document when it was brought back to the board for review. Mr. Hackett wished to point out that he did not agree with allowing a residential use in the Town Center. Ms. Simpson noted that at some time in the future, staff would bring forward either a resolution or ordinance for a comprehensive review of all the proposed comprehensive plan amendments.

Chair Webb thanked Mr. Saivetz for his service on the board.

### ADJOURNMENT

The meeting was adjourned at 11:34 am.

---

John Wild, Secretary  
Planning and Zoning Board