

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

\*\*\*MARCH 15, 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 Phineas Alpers, Laurin Goldner, Walter Hackett, Bradford Saivetz, George Symanski, Patricia Zunz

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

AGENDA ITEM #1  
ORDINANCE 2011-04, AMENDING SECTION 158.027, APPEALS

Pursuant to published notice, the public hearing was opened.

David Persson, Town Attorney, provided an overview of Ordinance 2011-04, noting the ordinance modified Section 158.027, Appeals, of the Town Zoning Code to replace the word 'council' with the word 'official,' after 'Administrative' to reflect the correct reference.

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

**MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2011-04 AS WRITTEN. MS. ZUNZ SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE; ZUNZ, AYE.**

AGENDA ITEM #2  
COMMERCIAL BUILDING HEIGHT STANDARDS

Ric Hartman, Planner, discussed the findings that the board had requested staff research concerning building heights in C-1, Limited Commercial zoning districts. He noted the Town Commission, at their January 20, 2011, meeting, granted authority to the P&Z Board to review and recommend changes to current development standards for the height of C-1, Limited Commercial zoning districts. The Board had requested staff research the history and intent of the Town Commission in the past, and after doing that research, staff found:

- In the 1955 Zoning Code, the height in the C-1 and C-2 districts was six stories, 65 feet;
- There was brief discussion in 1969 where they discussed raising the height in several other districts, but not in commercial districts;

- Found in 1971 that the board had discussed building height relative to the merits of a high rise versus three to four story buildings; and
- In 1972 the changes were made in the C-2 district to three stories, 35 feet, but retained the six stories, 65 feet for the C-1 district.

Mr. Wild referred to the high rises at Islandside, and asked if since they were located within a planned development (PD) they were never C-1, C-2, or C-3 zoning. Monica Simpson, Planning, Zoning & Building Director, replied that was correct. Mr. Symanski commented that his original discussion only addressed an additional five feet for waterfront dining, but now the proposal was for an additional five feet for any C-1 district. Mr. Hartman noted that as the discussion evolved from the waterfront dining at Mar Vista and Moore's, there was a request to review flexibility for other areas. Mr. Symanski commented he was not interested in increasing the height for any commercial district, but only for waterfront dining. He had provided a suggestion for creation of a special district for those type areas. Ms. Simpson explained that Mr. Hartman was providing information requested by the Board as to the issue of height, and then the Board would determine where they wish to apply that to whatever specific criteria or circumstance. Mr. Hartman continued his review of the history of the height issue pointing out that in the 1975 code it changed the height for the C-1 district from six stories, 65 feet to three stories, 35 feet; and the same code increased the height for C-2 from three stories, 35 feet to three stories, 40 feet. The current code, as of 1986, for C-1 was three stories, 30 feet; C-2 was three stories, 40 feet; and C-3 was three stories, 40 feet.

Mr. Symanski noted that when the issue was discussed, he believed the Mar Vista and Moore's restaurants were important to the island, and that the Town Commission should provide them with an additional five feet if it would enhance the view and was not harmful to the neighborhood. He would like to suggest including an option in the Comprehensive Plan for Moore's to return to waterfront dining if they decided they wished to return to a commercial designation.

Chair Webb asked if the Board decided to expand the C-1 district to 40 feet, so that all districts were standard, would it solve the problem. Mr. Hartman responded the Board could recommend changing the height restrictions, but they were determining if there was a problem. There were only a few restaurants within the C-1 district, and the Board would be adding the height to any use. Ms. Goldner asked what other restaurants would be involved. Mr. Hartman explained that if the Board wished to broaden the C-1 district, it would apply to all areas within a C-1 district.

Mr. Hackett asked if the additional five feet would apply to Moore's in its current state, but would not once it was changed to a residential use. Ms. Simpson replied no; they could not increase non-conformity. Mr. Symanski commented it would not apply to Moore's, but he was suggesting an option be included in the Comprehensive Plan that if Moore's chose, they would be given the ability to apply to return to commercial zoning, and then be provided the opportunity to take advantage of any changes adopted by the Board. He noted they would have to come back to the Town for a rezoning.

Ms. Zunz commented that in the discussion of the heights, Nancy Stroud, special counsel for the Town, had prepared some information on the Future Land Use Element (FLUE) and discussed the possibility of increasing some of the C-1 through C-3 districts with an extra story and increased lot coverage.

Mr. Saivetz referred to Mr. Hartman's comments and asked if the Board could tell an applicant they needed to go five feet higher, because the Town believed it would look nicer. He did not believe so. Chair Webb responded the Town was not telling the applicant they had to, but providing the option. Mr. Hixon noted that the problem related to waterfront dining, rather than all commercial, and asked if the Board could focus on that limited problem and try to resolve it. Mr. Symanski discussed that his suggestion was to add a letter to the zoning category, having the same category, but for waterfront dining; however, staff was not agreeable with that suggestion. He was not sure if there was another possibility where it could be asked for and reviewed under certain standards to ensure it was not detrimental to the neighborhood and provided a benefit. Mr. Wild believed if Ms. Stroud was preparing language that allowed four stories, it would make it simpler making it up to 40 feet across the board. This would provide additional options for revitalization of certain buildings. Mr. Symanski hoped the idea was to not add height to every district, but allow some options, if it was a PD, to be reviewed site specific.

Mr. Symanski asked if there was some way to address the five feet for waterfront dining. Attorney Persson suggested a motion to direct staff to draft an ordinance to allow an additional five feet for waterfront dining. Mr. Symanski discussed the intent was to not just allow it, but to allow the applicant to request it and review against standards. Attorney Persson replied that was a special exception. The burden would be on the evidence to show that it was detrimental to the neighborhood; it would be presumed that it was not detrimental until someone provided competent, substantial evidence of record that it was detrimental. Mr. Symanski asked if there was a way in Florida to have some application wherein they show the positive rather than someone showing the negative. Attorney Persson discussed the Daylight Plane Waiver noting it set a standard which was neither a variance nor special exception, and if the Board believed this was important, then staff could draft standards to address when the five feet should or should not be granted. Ms. Simpson explained that staff could draft an ordinance, but she consulted with Ms. Stroud that there would need to be a Comprehensive Plan amendment to amend the intensity table to allow the additional height, which would not be as simple as a standard zoning code amendment. Chair Webb believed this might be an appropriate time since the Board was reviewing the Comprehensive Plan.

Attorney Persson commented it might be more appropriate to review the issue of height for waterfront dining in the Comprehensive Plan, and then amend the Zoning Code. He pointed out that the Comprehensive Plan limited it to 30 feet, and until it was amended, it would remain. He noted that to allow the P&Z Board the ability to grant permission required a Comprehensive Plan amendment. He suggested that the Board accept the information, listen to Ms. Stroud's presentation, and add the task at the end of that discussion. Mr. Hixon asked if the Board could change the definition of 'height' in the ordinance to avoid a Comprehensive Plan amendment. Attorney Persson responded it was possible, but it was not a good policy.

**There was consensus to defer the issue until Ms. Stroud discussed the Comprehensive Plan issues.**

AGENDA ITEM #3  
COMPREHENSIVE PLAN AMENDMENTS

Attorney Persson discussed the 1984 Comprehensive Plan and the Zoning Code noting that the vision in 1984 was to have a low-density residential community. The Town was on a track, at that time, to have 75,000 year-round population, but were now on a track to have 25,000 year-round population. He mentioned that Clearwater Beach was an example of high-density residential, but the Town had a different vision in 1984, which was the vision the Board had to work with today. He encouraged the Board to discuss who they wished to emulate. He discussed emails exchanged between himself and Mr. Saivetz who raised interesting questions and issues related to the process by which the Board reviewed the Comprehensive Plan changes that were based on the Department of Community Affairs (DCA) analysis. The Board had forwarded their changes (based on the DCA decision) to the Town Commission for its review and transmittal to the state agencies, and had done that knowing they did not have the Data & Analysis (D&A) at the time they reviewed it. Mr. Saivetz reviewed the D&A and had questions related to density, how things applied, and the process for discussion. He understood the process for that discussion today was to take those recommendations and provide to the Town Commission to review and act upon, which was being addressed at a special meeting this afternoon. He explained when the formal comments come back from DCA, the issue would come back to the P&Z Board for review and discussion, and then forwarded back to the Town Commission for adoption and approval. He would let Mr. Saivetz address that, but if the Board wished, the Board could rescind their prior vote and have that discussion by the P&Z Board. He would like the Board to make a decision procedurally whether they were staying on the "same track or change course."

Chair Webb asked if Attorney Persson was asking, based on Mr. Saivetz's memo, if the Board wished to rescind a 6-1 vote on the materials that were sent forward to the Town Commission for discussion this afternoon. Attorney Persson responded that Mr. Saivetz wished to foster a discussion concerning the D&A, and there was no mechanism in place to do that at this time, until it came back to the Board again, at which time the Board would have a full opportunity to review and make changes. Chair Webb pointed out that when the document comes back from DCA, the Board would review the entire package. Attorney Persson replied yes.

Mr. Saivetz explained that on March 11, 2011, he wrote to Ms. Simpson asking if it was appropriate to discuss the contents of the resolution at the P&Z Board meeting. He reviewed his email exchange with Ms. Simpson and Attorney Persson. He commented that he had downloaded 70 pages that the Town Commission would be reviewing that the P&Z Board had not reviewed. He assumed that the P&Z Board were the ones to be responsible for the document. He noted the same pages went to DCA without the Board's knowledge and was returned with many comments and no reference to the P&Z Board. Attorney Persson explained that the DCA had not received the full package as the Town asked for, and received, an informal courtesy review. The DCA was kind enough to provide that review and provide meaningful comments which were being offered to the Town Commission. The 67 pages were primarily that which was attached to the currently adopted Comprehensive Plan; the changes were in underline and strike-through format. He discussed the Town Charter and density requirements from the 1984 Comprehensive Plan.

He asked when the Board wished to address the questions raised by Mr. Saivetz; did they wish to pull it back from the Town Commission, rescind their prior recommendation of approval, and bring back for P&Z Board discussion in the future; or allow the current process to continue and let the Town Commission transmit to the DCA and then review a more final version when it came back with DCA's comments.

**MR. SAIVETZ MOVED TO RESCIND THE P&Z BOARD'S PRIOR VOTE ON THE COMPREHENSIVE PLAN AMENDMENTS. MOTION DIED FOR LACK OF SECOND.**

The Board recessed from 9:49 am to 9:56 am.

Mr. Symanski distributed a report from 2005 prepared by staff concerning how much commercial was needed, and noted the Board should be cautious when discussing eliminating commercial. Ms. Simpson pointed out that the presentation was given in 2005, but not by staff, it was prepared by a former consultant of the Town dealing with the Comprehensive Plan and the Evaluation and Appraisal Report (EAR) based amendments. Staff did not produce the document, or necessarily endorse it. Mr. Symanski commented that it was provided by Pam Truitt, but she was pushing the fact the Town had too much commercial, but he wished to point out the Town had too little.

Nancy Stroud, Special Counsel, reviewed her memorandum noting she had drafted an objective and several policies that would be appropriate to amend the Comprehensive Plan at the time the Board reviewed the entire document. The objective was, *"To assist in redeveloping and revitalizing 'key' areas of the Town in a sustainable mixed use pattern of development in order to support a continued recreation-oriented lifestyle for town residents and visitors."* She reviewed Policy 1.6.1, which identified the Town Center as one of the key areas, describing it as including the Town Hall, tennis complex, and the commercial and other uses. Mr. Hackett questioned what MUC-1 defined. Ms. Stroud responded it referred to the existing PD for Bay Isles – mixed use community. Mr. Wild asked if this was the only mixed use community. Ms. Stroud replied no; there were three: PD, Gulf Planned Development (GPD), and Negotiated Planned Development (NPD). She continued with discussing the Whitney Beach area and the proposed Whitney Beach Overlay, so the existing land use categories stay for those who did not wish to use the incentives in the overlay; but if they used the incentives in the overlay, then the plan would have the basic intensity and density standards that state statute required. She noted that the Town Center, because it was already an existing PUD, did not need another Future Land Use category, but it did need a Zoning Code overlay. Whitney Beach would require another Future Land Use category. The overlay would provide incentives to encourage redevelopment in a mixed use pattern, and those that wished could choose to develop in accordance with those overlay standards. Ms. Stroud pointed out that it was important that anything developed under the overlay be substantial and proposed five acres as a minimum that would be allowed to develop under the overlay. She believed if the Town wished to encourage mixed uses that any project submitted should include at least two uses.

Discussion ensued on an 80/20 percent allocation, which meant that if they wished to use 80 percent of the site for one type of land use, they would have to have at least 20 percent in another use. Mr. Symanski questioned how many acres were involved in the Whitney Beach area. Ms. Simpson referred to the map provided and noted the area denoted in green was over 8 acres.

Ms. Zunz pointed out there was a waterfront restaurant that existed in the Whitney Beach Shopping Center and there was also the Dry Dock, and after reviewing the Comprehensive Plan, there was not any mention of waterfront dining. She wondered if this might not be the place to address that issue.

Mr. Hixon voiced concern with discussing a Whitney Beach commercial plaza that was “drastically” in need of upgrading, but there was a five acre minimum, and they were only 3.8 acres. He suggested revising that figure to three acres to encourage redevelopment. The Board would still wish to encourage the assimilation of parcels within one development proposal. Ms. Simpson explained that the current Zoning Code, for non-residential zoned property, allowed someone to develop through a PUD process with a minimum of two acres of land. The code also allowed residentially-zoned property to do the same, but with ten acres of land. Discussion ensued on the Whitney Beach area and the combining of the vacant parcels within the area to make one development. It was noted there was not five acres of contiguous land as they were separate parcels. Ms. Stroud noted that would be a point to clarify; it did not have to be contiguous land, but could be five acres separated by a road. Ms. Zunz believed the roads could be abandoned as they did not serve any purpose.

Ms. Stroud continued her presentation explaining that the category would allow transfer of intensities and densities within the overlay and would allow for non-residential intensity increases of 10 percent additional lot coverage and an additional story. It was anticipated that the Zoning Code would allow for additional flexibility and administrative waivers to address items such as setbacks, awning overhangs, internal circulation, and other items. Ms. Stroud reviewed the proposed districts and their height. Mr. Hackett asked if the overlay would have characteristics similar to a Mixed Use Commercial (MUC) district, which would provide more flexibility. Ms. Stroud explained that what was being proposed in the Whitney Beach area was additional height.

**There was consensus to include the MUC district for the Whitney Beach Shopping Center.**

Mr. Hixon asked if the Board was establishing a maximum height at Whitney Beach. He noted that in order to preserve more open space and make a more welcoming arrival, and at the same time have the ability to create a major resort facility, they needed the ability to shrink the land area coverage, but at the same time increase the height to obtain a view. They should not eliminate the possibility of that being the highest and best land use for the long term future of the Key. He encouraged the Board to allow the submission. Ms. Simpson explained that the Board did have to establish a maximum. Mr. Symanski agreed with Mr. Hixon’s comments, but voiced concern with the 80 percent allocation. Ms. Zunz referred to the list provided by Ms. Stroud that showed an MUC zone which allowed five stories, 65 feet, and she believed that would be acceptable for the Whitney Beach area. Ms. Simpson commented that would be five habitable stories with parking underneath. Mr. Hixon would like to see it increased a little more to provide flexibility.

**There was consensus to allow five stories, 65 feet.**

Ms. Stroud asked if the Board wished to remain with the 80 percent allocation for one use. Mr. Symanski commented he was not comfortable with that number without allowing residential. Ms. Stroud responded the number of units that would be allowed within the overlay would be approximately 12 units. Mr. Symanski replied unless they went to a referendum. Ms. Zunz asked why the 12 residential units could not be reflected in the document. Ms. Stroud responded it would mean not allowing a referendum to increase density in this area.

Mr. Hixon commented a residential component would be good, and he did not believe it should be limited to 12 residential units; they should be allowed to bring in the highest and best use of land and allow the Board to evaluate the submission. Mr. Symanski strongly disagreed as they could get a developer to come in and sell the condominium units and then leave. He would remove the residential from the list, or just state residential was not encouraged, but might be a minor component. Mr. Hixon reiterated they should not be limited. Mr. Wild agreed with Mr. Symanski's comments related to the residential component. He did not believe they needed less commercial as much as they need revitalized commercial. Ms. Goldner agreed, and noted that once the Town lost the commercial, it would be difficult to get back. Chair Webb concurred. Discussion ensued on what percentage should be established, with Ms. Stroud suggesting that the residential be removed from the overlay.

**There was consensus to allow 20 percent residential on the Whitney Beach Overlay.**

Ms. Stroud continued reviewing Policy 1.6.3, which indicated the Town would provide fiscal incentives for revitalization of areas. Mr. Wild asked if one of the incentives might be abandoning the streets in the area. Ms. Stroud replied yes. Mr. Hackett asked if it would include local bonds. Ms. Stroud explained that under the language the Town could potentially provide a bond, but it was not specifically required. Discussion ensued on the waterway that ran behind the Whitney Beach Plaza, whether it could be connected to the waterway for access, and whether the facility could have dockage.

Ms. Stroud reviewed Policy 1.6.4 noting a major incentive would be to exempt development in those areas from traffic concurrency requirements. She pointed out it would be a policy change, but was in line with the direction of the state in providing economic incentives by reducing concurrency requirements. Mr. Symanski asked if the Board wished to urge substantial consolidation to get the benefits. Mr. Wild addressed the Bank of America building at the north end and asked if they could remove the Office-Institutional (OI) zoning category to bring the categories in the overlay into C-1 or C-2. He believed they should allow one C-3 parcel, because the gas station would be important at the north end. Ms. Simpson responded that with the overlay the Board would create their own permitted uses. Mr. Saivetz questioned the traffic concurrency requirements; exempting it would not create less traffic on the road, because at some point there were problems with getting off the island. Ms. Zunz pointed out that hurricanes occurred between June through October, and at that point, the island only had between 5,000-6,000 people, so evacuation at the time when there were a lot of people on the island was not an issue.

**There was consensus to allow exemption from traffic concurrency requirements**

Ms. Stroud noted an outstanding issue to address was how large the minimum parcel needed to be, and she believed the Board had decided the maximum for residential would be 20 percent. Mr. Hixon discussed that if Whitney Beach came in with a submission for 3.8 acres, he believed the Board should not prevent them from improving or taking advantage of the flexibility the Board was discussing. Mr. Symanski urged substantial consolidation and/or coordination between parcels. He asked if there was a wetland area would the applicant get credit towards building. Ms. Stroud responded they would get credit for the acreage towards whatever uses were proposed. Chair Webb voiced concern if there was separate ownership of the parcels, and they could not convince the other land owners to consolidate, which she believed would restrict land owners from getting the highest and best use of their property.

Ms. Zunz asked if it was possible to state that it would be ideal to have development proposals of at least five acres. Ms. Stroud replied it could be worded that way. Ms. Zunz commented that it would be something suggesting that it would be desirable, but it was not locked in if a proposal was less than five acres. Ms. Simpson offered having two different categories where one would allow 3.8 acres for single ownership and five acres for multiple ownership. It would allow Whitney Beach center to redevelop under its single ownership.

Mr. Hixon voiced concern with using the figure of 3.8 acres as he believed 3.5 or 3 acres would be better, because it would not be 'spot zoning.' Mr. Symanski did not understand the single ownership concept, and believed it would encourage 'piece-meal' development and discourage consolidated development. Mr. Wild asked if one of the incentives could be for the Town to encourage a developer to use tax exempt bonds. Ms. Stroud explained that it was not a simple process; they could explore further, but in Florida it was very difficult as they would have to establish a redevelopment agency.

**There was consensus to allow no minimum acreage, but with incentives to consolidate and/or coordinate to allow for a well developed center at Whitney Beach plaza.**

#### Town Center

Mr. Saivetz referred to Policy 1.6.1 and suggested that residential be included as one of the options if the 'xx' included the northwest corner. He noted that adjacent to Temple Beth Israel there was a vacant parcel, which would be a great place for housing because of its proximity to commercial and the golf course. Ms. Simpson believed the question was whether the Board wished to allow residential in the overlay, because if it were to be redeveloped, and the Board added residential, then anyone could request residential where there was an overlay.

**There was consensus to allow residential to be included as an incentive in the Town Center Overlay District.**

Discussion ensued on allowing senior residential as an incentive within the overlay. Ms. Stroud noted they would bring back revisions for consideration and discuss other issues, such as the Transportation Element.

AGENDA ITEM #4  
CONSENT AGENDA

**MR. ALPERS MOVED APPROVAL OF THE MINUTES OF THE FEBRUARY 15, 2011, REGULAR MEETING. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE; ZUNZ, AYE.**

Setting Future Meeting Date

The next meeting was tentatively scheduled for April 19, 2011. Chair Webb informed the Board that she would not be in attendance at the April 19, 2011, meeting. Ms. Goldner noted she would also not be in attendance. It was asked if the meeting could be moved up a week; however, Ms. Simpson noted there was one application that relied on the April 19, 2011, date. Staff would check with the applicant to see if they would be amenable to moving the hearing and whether the meeting room was available.

Ms. Simpson informed the Board about a planning board training session that was scheduled for March 29, 2011, for not only the Board, but also board members from surrounding communities in the two-county area. She noted it would be an all day session with lunch provided and encouraged everyone to attend as they would have an opportunity to meet their counterparts from other cities. There would be a second training scheduled for the end of May.

Mr. Hixon explained that some time ago the Town Commission had approved a revised tree ordinance, and voiced concern that the Town had not let the condominiums or landscape companies know there were new regulations. He encouraged staff to address the condominium associations and landscapers to inform them of the regulations. Ms. Simpson responded that it was being addressed through posting on the Town's website, letters mailed to all associations, and through an educational session that was being planned in April. She mentioned that Steve Schield, Planner, was preparing the information with assistance from the extension service.

ADJOURNMENT

The meeting was adjourned at 11:24 am.

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John Wild, Secretary  
Planning and Zoning Board