

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

\*\*\*FEBRUARY 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 2011-10, FENCE HEIGHT

Steve Schield, Planner, reviewed the staff report noting that the P&Z Board, at their December 21, 2010, meeting, had discussed allowing a higher fence or wall than currently permitted located within the required street yard on through-lots, which was defined in Section 158.066, adjacent to Gulf of Mexico Drive to improve the security and privacy for the property owners. At that meeting, the Board reached a consensus and recommended allowing up to a six foot height for fences or walls for these lots, with total vegetative screening of the fence or wall at the time of installation. He discussed the 'Visibility Triangle' provision (Section 158.148) in the Zoning Code for intersections noting that at a street intersection you would go 30 feet each way and nothing within that triangle could be over 30 inches high. He reviewed the conditions included within the ordinance.

Mr. Symanski did not understand the reason for the ordinance noting that the clause which stated it would "improve security and privacy," was a statement that would apply to everyone with a backyard. He asked if that was the reason for the ordinance, why it mattered whether they have access to Gulf of Mexico Drive. He believed the Town should allow six foot high walls, have architectural controls, and not require them to be obscured. He discussed issues that could arise if the vegetation that was planted died. Mr. Schield responded the owner might have to replace vegetation.

Mr. Schield continued with reviewing a PowerPoint showing various walls, fences and hedges on the island. He noted there were no restrictions on the type of materials used for the fence. He reviewed photos taken on Lido Key that showed the impact from six foot high fences.

Mr. Symanski believed the ordinance would require people to obscure a nice looking wall, which did not make sense to him. Ms. Zunz commented the idea was when someone drove up and down Gulf of Mexico Drive they basically saw 'green,' and if the Town allowed the changed and walls were constructed, the 'green' look would change.

Mr. Symanski believed the owner could plant something in front of the wall, which would result in a beautiful wall that was nicely landscaped. Mr. Hixon questioned how an owner would maintain the plantings on their property and build a wall without losing a significant part of their yard. Mr. Schield explained the ordinance allowed a three foot setback for plantings from the property line. Mr. Hixon commented the wall should be "tight up to the planting," and asked if the Town had a mechanism to build the wall and plant it out. Mr. Schield responded that was not the recommendation of the board; they wanted the walls totally obscured. Mr. Saivetz referred to the photo showing the new plantings in front of the chain link fence, and discussed the vegetative screening on the road side. Mr. Schield referred to Section 3 of the ordinance attached to the staff report noting that it addressed the screening between Gulf of Mexico Drive and the wall/fence so it was obscured.

Mr. Alpers asked in order to obtain a full grown hedge, which was fairly deep and six foot in height, what was staff's experience as to how long it would take for the area to fill in. Mr. Schield replied two years. Mr. Hackett commented that the wall was limited to six foot in height where a 'green' fence was allowed at any height. Mr. Schield explained that the current code did not restrict hedges in street yards. Mr. Alpers asked if the board could specify that a full grown hedge had to be a certain depth. Mr. Schield responded they could, but different vegetation had different measurements. Mr. Hackett commented if they had to have greenery in front of the wall, then any future type wall would not be an option; why spend the money if it has to be obscured.

Colin Hartley, Halyard Lane, noted he lived at the corner of Bogey and Halyard and was strongly in favor of the ordinance. He believed there should not be different walls built to different standards, and the privacy and noise issues were relevant. He suggested allowing a specific height and type of construction, along with color. There should be an allowance for the vegetation to fill in. He offered that the Town stipulate the height of the vegetation installed be a minimum 50-60 percent of the height of the wall, so within a couple of years it was full grown. He referred to Mr. Hackett's comments and noted that there was a security issue, because someone could push through bushes. He would like the ability to place a patio in the rear of his home, but currently was unable to due to the privacy and noise. Ms. Zunz commented she understood the issue of privacy and security, but did not believe six foot walls would address the noise.

Mr. Symanski believed privacy and security applied to other properties, not just on Gulf of Mexico Drive. He would allow for some type of architectural controls for walls, but not fences, and not require them to be obscured, but landscaped. Chair Webb asked if he was saying that he wanted to allow construction of walls, not fences, and not have them completely landscaped. Mr. Symanski replied yes. Mr. Hixon asked if the board would agree with 60 percent coverage with vegetation in front of the wall, rather than completely obscuring; it would soften the impact of the wall. Mr. Alpers believed a full hedge provided privacy and attenuation of sound, but he would much prefer to see full hedges. Mr. Symanski would agree to less than 60 percent if it were a wall and require architectural controls.

**MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2011-10 AS WRITTEN. MR. HIXON SECONDED THE MOTION.**

Chair Webb noted her preference was to maintain what was currently seen along Gulf of Mexico Drive, which were the green hedges. There might be some people that find restricting them to only constructing a wall and not allowing a fence behind the hedge was financially challenging, and they would be unable to do it. She noted that maintenance was always an issue, and suggested the board legislate a reasonable design that maintained the integrity of the island.

**MR. HIXON AMENDED THE MOTION TO REVISE ITEM 3 UNDER PROPOSED SECTION (O) IN THE ORDINANCE TO STATE, "A SCREENING OF LIVING VEGETATION SHALL BE LOCATED ON THE PRIVATE PROPERTY BETWEEN GULF OF MEXICO DRIVE AND THE WALL OR FENCE SUCH THAT THE VEGETATION OBSCURES A MINIMUM OF 60 PERCENT OF THE WALL OR FENCE FROM GULF OF MEXICO DRIVE AND SHALL BE MAINTAINED THEREAFTER BY THE PROPERTY OWNER." MR. WILD SECONDED THE AMENDMENT.**

Mr. Symanski asked if Mr. Hixon did not mind that 40 percent of a chain link fence would be exposed. Mr. Hixon commented that chain link comes in all different types of colors and materials. Mr. Wild noted they were trying to maintain some continuity of the aesthetics along Gulf of Mexico Drive. Mr. Saivetz understood the 60 percent, but asked if it was all across the area or staggered spaces. Mr. Hixon replied 60 percent of the area. Mr. Saivetz commented that just using the word 'obscure' would be easier to determine the requirement as he did not understand where 60 percent would apply. Mr. Schield noted that the suggestion by staff was to allow a percentage with the knowledge that it had to be fully grown within a two-year period. Chair Webb asked how difficult would it be for enforcement. Monica Simpson, Planning, Zoning & Building Director, responded staff could keep track. Mr. Symanski commented that Mr. Saivetz raised a good point as the way it was written could they have 60 percent of total coverage and 40 percent of open chain link fence. He suggested the wording be changed to make clear the intent was all areas be 60 percent.

Chair Webb asked if Mr. Hixon would accept a friendly amendment which stated, "to begin at 60 percent allowing it to grow in to completely obscure within 24 months." Mr. Hixon replied yes.

**MOTION ON AMENDMENT CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, NO; WEBB, AYE; WILD, AYE; ZUNZ, AYE.**

**ORIGINAL MOTION WITH AMENDMENT CARRIED ON ROLL CALL VOTE: ALPERS, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SAIVETZ, AYE; SYMANSKI, NO; WEBB, AYE; WILD, AYE; ZUNZ, AYE.**

AGENDA ITEM #2  
REVIEW OF SITE PLAN CRITERIA FOR COMMERCIAL BUILDINGS

Ric Hartman, Planner, discussed that during the hearing on the Mar Vista Restaurant Site Plan Amendment, the board brought several items forward for the Town Commission to authorize the P&Z Board to review and possibly amend the Zoning Code.

The specific issues were: 1) whether the Town Commission had the authority to waive or defer the requirement of Section 158.150(C) that requires a ten-foot wide buffer between a commercial property and a residential property, and constructed on the commercial property; 2) whether a fence or wall that achieved the intent of a ten-foot buffer would meet the ten-foot buffer requirement; 3) whether the Town Commission could allow for a five foot increase in the allowable building height so that an applicant can obtain a better design or view from the building; and 4) the board suggested that requests for additional building height be reviewed on a case by case basis and that all three issues could be enforced as part of the conditions of approval during site plan review, which would essentially provide the Town Commission with the authority to grant flexibilities not otherwise permitted at this time.

Mr. Symanski commented that as far as the landscaped buffer there should be some flexibility, because people have different ideas for buffering. He had previously suggested a different zoning district for waterfront dining, because the Town should retain those uses; he was not sure of the other C-1 uses. Mr. Hartman responded there were numerous ones and there were quite a few that were allowed, but not presently existing on the key. Mr. Symanski reiterated that he wished to encourage waterfront dining and suggested the board discuss having a district with flexibility. Mr. Alpers noted the board never asked Mar Vista if they could lower the roof structure over the existing outdoor dining to provide clearance for the view from the proposed second floor. He questioned what established the 30 foot height requirement. Mr. Hartman explained the 30 foot standard was in the Zoning Code, but he did not know the initial reasons 30 feet was placed in the code. Staff would need to research to determine the origin.

**There was consensus to include an amendment for a 10 foot buffer and to provide flexibility, including some structural implementation rather than the buffer.**

Mr. Hartman asked the board's direction concerning requiring the 10 foot buffer between residentially zoned, but commercially used property, and commercial property. Mr. Symanski suggested it be required where a buffer was required. Chair Webb pointed out that the Moore's property was a non-conforming use at this point, and technically they were reviewing a buffer between a residential property and a commercial property. Mr. Symanski responded they could waive the requirement until such time as Moore's was used as residential.

Mr. Hackett asked if a wall would be designated as a buffer. Mr. Hartman replied yes. Mr. Wild asked if there were other situations on the key where commercial was abutting residential with the same buffer. Mr. Hartman replied St. Judes Drive. Mr. Symanski commented that it was his intent that the waiver not be given by right, but they would have to apply for the waiver. Mr. Hixon commented that waterfront dining was a specific problem and concern, and he agreed with Mr. Symanski's comments related to a waterfront dining district with flexibility. Mr. Symanski discussed his intent was where a 10 foot buffer between commercial and residential was required that they be allowed to ask for flexibility. Mr. Saivetz suggested if there was a need for a buffer, then it would not be on the commercial, but on the residential. Mr. Hartman commented the burden was on the commercial to change the buffer. Mr. Saivetz believed if someone changed their zoning, the commercial should not be impacted by that change. Mr. Hartman noted that under the current code it did impact the commercial. Mr. Saivetz mentioned that it should be reviewed. Mr. Hartman requested clarification as to whether they were discussing all commercial districts related to landscape or only C-1.

Mr. Symanski indicated all commercial districts and responded they would have to prove it was "just as good or better," and there was a possibility that it could be turned down. Mr. Hartman noted staff would bring back information on the building height issue.

Mr. Symanski again asked about looking at an alternate zoning district for waterfront dining. Ms. Simpson commented the board was discussing two properties, the Mar Vista and Pattigeorges, and she did not wish to create a new zoning district for two properties when it could be addressed through the Land Development Regulations. Mr. Symanski noted if the Town wished to give them flexibility, they did not have to provide that flexibility to everyone in a C-1 zone.

### AGENDA ITEM #3 COMPREHENSIVE PLAN AMENDMENTS

Nancy Stroud, special counsel, discussed comprehensive plan issues that would be addressed by the board, and the first issue would be integration of the Vision Plan's revitalization policies. She noted the two main areas being reviewed were Whitney Beach Shopping Center and Town Plaza. She commented there was an interest in encouraging a town center type of complex with mixed uses, especially within the Town Plaza area. Concerning the Whitney Beach Shopping Center and surrounding area, she noted the area has been identified as being under-utilized, but it was in a strategic location at the north end of the key where there was an interest in ensuring the area was better utilized. There was also recognition that tourist-resort uses were economically important and the aged facilities on the island should be revitalized. Ms. Stroud commented that the Town could assist with revitalization, but revitalization was principally a market issue. She would focus on regulatory incentives that could be provided by the Town, including the Comprehensive Plan and Land Development Regulations. She mentioned that if the board was prepared to move forward and integrate the Vision Plan into the Comprehensive Plan, then writing goals, objectives and policies would be a key part of the process.

Ms. Stroud reviewed aerial photographs of the Town Plaza and surrounding area noting it was a good example of an area to consider as a town center. Chair Webb asked if the vacant parcel behind Publix was rezoned, or had it always been residential. Ms. Simpson explained that it was zoned Planned Development (PD), but the approved Outline Development Plan (ODP) allowed for a residential development. She noted that originally it had a commercial designation, but was changed to allow for a residential use; however, there were no development approvals that were valid at this time. When the board and the Town Commission went through some code amendments dealing with maximum amount of non-residential within the PD, it included the ability for that parcel to change back to commercial without an amendment. Ms. Stroud continued reviewing the Town Plaza and Whitney Beach areas.

Mr. Hixon pointed out in terms of mixed use and a tourist element in the north end, there was also a beachfront lot available across Gulf of Mexico Drive that could be accessed by an overhead walkway from a hotel complex; it did have both gulf and beach access if something was created. Mr. Hackett noted the most challenging aspect of that area was the lack of demographics.

Ms. Stroud discussed increased density and intensity incentives asking if residential density should be allowed in those areas where there was no current zoning or land use permitting that. The major constraint was the Town Charter, because in order to increase the density would require a referendum. She mentioned allowing an increase in non-residential intensity was easier, because there were no Town Charter restrictions.

Ms. Stroud continued with discussing a new Future Land Use Map (FLUM) category noting that if the Town wished to allow a mix of office and retail uses at Whitney Beach Shopping Center, they would need to create a new category. In order to have a mix of uses and create a category, the Town would need to set parameters for the uses (they would have to show allocation between office, residential, and other uses; and establish density/intensity parameters). The incentives that might be available would be: to add additional height and lot coverage for those properties that would be developed under the new category; the Town offering an expedited review; or redevelopment contributions by the Town. She mentioned that another question would be how much flexibility they wished to build into a land use category. Ms. Stroud discussed increased landscape buffers between commercial/residential, along with larger landscaping areas in the redevelopment categories. Other regulatory incentives included: reducing parking requirements so the cost of providing parking facilities was reduced; reducing setbacks to allow more use of the property; concurrency exceptions; and review the list of permitted uses in the areas and expand or change them – provide more flexibility. Ms. Stroud commented that she would like to be in a position to bring back some comprehensive plan policies and objectives, and if the board decided they wished to see a new FLUM category that could be applied to Town Plaza and Whitney Beach, and possibly other areas, she would prepare a description of that map category. She noted it would have to include the allocation of mixes and the intensity/density parameters.

Mr. Wild asked why the Centre Shops were not included. Ms. Stroud responded she did not see that facility in the Vision Plan. Mr. Wild asked if in a live/work environment would it allow Whitney Beach to have residential upstairs as long as there was commercial downstairs, or was it restricted because C-1 did not allow residential. Ms. Stroud explained C-1 did not allow for residential so the Town would have to create the opportunity. Ms. Simpson pointed out that the Town Zoning Code erroneously states that one dwelling unit was allowed, but through staff research it was found that the 1984 Comprehensive Plan did not allow for a dwelling unit in C-1, so the Zoning Code would need to be amended to be consistent with the Comprehensive Plan.

Chair Webb asked if the Town created a FLUM that had mixed use which included commercial, office, retail, tourism, and residential, could the residential not be added without going to referendum. Ms. Simpson replied unless they qualified for the 250 unit distribution. Ms. Stroud commented there was an option to create a FLUM that was an overlay so as to maintain existing underlying zoning, or uses, as an option, but then state if they wished to use the redevelopment option with incentives, then the property would be treated under the new category.

Mr. Symanski questioned the theory for adding residential. Ms. Stroud explained it would increase the potential for redevelopment, and also possibly create a better mix. Mr. Symanski commented if there were tourism, it would help the “symbiotic” relationship of whatever mix was there.

Mr. Hixon pointed out the demographics for commercial being supported only by the existing Village area has proven not to work in the extent it was presently developed, and the inclusion of new residential population to support those commercial areas was a plus for many of the proposals that the board might review. Chair Webb questioned whether they could create sufficient residential to support the Whitney Beach plaza. Mr. Hixon responded they would not create that extent of commercial, it would be balanced. He believed the Town should be open to all the options they might receive in order to do a "quality arrival on Longboat Key" and make it sustainable. Mr. Hackett noted that tourism should be a component of the area, and it would be an ideal location for a vacation resort area. Ms. Zunz asked when Conrad Beach was developed was there a referendum. Ms. Simpson responded it had always been zoned residential. Ms. Zunz noted that it had not been successful in terms of sales. She believed tourism mixed with commercial/retail would benefit the area; she did not believe residential would fit well in that mix.

Mr. Alpers voiced concern with the new ownership of the Whitney Beach Shopping Plaza stating they were going to maintain the buildings in their present state. He believed both commercial centers were ill-designed, and the Town needed to allow someone to come in and create something other than what existed. Chair Webb agreed; she hoped the board had the opportunity to present better opportunities in terms of the development they wished to see in the long term. Mr. Wild asked if the Town could blight the area and create additional flexibility. Ms. Stroud noted that in order to do that it would be an extensive effort. Mr. Wild believed there was a need to do something to create more flexibility; therefore, he would agree with the FLUM concept which would provide greater flexibility for developers. Chair Webb discussed the need for incentives with the FLUM category to create enough interest with the current/new ownership to submit something different. Mr. Hixon believed the broader and more flexible the proposal, the better for the long-term future of Longboat Key. Mr. Alpers suggested a great benefit to the Key would be to draft objectives that would attract high-end shops. Chair Webb believed the majority of the board felt the FLUM category, and providing more flexibility, was an incentive for both Whitney Beach and Town Plaza areas. Mr. Wild asked if the FLUM would allow people to remove things out of the commercial and put in residential, or was it only limited to items discussed. He believed the Town was over-zoned for commercial when they down zoned in terms of population; there was more commercial space than was needed to support the population. Chair Webb agreed, because the population was dramatically different from the original projections for the island. Mr. Symanski cautioned the board when doing away with commercial, because they would not get it back.

Ms. Stroud clarified that she believed the board was requesting that she bring back one or more FLUM categories for review; and some objectives and policies in the Future Land Use Element (FLUE) that explained the intent for revitalization, so the board would have both language and map categories. She asked if the board would be willing to increase the height requirement as an incentive. Chair Webb pointed out that height was an issue on the key, and believed it would be agreeable if the height incentive was not a massive height incentive. Mr. Wild asked if they could include other incentives to revitalize or redevelop properties. He agreed with the height proposal, but did not wish to see it exceed a third story. Mr. Saivetz suggested before discussing a height incentive, which would be permanent, he would suggest offering free rent, or reducing impact fees. Ms. Simpson explained the Town did not have impact fees that could be waived, since the property was developed and the fees had previously been collected. Mr. Symanski noted his willingness to review the height proposal.

Ms. Simpson noted that staff had learned from the Department of Community Affairs (DCA), that if they wished to provide flexibility for height, there would be a need to set an upper threshold.

Ms. Stroud requested the board's input concerning Town Plaza. Chair Webb believed it was similar to the north end as it was a poorly designed, non-functioning commercial space in terms of the existing construction. The Town should give them an opportunity to design something that was more pedestrian friendly, visually attractive, provided better traffic flow, and provide flexibility to tie all the surrounding property together. Ms. Zunz commented that one of the things she notices when looking at the larger commercial properties was they were successful in their landscaping and buffering from the road, but when reviewing some other commercial areas, the commercial sat on the road without any buffer. She was not sure how it could be resolved, but some of the properties could benefit from some flexibility. Mr. Hixon agreed with Ms. Zunz. He believed part of what has happened was how the Town had handle the maturing of those spaces with the population and how they were managed.

Mr. Saivetz referred to the Temple Beth Israel area and asked what would be the response if the 'Temple' wished to build a 12-story elderly housing facility on top of parking. Chair Webb believed the board had clearly heard that large high-rises were not of interest to the community. The board had discussed earlier that they felt strongly about the height limitations and they did not wish to have an "open ended" category. Mr. Saivetz believed the board should wait until someone came in with a proposal and work with the proposal to get a final product that was agreeable to the Town. Ms. Simpson commented that Mr. Saivetz's concept had been discussed; actually moving out institutions and houses of worship into a different area allowing the larger area within the Bay Isles PUD to be redeveloped into a 'town center.' She believed Chair Webb was asking that if that was what the board wished, then what code or comprehensive plan changes would be needed. She explained that in a PD it had to go through the ODP process to redevelop and allow them to do things "outside the box." There might be a need to look for other ways to provide incentives. Mr. Wild voiced concern with the parking requirements, and the need to provide flexibility so a developer was not held to so many square feet per seat for parking.

**There was consensus to direct staff to look into ways to provide more flexibility.**

Mr. Symanski asked if the board was receptive to the idea for aging in place housing. Chair Webb noted that one of the challenges for an aging population was access to commercial. Ms. Simpson asked if the board would be interested in addressing the Bay Isles area within the Comprehensive Plan as the "Longboat Key Town Center." **The board agreed with that proposal.** Ms. Stroud noted she would bring back more specific objectives, policies, and map categories for review.

AGENDA ITEM #4  
CONSENT AGENDA

**MR. WILD MOVED APPROVAL OF THE MINUTES OF THE DECEMBER 21, 2010, REGULAR MEETING. MR. ALPERS 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 scheduled for March 15, 2011.

ADJOURNMENT

The meeting was adjourned at 11:27 am.

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John Wild, Secretary  
Planning and Zoning Board