

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

MARCH 19, 2013

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

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

Also Present: Kelly Fernandez, Town Attorney; Robin Meyer, Planning, Zoning & Building Director; Steve Schield, Planner; Donna Chipman, Office Manager

AGENDA ITEM #1
RESOLUTION 2013-09, COMPREHENSIVE PLAN AMENDMENT, FUTURE LAND
USE ELEMENT, TELECOMMUNICATIONS

Pursuant to published notice, the public hearing was opened.

Robin Meyer, Planning, Zoning & Building Director, reviewed the staff report noting:

- this resolution is an item that was separated from Resolution 2013-07
- it re-introduced the concept of personal wireless service into the Comprehensive Plan and were now trying to make it consistent with the other changes
- it proposed to add minor language in Policy 1.1.10 to include the word “following,” the term “personal wireless service facilities,” and addressing height restrictions for the uses
- eliminated language in Policy 1.6.4 and replacing with language that was more discussion in general of wireless service; the last sentence was an item that was raised during the February meeting, which was to specifically address the fact that the Town was looking at a hierarchical code and the last preferred option in that code shall be the towers

Mr. Wild questioned whether the reference to Town property would include property beyond the Public Works complex. He referred to the Town-owned property near Emerald Harbor. Mr. Meyer explained there was a draft telecommunications ordinance currently on the Town’s website and included in that ordinance was reference to two properties – the Public Work’s property and the Police/Fire complex, and those were the only properties listed in the ordinance that would be available as a location for a tower or other facilities. Mr. Wild asked if that list could be amended. Mr. Meyer replied yes.

Mr. Symanski referred to the first 'Whereas' clause asking if this stated the application they had reviewed for the Chapel could not have been approved based on height. Mr. Schield replied correct. Mr. Symanski commented that during a previous hearing, the former Planning, Zoning & Building Director, Monica Simpson, had explained after referring to different sections of the code, that the application could be approved for the height. He had a problem with the clause, because if the Town Commission did not approve anything, the clause would indicate the Town would be in violation of federal and state law. He would like to change the clause to state, "*Whereas, under present plan language some have argued that...*". Kelly Fernandez, Town Attorney, responded that she was fine with changing the language.

Mr. Garner asked if there was a specific definition of 'personal wireless service.' Mr. Meyer noted it was not in the Comprehensive Plan, but would be included in the code language and Town Code. Mr. Garner replied he was unable to locate it and could see how a definition might be considered ambiguous. Mr. Meyer continued with providing the definition for personal wireless service.

Mr. Aitken commented that during previous discussions of personal wireless service, there was a lot of discussion about Distributive Antenna Systems (DAS) and multiple transmitters, and then there was a comment from the public about a change that the carriers were making in their transmitters that would cover more area. He questioned the status. Mr. Meyer noted the proposed code included those facilities and they would be processed through a building permit only; no site plan approval would be required. He did not have information on microcell technology, but believed it would be similar to DAS.

Mr. Hixon explained with those systems there was also a requirement for ground mounted equipment, and he had been concerned with the visual impact at ground level. He asked if the Town only required a building permit, how they had an opportunity to ensure that it was not blight in the community. Mr. Meyer explained that the code language being proposed did require landscaping and screening.

Mr. Daly referred to the last sentence in Section 3 where it discussed the hierarchy and asked what the possible preferred options were. Mr. Meyer pointed out they would start with an existing antenna on buildings and adding to those, along with other existing facilities; the next would be a DAS system; and the last option would be a tower. Mr. Daly asked if it would make sense to add language to emphasize that a preferred option would be utilization of existing facilities. Mr. Meyer replied it was a good idea.

Discussion ensued on the following: whether there were any applications for an existing site, with staff noting there was not an approved application; whether the intent of the proposed resolution was to be as ambiguous and unspecific as possible; and that the Comprehensive Plan was a policy document, which sets direction, but did not provide specifics. Mr. Garner believed the Land Development Regulations (LDRs) should be guidelines for following the ordinance, but expected the Comprehensive Plan amendment to be more specific. Attorney Fernandez explained the Comprehensive

Plan generally did not include those specifics; it was more appropriate for the Land Development Code. Mr. Garner would recommend more specificity.

Mr. Wild questioned how this would impact a potential building that exceeds 35 feet; would it allow the Town to approve something higher than the current height. Mr. Meyer explained the current code allowed antennas on a building to exceed the building height by ten feet. Mr. Wild discussed the 100 foot height limit for the tower. Mr. Meyer noted it came from the TE Connectivity Study. Mr. Aitken requested that at some point he would like to hear an update on the policy direction, applications, and negotiations with the electric company, because he felt it was an important issue and a safety issue. Mr. Daly referred to the end of Section 3, last part, and suggested adding the language, “*with the use of existing facilities being a first option...*”. Attorney Fernandez agreed.

Ronald Platt, Gulf of Mexico Drive, provided a PowerPoint presentation with suggestions to edit the language in Policy 1.6.4, specifically adding the word ‘*substantial demonstrated need*’ in the policy and add the word ‘*technology*’ in the criteria that was evaluated. He also discussed changes to the analysis wording in the Comprehensive Plan.

Charlie Bailey, attorney representing the Grand Mariner, discussed that the proposed language must comply with federal and state laws and provided suggested revisions to Section 3 of the resolution, Policy 1.6.4, that came from the state statutes.

Michael Furen, attorney representing Accursio Sclafani and Doreen Erickson, commented on the importance of the Comprehensive Plan and distributed suggested changes to Section 3, Policy 1.6.4. He also noted the importance that the Comprehensive Plan includes what was a tower. He requested the Town not sacrifice the beauty, character, and aesthetics of the island for the convenience of personal cell phone service and the economic interest of third parties. He understood the Town could not prohibit service, but could impose stringent requirements. He suggested the Town hire someone with technical and legal knowledge to review the proposal considering the language that was referenced in the Comprehensive Plan and with the preparation of the LDRs.

Mr. Symanski voiced concern with some of the language included in the ordinance, “*substantial evidence*,” “*significant gap*,” and “*only technically feasible*.” He believed when addressing towers, and applying “*only technically feasible solution*,” would mean the only solution would be no towers, because there would always be some technically feasible solution, but it would cost too much. Mr. Furen responded it would come back to the overall policy determination of whether or not the personal cellular convenience of the residents was more important than the beauty and unique character of the island.

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

MR. GARNER MOVED THAT THE COMMENTS PRODUCED BY THE BOARD SHOULD BE REVIEWED AND THIS ORDINANCE BE MODIFIED TO REFLECT THOSE COMMENTS AND BROUGHT BACK FOR THE BOARD'S REVIEW. MR. HIXON SECONDED THE MOTION.

Mr. Symanski questioned which comments Mr. Garner wished to review. Mr. Garner responded the comments made by the board. Mr. Aitken asked whether it included speaker comments, with Mr. Garner answering that he believed the board was capable of analyzing and producing comments which reflects the feeling of the board.

Mr. Daly referred to Mr. Furen's comments and noted he found merit in defining 'tower.' The Comprehensive Plan was a general policy statement and the least preferred option would be a tower. Mr. Symanski believed the language that the speaker wished to include was intended to tie the hands of the Town Commission and prevent them from having discretion, and it would also lend itself to lawsuits. He was opposed to most of the comments. Mr. Hackett asked if they should include Mr. Platt's comments. Mr. Symanski was opposed to those changes as they were designed to limit the discretion of the Town Commission.

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

AGENDA ITEM #2
ORDINANCE 2012-26, PROPERTY MAINTENANCE STANDARDS

Steve Schield, Planner, reviewed the staff report noting:

- this was a revised ordinance that was discussed at the February meeting
- the word 'phase' should be 'phrased'
- reviewed memorandum, dated 3-12-2013, which outlined the changes made from the previous version

Mr. Symanski asked if Section 104.01(3), Intent, would apply to inhabited structures and not to anyone that moved out. Mr. Schield replied no, but there would not be a problem if the board wished to strike the words '*continued occupancy*.' Mr. Garner believed the word '*continued*' should be removed.

There was consensus to remove the word 'continued.'

Referring to page 18 of 34, Section 104.19(A), Mr. Symanski asked if it was required to prevent overgrowth (versus clearing the land) of trees and shrubs which 'may' interfere with vehicular traffic or boat navigation. Mr. Schield pointed out this was language that had existed for years in the Town Code. Mr. Hixon asked if he was suggesting they be

allowed to remove trees without a permit. Mr. Symanski believed it was trimming. He suggested the language, “*is required to prevent any overgrowth of trees and shrubs which may interfere...*”. Mr. Garner and Mr. Hackett objected to the word ‘may.’

There was consensus to remove the word ‘may.’

Discussion ensued on the issue of occupancy, Section 104.01(3), with Mr. Aitken asking if only occupied buildings were subject to the code. Mr. Schield replied no. He believed the suggestion was to remove the word ‘continued.’ Mr. Symanski suggested it state, “*continued occupancy or ...*”. Mr. Daly commented the sentence should read, “Are affected by the maintenance of structures and premises.”

There was consensus to remove the words ‘continued occupancy’.

MR. DALY MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2012-26, AS AMENDED, AND WITH THE ADDITIONAL AMENDMENT THAT THE WORD ‘EXISTING’ IN SECTION 104.01, BE REMOVED. MR. SYMANSKI SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

AGENDA ITEM #3

ORDINANCE 2013-03, AMENDING CHAPTER 72, STOPPING, STANDING, AND PARKING, SECTION 72.06, RESTRICTIONS ON PARKING AND USE OF TRAVEL TRAILERS

Mr. Schield reviewed the staff report noting the only significant change from the February discussion was to revise the ordinance to require placement of a boat trailer entirely within the garage, carport, or other building. Mr. Daly thought about the view of a boat trailer entirely within a carport and believed it was too restrictive. He asked if it would make a difference if the tongue of the trailer extended a foot or two outside the carport; the thought would be to have an exception for a couple of feet, or whatever was appropriate. Mr. Symanski discussed enforceability of the ordinance asking if the tongue could extend from a garage or also another building. Mr. Daly believed the same language would apply to carport, garage, or other building.

Mr. Hixon requested confirmation that the suggestion was to impose a nine hour parking limit within any 24 hour period. Mr. Schield replied yes, on the street. Mr. Hixon did not understand, under Section (E), how it would be enforced. Mr. Schield noted it was the existing code and the intent was to not allow the owner to “set up camp” in the front yard. Mr. Daly pointed out that the nine hour restriction was with respect to public areas and did not apply to private residences. Mr. Hixon questioned the requirement because nine hours only applied to common, open, public systems and asked what the limitation was for the remainder of the key. Mr. Schield replied it was limited to five days within a 30-day period.

Mike McAdaragh, Putter Lane, supported the amendment to limit the trailer parking. He requested that the board retain the other existing components in the ordinance for the specific purpose of the five days within a 30-day period. Mr. Symanski asked if Mr. McAdaragh had a position on changing the proposal to allow trailers in a carport or garage. Mr. McAdaragh believed it was reasonable, because a garage cannot typically house the extended length of the trailer.

Charles Kirley, Golf Links Lane, discussed that the board should be cautious creating "little niches" where people could abuse the restrictions. The ordinance should state completely enclosed, which would provide an enforceable mechanism for abusive people that would take advantage.

Jerry Whitehead, Gunwale Lane, addressed the board concerning not allowing boats on trailers, or trailers in yards, in certain areas of Country Club Shores due to visual impact, enjoyment and beauty of Longboat Key. He realized there were certain areas, such as the north end of Longboat Key that should not be impacted by the ordinance. He suggested that the ordinance could be amended, but would have to define the area it effected; it could be amended to apply only to Country Club Shores, Units 1-5 or District 1, which went to the middle of Putter Lane, but extend the line into the canal. He believed the Town could use the Zoning Code (Chapter 158, Paragraph 5) and suggested the modification, "*it shall be unlawful for any owner to, or allow another person or entity to, park, store, or otherwise cause to be located on any single-family parcel any boat trailer or other vehicle utilized for the transportation or storage of one or more boats in excess of ten days in any six month period, unless such boat trailer, or other vehicle is within an enclosed garage or other building.*" Mr. Aitken supported the suggestion, but did not wish to limit to Country Club Shores.

Discussion ensued about restoring covenants and restrictions; how many votes it would take of the homeowners; that Chapter 158, Paragraph 5, spoke to aesthetics and enjoyment of one's property; and, that with the exception of lots that back up to Bogey Lane, all others in Country Club Shores had water access. Mr. Symanski asked if someone could have their boat sitting on a trailer in the driveway. Mr. Schield replied yes. Discussion ensued on obtaining 50 percent votes of the owners to restore the covenants. Mr. Whitehead noted that all Country Club Shores units had met and were supportive of the ordinance. Mr. Schield pointed out that, at this time, the restriction was five days within a 30 day period, but the suggestion from Mr. Whitehead was for ten days and six months. Chair Webb noted the consideration was for five days within a 30 day period.

Edward Jewett, Gunwale Lane, noted he was not in favor of carports, trailer tongues extended out, or open doors, but supported the Country Club Shores areas being treated as a special entity. He provided an example of a problem concerning a boat trailer on Gunwale Lane, which was an eyesore and the neighborhood was suffering. He mentioned that the adjacent property on Gunwale Lane had lost two possible sales due to the boat trailer, which he believed was continuing to be allowed by the Town. He believed this was something that affected property values.

Mr. Symanski asked where Mr. Jewett would like to see the ordinance apply. Mr. Jewett responded that he would like to see island-wide, but people on other parts of the island might have different restrictions. Mr. Aitken was opposed to applying only to Country Club Shores, because the board represented the entire island, and if they were creating restrictions, it should apply islandwide. There could be a provision for an exception for lots that did not have water frontage. Mr. Wild believed if the board was going to make it applicable island-wide, then allowing exceptions would benefit everyone. Mr. Symanski pointed out they were also discussing not having a trailer in a carport, whether the trailer tongue sticks out or not.

Chair Webb commented the board could ask staff to bring back language addressing trailers being parked in various sections of the yard; the ordinance could be tabled and ask staff to come back; the board could do nothing; or, approve as written.

Mr. Aitken commented that he thought the subcommittee had set aside the issue until they received direction from the Town Commission. Mr. Daly explained that the subcommittee approved the ordinance as presented with the understanding that they would ask the Town Commission for permission for the board and subcommittee to look at the definition of parking, spaces, and surfaces. He thought it could be done through an exception, but if the board remand's to staff, then he would like to see staff's suggested geographic areas. Mr. Schield pointed out that a simple way would be to state, "*non-waterfront property would have an exception.*"

Discussion ensued on:

- the board sending the thought of non-waterfront property forward to the Town Commission
- a problem with exceptions was that some lots in Country Club Shores were not on the water; the exception would be difficult for smaller lots with larger boats
- the issue would cause some concern, and regardless of the board's determination, there should be lead time to prepare folks as to where they could put trailers
- the board should discuss voting on prohibition with five days within a 30-day period other than in an enclosed building
- another issue discussed by the subcommittee were cars parked on lawns

Chair Webb suggested the board send a memorandum to the Town Commission that the board was interested in discussing parking of vehicles. Mr. Symanski pointed out that the board could not send it to the Town Commission unless the ordinance was re-advertised and the board holds another public hearing. Chair Webb noted that was the reason for holding another hearing so the community had an opportunity to provide input.

Mr. Daly asked if the proposal, with respect to parking boat trailers, would permit a trailer to be parked on a residential lot anywhere. Mr. Schield responded in a designated parking area. Mr. Daly commented that he would opt to look very closely and approve what they were looking at as a first step. Mr. Garner suggested the Code Enforcement Officer attend the next meeting to ask what she sees on the island on a

daily basis and get her opinion. Mr. Wild commented that car parking was another issue, so he believed this ordinance could move forward.

MR. HIXON MADE A MOTION THE P&Z BOARD REMAND THE DRAFT ORDINANCE BACK TO STAFF FOR MODIFICATION TO INCLUDE THE DISCUSSION REGARDING NO BOATS AND/OR TRAILERS PARKED IN FRONT YARDS AND LOOKING AT THE ISSUE OF PROVIDING EXCEPTIONS FOR NON-WATERFRONT LOTS. MS. GOLDNER SECONDED THE MOTION.

Mr. Garner noted he would rather address the ordinance that was in front of the board at this time and had no problems with amending the current version. He did not believe the board could adopt this ordinance within 30 days, because it would take 60-90 days before getting a conforming modification to the ordinance.

Mr. Symanski requested an addition to the motion to not allow boats or trailers in a carport, and that it had to be within an enclosed structure. Mr. Hixon commented he was not sure about the non-waterfront exclusion, because it still allowed people on Gulf of Mexico Drive to have boats/trailers in their driveway. The board needed to look at exceptions, but not exclude all non-waterfront property. Mr. Aitken voiced his support of the public comments to expand it to make more stringent, but he would like to see the ordinance apply island-wide. Mr. Hackett commented with boats being such a huge recreational amenity on the island, he questioned whether the board could pass the ordinance, but remove the boat trailer aspect to deal with in a separate document.

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

Chair Webb noted that staff will review the ordinance and bring back to the April meeting for discussion.

AGENDA ITEM #4
CONSENT AGENDA

Mr. Hackett referred to page 7 of the January 15, 2013, Planning and Zoning Board minutes and pointed out that he had made a comment concerning the legal talent in the room and where he had asked them how well they believed what they had drafted and were proposing could be defended, whether they saw any weaknesses, and if it would serve the purpose. He noted the Town's consultant, Bill Spikowski, had responded that it would solve the Town's short term problem; he believed it was solid. Mr. Hackett commented that was what he wanted to hear and asked if "that's in concert," to which Attorney Persson replied it was the best approach available.

MR. HACKETT MOVED THE JANUARY 15, 2013, MINUTES BE AMENDED TO REFLECT THE DISCUSSION AS OUTLINED. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

MR. GARNER MOVED APPROVAL OF THE MINUTES OF THE JANUARY 15, 2013, AS AMENDED, AND FEBRUARY 19, 2013, MEETINGS, AND SETTING THE FUTURE MEETING DATE FOR APRIL 16, 2013. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

ADJOURNMENT

The meeting was adjourned at 11:09 AM

Laurin Goldner, Secretary
Planning and Zoning Board