

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

APRIL 16, 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; Alaina Ray, Planner; Donna Chipman, Office Manager

Chair Webb requested a moment of silence at this time for the victims of the Boston Marathon bombings.

AGENDA ITEM #1
MAR VISTA RESTAURANT, 760 BROADWAY STREET
AMENDED SPECIAL EXCEPTION

AGENDA ITEM #2
MAR VISTA RESTAURANT, 760 BROADWAY STREET
SITE PLAN AMENDMENT

Pursuant to published notice, the public hearing was opened. All those testifying were sworn at this time.

Steve Schield, Planner, provided an overview of the request reviewing the proposed special exception and site plan noting:

- The upstairs dining area (second level deck) was approved several years ago
- The applicant was requesting to increase the approved seating by 11 seats
- The restaurant was originally approved over 60 years ago
- The landscape buffer between Mar Vista and Moore's Restaurant will be increased and will also screen from residential properties across from the restaurant
- The applicant used the commercial revitalization ordinance for parking requirements 1 per 100 square feet and included all patron areas; 45 spaces were required, but they were providing 46, including 14 boat slips and one bicycle space

- The building height was still at 30 feet

Lynn Townsend Burnett, engineer representing the applicant, explained their request noting:

- The two-story adjacent structure had a non-conforming use (apartment) and the applicant was proposing to convert the apartment into a private meeting room which would be conforming
- They were amending the site plan to make minor revisions; previously there were spaces approved for parking on Lois Avenue, but they were informed they were not allowed, and, as a result, were deleted; they reconfigured the drive and parking on the east side
- With the addition of two slips, which were approved by the Florida Department of Environmental Protection (FDEP), with minor dock renovations, they met and exceeded the parking requirements

Mr. Aitken noted he visited the site during peak hours on a Sunday, and observed the parking area on the west side full and approximately ten vehicles parked on Lois Avenue that might, or might not have been, customers of Mar Vista. He asked the future of parking on Lois Avenue. Ms. Burnett responded that if people were utilizing, during peak season, parts of the right-of-way that presented a safety hazard, then it was a code enforcement issue. Mr. Schield responded there would be times, during season, when there was overflow parking. He commented that was the intent of utilizing the commercial revitalization ordinance, so they can utilize some of the street parking nearby. Mr. Aitken noted he did not have a problem with it.

Mr. Wild voiced concern, since the building was an older building, with the weight load for the private meeting room on the second floor. Ms. Burnett explained the structural review would be done at the time of building permitting, but the applicant wished to first determine if the proposal would be approved. Mr. Hackett questioned the capacity of the private meeting space. Ms. Burnett replied the capacity was calculated on the life safety, fire, and building codes, specifically one person per seven square feet or 151. Mr. Hackett asked if the area was prohibited for full dining. Ms. Burnett replied yes; it was set up for only light refreshments and beverages. Discussion ensued on: the landscaping and buffer with Moore's Stone Crab Restaurant with staff reviewing the Landscape and Screening Plan for the site; that the applicant was requesting two additional dockage spots (13 existing); and, it was pointed out that the area at the end of the existing dock was proposed to be removed and then reconfigured to provide two additional legal slips

Mr. Hixon endorsed the improvement of the waterfront dining facilities, but voiced the following:

- It was not a simple change from the previous application; it was totally changing the pedestrian access to the upstairs facility
- Favored moving the view forward, which was a better solution than previously submitted where the water view deck would not view the water, but the roof of the existing deck cover

- The elevator for handicap was located toward the water, but the handicap parking spaces were at the opposite end of the parking lot
- Should have a sustainable surface with a direct access walk for those in wheelchairs

Ms. Burnett noted there would be a good effort to direct people with signage. She agreed with comments about handicap accessibility, but they would not be able to go to the elevator until they checked in with the hostess stand. She would provide the Board's comments to the applicant. Mr. Hixon continued with his concerns, specifically related to: not analyzing how people in vehicles were moving within the site; and whether approvals were in place for historic buildings. Ms. Burnett commented there had been lengthy, detailed discussions on how best to meet the internal pedestrian traffic.

Samir Ragheb, Bayside Drive, discussed the surrounding area was a residential district; concern with parking; the historical nature of the building; and, the impact to the residential character of the community. Mr. Symanski questioned how long the commercial use had been in that area. Mr. Schield replied the restaurant was established in the late 1960s.

Corinne Ragheb, Bayside Drive, spoke about the parking issue, especially during special events; suggested the owner make arrangements with the Whitney Beach Shopping Center for parking; that the historic buildings had not been maintained; and, complained about the overflowing dumpsters.

Michael Drake, Longboat Drive South, voiced his support of the application, but also noted his concern with the parking and acknowledged there was four to five weeks when the parking was "out of control" and overflowed into the neighborhood; suggested that the applicant utilize valet parking during that time.

Dawn Hauser, Broadway Street, discussed the reconfiguring of the parking for handicap; voiced concern with the parking and the changes to the historic building; believed the deck would hurt the historic nature of the building; and voiced concern with the noise impact and what time of night it would have to stop. Mr. Schield responded noting that 10:00 PM would be the latest the restaurant would remain open, but even when it was open the noise ordinance was still in effect. He commented that staff was also concerned with the parking, and he referred to Condition 20 in the site plan approval.

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

MR. GARNER MOVED THE P&Z BOARD APPROVE THE SPECIAL EXCEPTION FOR THE MAR VISTA RESTAURANT. MR. WILD SECONDED THE MOTION.

Discussion ensued on the historic nature of the building and whether the modifications would jeopardize the registry status of the building; that the Town did not have an architectural or historical review board or a historical designation that the Board administered; and, that this was an issue between the owner and the state of Florida.

Mr. Garner referred to Condition 20 and voiced concern that the board was voting to approve an application, but placing an asterisk after it, because if the conditions for the parking change in the future, then the board could disapprove. He was not sure of the legality of it or whether the board could approve. Kelly Fernandez, Town Attorney, explained that it was fine to have a condition that was a contingent condition. Mr. Garner understood there were conditions for the applicant to comply with, but this particular condition was stating that if certain conditions exist, then they would not be in compliance. Attorney Fernandez noted that in this type of process, it was something the board could impose. Mr. Symanski pointed out that Condition 20 was similar to a condition that was proposed during the Longboat Key Club approval. Mr. Hackett questioned who would monitor the 90 day term to see if the applicant remained compliant. Mr. Schield responded the 90 day term would begin at the time they were notified in writing by the Planning & Zoning Official that they were not in compliance.

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

Mar Vista Site Plan Approval:

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF THE SITE PLAN AMENDMENT FOR THE MAR VISTA RESTAURANT. MR. GARNER 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
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 changes to the language as a result of the March meeting. Mr. Aitken commented he was satisfied with the language. He referred to the TE Connectivity Study and the reference to Distributive Antenna Systems (DAS), noting it mentioned there were negotiations underway with Florida Power & Light (FPL) for the DAS system on the poles. He questioned the status of those negotiations. Mr. Meyer was not aware of any negotiations. Mr. Hackett asked about the board vote at the Longboat Island Chapel on the cell tower and what bearing it might have on this resolution. Mr. Meyer explained that the church board voted to not continue the lease, but it had no bearing on this resolution before the P&Z Board. He pointed out there was a draft telecommunication code on the Town's website for review, which will be brought to the board for discussion at their May meeting.

Chair Webb discussed the issue of life, safety, and welfare and that part of the island did not allow for any cell phone reception. The issue needed to be resolved. Mr. Aitken agreed, but believed the issue was 'stalled,' and he was not clear on how to move

forward. Mr. Meyer discussed that telecommunication service was a commercial business, and the Town did not promote the service, but only processed the applications that were submitted. This resolution was part of the process to upgrade the language in the Comprehensive Plan to make clear the policies with regards to cell service and the code language would implement that policy. It would be up to the entities that were providers of cell service to utilize the code to provide cell service. Chair Webb commented that the decision needed to come from the Town Commission. Mr. Garner agreed with the comments and believed the board should be pro-active in the planning aspect.

MR. GARNER MOVED THE P&Z BOARD RECOMMEND APPROVAL OF RESOLUTION 2013-09. MR. HIXON SECONDED THE MOTION.

Charlie Bailey, attorney, discussed the TE Connectivity Study and the Longboat Island Chapel application, which he believed brought the issue to the Town's attention. He referred to Policy 1.6.4, which specifically noted the intent to comply with state and federal laws. He provided suggested changes to the policy which were consistent with state statute. Chair Webb noted Longboat Key was a residential island and the proposed language prohibited the Town from being able to build anything that would provide for safe cellular service on the island. Mr. Bailey commented the language was straight from the state statutes (Chapter 365), and the purpose of the exercise was to ensure the Town's Comprehensive Plan regulations adhered to statute statutes.

Michael Furen, attorney representing Accursio Sclafani and Doreen Erickson, noted the importance of Mr. Bailey's statutory provision, which allows a community to deny a tower or facility in a residential area. He commented that if that happened, and the carrier demonstrated they could not provide service to that area, then the local community and carrier were mandated to sit down and find a location where a wireless service facility could be located to serve a residential district. He provided suggested changes to Policies 1.1.2 and 1.6.4.

Discussion ensued on the following topics:

- Placing the word 'technically' in front of the word 'feasible'
- How a community was to handle the health, safety, and welfare of the residents
- Suggestion to appoint a committee to research specific answers and do what was necessary to provide all the background and technical information for the board
- Mr. Furen's comment concerning writing language for a comprehensive plan and telecommunication ordinance without having someone on board with expertise to assist in development of the regulations

George Spoll, Harbourside Drive, did not agree with appointing another committee since expert testimony was made available, but the Town Commission denied that individual the opportunity to provide the information. He discussed how ten years ago Anna Maria Island implemented an ordinance enabling DAS communication on their island, but during all those years no provider followed through, and they were now soliciting for towers, because no one came forward with a DAS.

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

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

The board recessed from 10:36 am. – 10:47 am.

AGENDA ITEM #4
ORDINANCE 2013-03, AMENDING CHAPTER 72, STOPPING, STANDING, AND
PARKING, SECTION 72.06, RESTRICTIONS ON PARKING AND USE OF TRAVEL
TRAILERS

Steve Schield, Planner, reviewed the proposed changes to the ordinance noting:

- Staff did a windshield survey of the trailers currently parked in open areas on single-family properties on the island and the result was 112 trailers with 18 properties having two or more
- Some neighborhoods have their own association restrictions
- Reviewed the four options included in the staff report

Mr. Garner referred to Option 4 and asked if that could be incorporated into one of the other options as additional methodology. Mr. Symanski noted how the word 'substantially' was used in all the options, which he did not agree with. He questioned the definition and believed it was not enforceable. Attorney Fernandez believed the word 'substantially' came from the last board meeting, but agreed there was probably better terminology that could be used, but it would be up to the board as to how much of the trailer they wished to be visible. Staff could refine the language to pinpoint exactly how much of the trailer the board would allow sticking out. Mr. Wild questioned if there were other ordinances in other communities that had percentages. Mr. Schield responded he had not researched that, but if the board wished, they could include a percentage. Mr. Aitken noted that he believed the board had discussed the word 'substantially' in the past for the trailers, and the context of the 'tongue' of the trailer sticking out, but he was not sure how it would address motor homes. Mr. Symanski commented if these were non-conforming uses, would all people that have boats and have storage be allowed to stay and the Town would need to catalog it. Mr. Schield replied they would have to come into compliance with the ordinance.

Mr. Daly referred to Option 4, which discussed screened from public view, and asked if that referred to the front, side, or both. Mr. Schield replied both. Chair Webb asked if it could be through landscaping or must it be a fence. Mr. Schield explained it had to be with a fence or gate; it could not be landscaping. Mr. Schield reviewed Option 5. Mr. Aitken asked if residents that lived on the gulf would have an exemption. Mr. Schield replied yes. Discussion ensued on applying the restrictions to the Village area and their impact. Mr. Daly noted there was an obvious difference between a carport, garage, and other building and it might make sense to have different provisions.

Jerry Whitehead, Gunwale Lane, board member of Country Club Shores Unit 3, discussed the Vision Plan and commented that anything the Town could do to preserve the value of their subdivision was a benefit to the island. He noted that Units 1-5 supported Option 2, but urged caution with the word 'substantial' or 'partial,' because if they did anything that allowed something to stick out of a structure, then it defeated the purpose of the ordinance.

Edward Jewett, Gunwale Lane, secretary of Unit 3, supported Option 2.

Mr. Hackett questioned if any units in Country Club Shores had effective homeowner associations to which residents responded no. He questioned the rental restrictions. Mr. Schield responded it was a residentially-zoned property which had a 30-day minimum rental. Mr. Jewett commented they would like the Town to address the situation and provide enforcement.

Steven Gold, Bayview Drive, provided a photograph of a large vessel on a trailer in their neighborhood. He pointed out that the neighbor was told by the Town that it was entirely permissible as long as the trailer's license was visible. He would prefer Option 3 with the words 'substantially' removed and replaced by 'completely,' 'wholly,' or 'entirely' or something similar to that effect. He noted that 'substantially' meant "more than minimal or more than nominal."

Silvana Nandin, Cutter Lane and Gunwale Lane, commented that she had her house for sale and has lost two contracts because of the trailer on her neighbor's lot. She preferred Option 3.

Shirley Myers, Broadway Street, spoke on behalf of her neighbors noting the owners liked to fish and boat. The Village did not have a lot of area for boats and trailers. They suggested there could be a restriction on the size of the boat. She mentioned that most of the boats in the Village area that were parked in the front were at houses that were rentals, and the residents would like to maintain boats/trailers in the back or side yards, or out of view from the public. Chair Webb commented that if the concern was with cleaning the boat, the ordinance allowed it to be parked for up to five days. Ms. Myers noted that the one she was referring to have a fenced yard and maintained their boat in the back yard. Mr. Aitken questioned if Option 5 would address the concerns of the people she was representing. Ms. Myers replied she believed so.

Michael Drake, Longboat Drive South, commented that one of the things that attract people to the Village was the ability to have a boat and boat trailer, and utilize the Town dock. He did not agree with restricting a community that was not deed restricted, and did not agree with a community that had restrictions and allowed them to expire to impact the remainder of the island with their problem and ask the Town to provide enforcement. He continued that the Village had approximately 200 home sites and ten percent had water frontage. The remainder was landlocked and utilized the Town facility at Linley Street to put their boats in and take out of the water. Then they take the boats back to their home and park in the driveway; they only had back and side yards. He noted the Village was a fishing village and believed to restrict the boat owners was unjust.

Mr. Aitken asked if Option 5 would satisfy the residents of the Village. Mr. Drake noted it would be consistent. Mr. Aitken asked if he was opposed to Option 2. Mr. Drake explained he was not opposed, but did not believe it was right for a deed restricted area to ask the Town to resolve their problem.

Mr. Hixon asked if Mr. Drake would favor Option 4 if it was modified to allow a planting screen and restricted to storage in side and rear yards. Mr. Drake replied as long as it was defined as far as what they must do. Mr. Hixon commented if the area was visually screened, and there could be plantings in the side and rear yards. Mr. Drake believed that would be acceptable. Mr. Hackett asked how Mr. Drake felt about the five day restriction. Mr. Drake noted that the more restrictive the Town became would result in less and less tourism. Mr. Hackett asked about restricting the size of the vessel. Mr. Drake believed it was another layer of restrictions. Mr. Daly referred to Option 1 and noted that it would permit a boat trailer anywhere, and in addition, another trailer within a building. Mr. Drake believed restricting the number was again another layer of restrictions, but he would favor Option 1.

Joe Iannello, Bayview Drive, voiced concern that even if there was a six foot fence a boat could exceed that height. Option 2 should pertain to the entire island, and Country Club Shores should not be favored.

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

Discussion ensued on the following items:

- Concern with the word 'substantial'
- Applying restrictions to certain areas because they asked when there are other areas that were similarly situated that might want the same restriction
- Concern with excluding the Village area, or imposing rules in the north end, because most people spent a lot of money moving into a community that did not have covenants
- Requesting the Town Commission's guidance on this issue, or appoint a task force with members from Country Club Shores and other areas to review the restrictions
- If there was a way to eliminate some of the options and then discuss the details
- This was a major issue and there were clearly other difficult issues, such as valid issues with the Village area, and the people who bought property in non-deed restricted areas
- Whether other communities were reviewed to see how they addressed the issue; staff looked at other codes, but they either allowed trailers or did not allow trailers
- Believed the issue was screening, because no one would want to look at a trailer
- Request to review other premier communities to see how they addressed the issue, such as Davis Island, Sanibel Island, Amelia Island, etc.

MR. SYMANSKI MOVED TO REQUEST THE TOWN COMMISSION TO PROVIDE GUIDANCE AND/OR APPOINT A TASK FORCE, WHICH INCLUDED SOME OF THOSE IN ATTENDANCE AT THIS MEETING, AND ALSO LOOK AT VARIOUS IDEAS, SUCH AS SCREENING, EXCLUDING THE VILLAGE, SIZE OF CRAFT, ETC.

Chair Webb noted her preference to ask the Town Commission if they were comfortable with moving forward with a task force consisting of representatives from the various neighborhoods. Mr. Hackett questioned why the Board had to request permission from the Town Commission. Chair Webb explained that the Town Commission was the appointed body. Mr. Aitken agreed with Mr. Symanski. He believed Option 2 was flawed. Mr. Hackett noted there was a broad base of representatives at this meeting, and he did not understand why the Board could not select a committee, along with board members, and move forward. Mr. Daly agreed with Mr. Hackett. He noted there was a previous subcommittee with respect to the Property Maintenance Code that consisted of only Board members.

MR. GARNER SECONDED THE MOTION.

Mr. Symanski clarified his motion to note that he had been on a number of committees that included commissioners, and his motion was to ask that the commission be included, or if they did not, then let the Planning & Zoning Board handle the issue.

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

Chair Webb asked that Steven Gold, Bayview Drive; Jerry Whitehead, Country Club Shores; Michael Drake, Longbeach Village; and, Commissioner Duncan serve on the committee.

Chair Webb noted the Board would table this ordinance and send it to the committee to review. She also asked that Mr. Symanski and Mr. Aitken serve on the committee as representatives from the P&Z Board.

AGENDA ITEM #5
CONSENT AGENDA

MR. WILD MOVED APPROVAL OF THE MINUTES OF THE MARCH 19, 2013, MEETING AND SETTING THE FUTURE MEETING DATE FOR MAY 21, 2013. MR. GARNER 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. Wild noted he would not be in attendance at the May meeting.

ADJOURNMENT

The meeting was adjourned at 11:55 AM

Laurin Goldner, Secretary
Planning and Zoning Board