

**MINUTES
LONGBOAT KEY TOWN COMMISSION
JOINT WORKSHOP
WITH THE PLANNING AND ZONING BOARD
NOVEMBER 9, 2015 - 9:00 A.M.**

Present: Town Commission

Mayor Jack Duncan, Vice Mayor Terry Gans, Commrs. Jack Daly, Lynn Larson, Irwin Pastor, Phill Younger, Pat Zunz

Planning & Zoning (P&Z) Board Members

Andrew Aitken, B.J. Bishop, James Brown, Leonard Garner, Stephen Madva, Kenneth Schneier, George Symanski

Also: Town Manager Dave Bullock; Town Attorney Maggie Mooney-Portale; Planning
Present: Zoning and Building Department Director Alaina Ray; Maika Arnold, Planner; Steve Schield, Planner; PZB Office Manager, Donna Chipman

CALL TO ORDER

Mayor Duncan called the November 9, 2015, Joint Workshop with the Planning and Zoning Board to order at 9:01 a.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

PUBLIC TO BE HEARD

1. Opportunity for Public to Address Town Commission - No items were presented.

DISCUSSION ITEMS

2. Discussion Regarding the Options for Conforming Properties that are Currently Non-Conforming for Density

Alaina Ray, Planning, Zoning & Building Director, discussed the following:

- Direction received from September 21, 2015, Town Commission/P&Z Board Joint Workshop was to explore options that did not involve a Town-initiated referendum, but allowed owner-initiated referendum to increase density
- Explore a potential for a 'pool' of multi-family units, similar to the existing tourism pool
- Once the Land Development Code was revised, properties that were non-conforming for density would have opportunity to become conforming through a Comprehensive Plan, Future Land Use, and Rezoning changes
- Currently residential properties built with six units per acre or more cannot seek additional density (tourism properties, or properties zoned residential but legally used for tourism, built with more than six du/a can request units from the tourism pool if they meet specific site plan criteria)
- There is currently no zoning category available that would allow more than six units per acre
- Whether a condominium association could go through the redevelopment process themselves versus hiring a professional to do it for them

- The basic policy question was, “Does the Town wish to provide a mechanism for property owners to request additional density as a financial incentive to redevelop aging, non-conforming properties?”

Mayor Duncan commented this was one vehicle that helps to incentivize the process; it might be restricted to number of units, but the owner might sell all the units prior to construction; think the incentive element was important, but cannot think of any other incentives for redevelopment that the Town could offer those various units that want to improve their facilities; it is a very important issue and the Town should not allow it to ‘slip away’

P&Z Board Chair Brown noted they had to understand that they were not going to create a new set of guidelines/rules, and everyone will be coming to Town Hall requesting redevelopment. This may take 20-30 years. There were sites that were not developable, but as the economy changes, then developers or owners will look at their site differently. If there is a property on Longboat Key that was built prior to 1992, when Hurricane Andrew wiped out South Florida, it resulted in a dramatic change to the building codes. The older properties were going to continue to decline in value, because people coming in the future will not look at a place that did not have the expected amenities. The Town was attempting to put a mechanism in place for homeowners to do something in the future.

Ken Schneier commented that examples would be very helpful to understand the problem. Mr. Symanski asked if there was a process where the property was reviewed by the P&Z Board and they would decide what number of units would be appropriate. Ms. Ray discussed that the referendum itself did not grant density; it was an approval by the voters to allow the applicant to file a request to the Town for approval of density. At that point, the applicant would request a change in the Future Land Use and Zoning. She continued with discussing the process they would need to follow within the Town.

Maggie Mooney-Portale, Town Attorney, believed with the processes that were being proposed at this time, and the changes being suggested, the Board needed to take into consideration they could only ask for something that the Comprehensive Plan and the Zoning Code permitted. Discussion continued with the referendum process and Florida Statutes. Commr. Larson pointed out that the Aria development had requested less density than allowed. Mayor Duncan commented the only point he was making was the developer was able to sell units up front, and as a result, were able to create a working capital. P&Z Vice Chair Bishop noted that the discussion was not for current developments, but the ability for aging buildings to be able to make the first request. There would also be criteria in place that would provide limitations that protect development plans in terms of how they move forward.

Commr. Zunz commented that she had reviewed her notes from the Planning & Zoning Board training session, and they had discussed the responsibility of planning. She believed the idea that each developer, or owner, would have to go through a referendum process, which was at the discretion of someone else, was not the way to set up this process.

Mr. Garner discussed that some of the older buildings had a number of issues that were economic, and he believed that was the focus of the legislation that was created. He asked if the Town was going to allow someone with 15 units per acre to demolish and rebuild to current Town Code; they might cover more ground, or the same ground, but they would still be at 15 units per acre. He asked how they would depart from the current Town Code requirement of six units per acre.

Discussion ensued on:

- Whether providing incentives for redevelopment on the island was still the goal (there was consensus to provide incentives for redevelopment) (methodology for incentivizing is a priority)
- The options provided at the hearing did not assign additional density to a property
- Whether want to discuss and provide a pool of additional units

Ms. Ray continued with her presentation:

- All solutions provided were viable and legal options
- Two options provide a methodology to ask for additional density
- Options are not an either/or; you could implement all three options
- Will need to provide documentation/certification of what existed and as-built conditions to have in the Town's records

The following options were discussed:

Option 1 – Planned Unit Developments

- creates two new PUD districts, specifically for the purpose of promoting and allowing redevelopment that would allow property owners to seek rezoning to a density higher than six du/a
 - Residential Opportunity Planned Unit Development (RO-PUD)
 - Tourism Opportunity Planned Unit Development (TO-PUD)
- these two districts would afford an opportunity to take properties that existed with higher densities to move into these districts
- PUDs are beneficial to the Town Code
- provided flexibility for buildings and more open space
- whether the PUD districts had to be one broad area or 'float' (as long as it complied with the Comprehensive Plan, which would have the provisions to allow it)
- the goal was to provide a better development through the PUD process than the Town Code would provide; never used to circumvent the Town Code
- whether if an owner asked for a PUD and was denied, do they stay within the district they currently were in (it was noted they would remain in their current district)
- they could request again, but would have to submit a substantially different plan than what was originally submitted; the application should come under one unified

owner, not individual owners within a condominium (the association would have to request)

- addressed the concern of having multiple referendums as a result; however, it would be happening over a long period of time
- should be a size limitation; it could be based on a number of factors
- will have to deal with properties that have more than six units per acre; some of the smaller properties that have a higher density will have to determine whether want something more appropriate at the same density or phase them out; may want to leave them as non-conforming and allow them to redevelop under another Town Code
- PUD District regulations
- suggestion to staff to include language that allowed 'phased redevelopment'
- there was a lot of criteria that would need to be reviewed
- a need to revisit the Town's allowed heights and whether they were appropriate
- the parameters of the PUD would tie into the vision for the island

Mr. Schneier questioned what would be the general vision for 1-2 acre properties. Ms. Ray responded if the Board wished to provide additional flexibility for the smaller properties, if they included the size limitation for the planned unit development, and if it limited it to 2 acres or more. If the Board wished to provide flexibility for those properties that were under that to be able to redevelop to their existing density, then they could look at removing the cubic content requirement, and provide flexibility with setbacks, open space, and height.

Ms. Ray continued with her presentation of Option 1 noting:

- Property owner would initiate referendum to request additional density
- If referendum approved, the owner would seek a change in their Future Land Use category into one of the defined categories that already existed in the Comprehensive Plan (one of the Opportunity Areas)
- PUD proposal must be for redevelopment of the property; what are the objectives
- Develop PUD criteria based on defined redevelopment objectives
- Once rezoned, the property would be conforming for density and could redevelop according to the approved PUD criteria and density
- Reviewed Pros and Cons for creating a PUD (PowerPoint Slide 12)
- Have had several suggestions for the Colony Beach property, but none fit within the Town Code; would be a good example for redevelopment through a PUD

Option 2 – Multi-Family Unit 'Pool'

- Town creates new PUDs, as described in Option 1
- Town initiates referendum for a 'pool' of multi-family units
- If referendum approved, the Town could adopt regulations governing the distribution of the units in the 'pool'
- Property owner would seek a change to the Future Land Use (FLU) category (PowerPoint Slide 14)

- Reviewed Pros and Cons for Multi-Family Unit 'Pool' (PowerPoint Slide 15)
- What guidelines would the Town use to determine that the higher density parcel would be treated differently than a lower density; the owner that wishes to demolish and rebuild what was existing, but wants to go through the PUD process, would be afforded the flexibility under the PUD process to create something that maybe the Town Code did not foresee
- Questioned why the Hilton was still non-conforming when they went through the process for the additional units; they were still a non-conforming property because their zoning district still only allowed six dwelling units per acre; the units were legal, but the property itself, because there was no zoning category that it could fit into under the current Town Code, was non-conforming because of its current zoning category designation
- If a property was non-conforming does it impact their obtaining insurance or funding; being non-conforming could impact
- Appeared in Option 2 that the cost burden was placed on the Town; the cost of the referendum would be the Town's burden
- Should take the words 'cubic volume' out of the Town Code

Commr. Zunz discussed the financial concerns for non-conforming properties; why do they have to wait to 'opt in'; why could they not be placed into the PUD. Ms. Ray responded that would be a Town-initiated process; each property had to be reviewed individually and draft their own development parameters.

Option 3 – Special Purpose Zoning Districts – No Additional Density

- Town revises Comprehensive Plan to add a Special Purpose Future Land Use category that allows Special Purpose Zoning Districts
- Creates new Special Purpose Zoning Districts to conform and limit density to existing nonconforming built density, specifically for those properties
 - Tourism Special Purpose Zoning District
 - Residential Special Purpose Zoning District
- Properties would need Comprehensive Plan and FLU changes into a new Special Purpose Category
- Properties would require rezoning into a Special Purpose Zoning District
- Two options for rezoning properties
 - Town-initiated
 - Owner-initiated
- Should treat each property on their individual concerns; Option 1 would address
- Whether using the PUD process would resolve the impediments of financing and other elements with being non-conforming because the property would become conforming with a PUD; need to keep in mind that a PUD would be tied into a redevelopment
- The Town needed to decide whether they wished to create the PUD for redevelopment only; the proposal for a straight zoning district would not have to be redeveloped, but would be more restrictive than a PUD
- Whether this could be stage one before someone decides to go into a PUD or for someone that did not qualify for a PUD

- As part of the criteria for the zoning district, the 'cubic volume' language would go away
- If changes were done in connection with the regular Town election, then the costs were already worked in
- Discussed the difference between this and 'spot zoning'
- How does Option 3 provide an incentive for redevelopment; unknown if this option would provide a financial incentive – it did not provide for additional density; it would allow the property to become conforming without applying for a PUD
- Whether could include part of Option 3 in Option 1; they were two separate processes- Option 3 did not require a referendum
- discussed the idea of phasing it so there could be all three with some phasing mechanism.
- With regard to Option 2 and the 'pool,' if the Town moved forward, they would need a referendum; if it was not approved, they still had Option 1 to fall back on
- That the tourism pool created years ago was created to replace lost units, and this pool was not created to replace lost units – it was additional units
- Concern voiced with increasing density, but also recognized that if the Town went with Option 2, it would be put to a referendum vote by the public, and they were not necessarily uncomfortable with that option

Commr. Zunz noted they were talking about a small number of units – Options 2 and 3 gave the Town control, and she favored those options. Mayor Duncan favored all three options. Option 1 gave the Commission more latitude to determine exactly how many of those units they would want to give up, because they had some control over it, because the PUD was undefined; the Town had control over making sure that all the elements they wanted to see were there, and would also have more control over the density element.

Comm. Daly agreed with the Mayor and Commr. Zunz with respect to the pool of units as without it there was "disincentive." He noted if it was determined the number of units was not sufficient, then it could be increased with another referendum. He pointed out the current process takes time and asked if the Town should be looking at something immediate to eliminate that restriction. Ms. Ray explained an ordinance has been prepared to address that, and with removing some of the restrictive language, it could move forward now so if there was a storm, the issues could be addressed immediately until such time a process was put in place.

Discussion ensued on the various options:

- Combining Options 1-3, if they fit together, would provide an owner who was thinking of redeveloping the 'menu' up-front to make a choice
- The Town had to be sure to have language in place that allowed for a limited or controlled redevelopment
- Concern with Option 2 as Option 1 still provided the incentive, but made it more difficult
- Belief that Option 2 would limit the number of referendums

- Under Option 3, the Town might want to consider having a Town-initiated process for a certain amount of time, and if someone submitted within that timeframe, it would be under the Town, but after that it would be on their own request
- would have to set a time limit on it requiring that they would have to opt in by a certain date
- That the Town was responsible for creating criteria that was specific
- Belief that Option 2 should be part of Option 1

Mayor Duncan asked if anyone had another option that has not been discussed that they would like to place on the table for discussion. None were noted.

There was consensus to move forward with Options 1-3 combined together.

Ms. Ray explained that Option 2, by default, meant they were doing Option 1. The difference was yes they would ask for a pool, but if the pool was denied by the voters, or they ran out of units, Option 1 was something that individual property owners could come forward and do on their own.

There was consensus to move forward with Town-initiated action for Option 3.

Ms. Ray noted that regardless of direction, staff would move forward with the documentation process so staff can document and certify what currently existed. She pointed out the importance of completing that in light of the fact they were sitting on a barrier island.

Mayor Duncan requested that staff develop specifics for each option for the next meeting.

ADJOURNMENT

Mayor Duncan adjourned the November 9, 2015, Town Commission Joint Meeting with the Planning & Zoning Board at 11:36 a.m.

Minutes Approved: 01-04-2016