

**TOWN OF LONGBOAT KEY  
PLANNING AND ZONING BOARD  
MINUTES OF REGULAR MEETING  
JANUARY 21, 2021**

Members Present: Chair David Green; Vice Chair Phil Younger; Secretary Penny Gold; Members David Lapovsky (via Zoom), Jay Plager (via Zoom), Debra Williams

Also Present: Maggie Mooney, Town Attorney (via Zoom), Allen Parsons, Planning, Zoning & Building Director; Savannah Cobb, Deputy Town Clerk; Maika Arnold, Senior Town Planner; Tate Taylor, Planner; Donna Chipman, Senior Office Manager

**1. Pledge of Public Conduct**

Chair Green noted the Town's Civility Policy and read the Pledge of Public Conduct.

**2. Administration of Oath**

Savannah Cobb, Deputy Town Clerk, administered the Oath to new member Gary Coffin.

**3. Call to Order**

The regular meeting of the Planning and Zoning Board was called to order at 9:15 AM by Chair David Green.

**4. Roll Call**

Senior Office Manager, Donna Chipman, called roll for attendance with all members present.

**5. Virtual Meeting Protocols and Process**

Allen Parsons, Planning, Zoning & Building Director, reviewed the process and protocols for this hybrid meeting.

The meeting was recessed from 9:26 am – 9:38 am due to technical difficulties with the Zoom session.

**6. Public to be Heard**

At each meeting, the Planning & Zoning Board sets aside time for the public to address issues not on the agenda. No one wished to address the board.

**7. Consent Agenda**

**MR. YOUNGER MOVED APPROVAL OF THE MINUTES OF THE DECEMBER 15, 2020, REGULAR MEETING AND SETTING THE NEXT MEETING FOR FEBRUARY 18, 2021. MS. WILLIAMS SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

## 8. Public Hearings

### 535-547 St. Judes Drive, Site Development Plan Application (QUASI-JUDICIAL)

Pursuant to published notice, the public hearing was opened. All those testifying at this hearing have previously submitted a *'Request to Be Heard'* form affirming their evidence or factual representation. Lynn Christensen, applicant, previously provided the digital Return Receipts to staff.

Maggie Mooney, Town Attorney, reviewed the process for Quasi-Judicial hearings as outlined in Chapter 33, Section 33.25, of the Town Code. She asked the Board if anyone had any Ex Parte communications or Conflicts of Interest that they wish to disclose on the record. The board members noted they had no Ex Parte communications or Conflicts of Interest.

Tate Taylor, Planner, provided an overview of the application with reviewing a PowerPoint presentation and noting:

- The request was for a site development plan approval for a restaurant with outdoor dining
- The dining area will be 1,473 square feet of indoor dining and 600 square feet of outdoor dining with 14 parking spaces, including two handicap spaces
- The structure at 547 St. Judes Drive has been demolished
- The structure at 535 St. Judes Drive will be renovated for the additional restaurant and outdoor dining use
- The project meets and exceeds the landscaping requirements of the Zoning Code, and the landscape plan will provide for screening of the outdoor dining area

Discussion ensued between the Board and staff regarding:

- The landscaping requirements and a substantial boundary on the east side between the C-1 property and the residential property
- What was the landscaping plan for the north side; staff noted the property to the north is also zoned commercial and there is no landscape requirement in the Town Code that requires the area to be landscaped
- Site Plan Order 2021-01, Paragraph 'E' on page 2, and what were the guarantees for continued maintenance; staff noted the Town has a code enforcement officer, and the officer enforces any Town Codes that would apply to the upkeep and maintenance of properties within the Town
- The section related to maintenance is from the Town Zoning Code, Section 158.031, and the Board has to decide based on the evidence.
- That the obligations from the Order would run with the land, so if there were subsequent owners, they would still be obligated to comply with the specifics of the land use entitlements they receive and the general standards within the Town Code; the Town Attorney agreed, but noted she had not seen a Code Enforcement action brought against a property owner for a landscaping element to a site plan that are being enforced against an existing landowner or subsequent purchaser.
- Parking spaces – whether one encroached onto St. Judes Drive; staff explained they received a variance from the ZBA prior to their Special Exception approval in November; the parking area is closer to the street by Code, but the variance allows it

- The approved Special Exception included a requirement for the outdoor dining to be screened from adjacent properties
- Whether the applicant should include a concrete barrier along the street to prevent a vehicle from running into the outdoor dining area
- Whether the walkway between the existing restaurant and new facility was open or closed; staff noted it was showing as a new building addition and could be constructed as a roof area that could be open or closed, but he understood it would be enclosed

Robert Rokop, architect representing the applicant, discussed:

- The new parking will provide improvement to existing parking and comply with the Town's new parking requirements
- Stormwater from the site will percolate into the new gravel area
- The project will offer improvements to the neighborhood
- Regarding the north side landscaping, the applicant will be looking for consistency throughout the project and will look at landscaping in the area; the site drawing will be representative of a continued landscape buffer
- Regarding installation of a concrete barrier – this is a low speed road and narrow; the use of bollards would potentially cause people to back in to them, or run into them, and damage their vehicles; the actual parking surface is on the other side of the walkway of the handicap space

Chair Green asked if the applicant had any objections to any of the conditions of approval, to which the applicant replied no. Ms. Williams referred to the Traffic Impact Analysis noting it stated it was based on 365 days of use; however, she understood that the restaurant closes at some point during the year for vacation. She asked if the analysis should be based on the actual number of days the restaurant was opened. Mr. Rokop responded the impact from the closing might be minimal, because they used conservative figures (two occupants per car) and were less than half the amount of trips required for a comprehensive trip analysis, but they could certainly rerun the numbers to determine if there was any impact from the brief closing.

Mr. Plager discussed the description from staff that the site included a landscape plan that provides landscaping around the entire perimeter of the property. Mr. Rokop explained the property owner has the obligation to maintain his landscaping according to the Town Code. Mr. Plager commented it was understood that the obligation ran with the land and would apply to future landowners. Mr. Rokop replied the applicant acknowledged that condition.

There was discussion on the conditions outlined in the Order and the status of those conditions if the property were sold. It was noted the conditions in the Site Plan Order would be binding upon any future owners under the approved use. However, if someone decided to request a different C-1 use on the property, it would require new approvals from the Town, and the restrictions within this Site Plan Order would no longer be binding.

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

**MR. YOUNGER MOVED TO APPROVE THE SITE DEVELOPMENT PLAN APPLICATION FOR 535-547 ST. JUDES DRIVE, AS SUBMITTED, INCLUDING THE FINDINGS OF FACT IN THE STAFF REPORT AND CONDITIONS OF APPROVAL WITHIN SITE DEVELOPMENT PLAN ORDER 2021-01. MS. GOLD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: COFFIN, AYE; GOLD, AYE; GREEN, AYE; LAPOVSKY, AYE; PLAGER, AYE; WILLIAMS, AYE; YOUNGER, AYE.**

## 9. Workshop Discussion Items

Continued Workshop Discussion: Commission Direction to Further Consider Ordinance 2020-07, Amending Chapter 158.098(D), Daylight Plane and Single-Family Residential Structure Buffering Requirements and an Overlay District Concept for Single-Family Redevelopment.

Allen Parsons, Planning, Zoning & Building Director, provided an overview of the past discussions with the Board on Ordinance 2020-07 including:

- Height and compatibility issues, including reviewing an illustration of height differences in Country Club Shores
- Reviewing the discussion history pointing out there have been 10 meetings between the P&Z Board and Town Commission on the issue
- Scale and massing guidelines; overlay zoning districts; modifications to the Daylight Plane requirements (Ordinance 2020-07); enhanced privacy standards
- Reviewed preliminary consensus and core questions:
  - What are the general concerns around heights of newly developed single-family structures?
    - Whether there was a need to do anything
    - How big an issue is this on the island
    - Whether the code updates over the last few years and height restrictions that have been updated and in place address the issue
    - If the board would rather recommend to the Town Commission that they are agreeable with current codes and did not wish to further consider the ordinance
    - Want to encourage revitalization of the Town and most newer structures have to meet FEMA requirements
    - That the Town has spent a lot of time discussing height limits
    - Belief there is sufficient existing height controls and privacy limitations in place
    - Concern with creating additional unintended problems from adopting regulations through this ordinance; concern with Bert Harris Act implications
    - Whether there were discussions on second floor area vs first floor area; does the Town Code address that the second floor cannot exceed the first-floor area; staff had discussed the requirements for Daylight Plane
    - In Country Club Shores the mass of the replacement structures was an issue; there might be consideration of screening to mitigate the impacts of privacy
    - whether the Town's wanting to be more restrictive on overall height, as well as the Daylight Plane concept, has had a mitigating effect on the complaints
    - If the Board decides to do something at the P&Z Board level, it should be a 'step' approach
    - The concern with having a requirement for someone that wants to build next to a home built prior to 1975 and having a different requirement for someone wishing to build a home next to a structure built after 1975

Chair Green believed there was consensus the Board was not considering new site plan development revisions, or changes in height, but did feel there was interest to continue to

discuss the issue relative to screening requirements or preliminary steps. The Board has taken their responsibility seriously and has attempted, on multiple occasions, to respond to the Town Commission. He suggested the Board address what goals they are trying to accomplish.

The Board continued with discussing:

- Bert Harris Act impacts and belief the Board might be getting into a situation where they were spending a lot of time discussing the issue; there was not a need to continue discussion and the issue should be closed
- The Board has spent a lot of time discussing the issue with the same results; they have held 12 meetings on the issue and have not made any progress on proposals to send back to the Town Commission
- The Board might wish to table the issue and review it again in a year
- Whether the Board would want to continue with discussion regarding screening/privacy
- Concern with the Board possibly involving themselves in designing someone's home for privacy
- The Town should have a process that protects existing housing as well as encourages redevelopment based on the market

Chair Green commented he would meet with staff to determine the next steps in the process.

## **10. New Business**

### **Board Appointments**

Chair Green noted that Ms. Gold and Ms. Williams only have a couple of more meetings with the Planning & Zoning Board before they moved up to their Town Commission seats. He asked that Mr. Parsons discuss with Mr. Harmer the possibility of the Town Commission addressing board appointments at their March meeting. Ms. Gold pointed out that appointments would be discussed at the April Town Commission meeting.

### **Tourism Units**

Mr. Parsons discussed during the December 2020 Planning & Zoning Board meeting, during review of the Sage project, there was discussion about that site and its T-6 zoning, and what did the Comprehensive Plan state regarding the loss of tourism units. He continued with reviewing the staff memorandum responding to those questions noting the Comprehensive Plan does not have specific requirements for maintaining tourism units. He also pointed out that 165 units from the 'tourism pool' were granted to the St. Regis project (f/k/a Colony Beach & Tennis Resort), and if the Longboat Key Club came in with their proposed hotel project, then those two projects would result in the Town regaining the same tourism units that were lost in 2000.

Chair Green proposed that as part of the planning component of the P&Z Board, this subject be placed on a future agenda for discussion on the Town's tourism units. Ms. Williams agreed, but questioned the definition of 'tourist' unit. Mr. Parsons responded a 'tourist' unit were units rented out less than 30 days regardless of square footage.

Mr. Younger did not believe the Board should discuss the issue, because with the new construction providing new tourist units, it would bring the Town back to the stock from when the Town was voicing concern with losing units. He was unsure the Board should be considering the creation of a new pool, because those projects will restore the balance. He

commented they could review once the St. Regis and Longboat Key Club projects were constructed, but suggested that with their construction, the Town would be exceeding the balance in 2000.

Ms. Gold agreed with Mr. Younger and noted this was good information for the Board to have. Mr. Lapovsky asked if the St. Regis project utilized units from the 'tourism pool'. Mr. Parsons noted the St. Regis requested, and was provided, 165 of those units, and the Zota Beach Resort requested, and was approved for, the remaining 85 units.

Discussion ensued between staff and the Board on:

- Longboat Key Club and the referendum that was approved that converted an overall number of units that were residential in the Islandside PUD; there is development that has not used all the potential density, but there was not allocated a certain number of additional units for tourism use
- There was litigation that clarified how the units in Islandside were to be treated, which required them to go through a referendum
- Whether the Board wished to create policy and procedures to create additional tourism units on Longboat Key, which was the reason for suggesting placement on a future agenda for further discussion
- If the Longboat Key Club expansion was submitted, which was the reason for implementation of the original 'tourism pool', then the Town will be exceeding the number of tourism units
- That there was not a need to discuss the issue until such a time arises when the Town is facing the reduction in tourism units again; or if it should be discussed to confirm that the Town was at the level they should be (is there past information that addresses the issue)

Chair Green commented that he would discuss the issue with staff to determine how best to proceed.

### **Insurance**

Mr. Parsons addressed the interest in the discussion of the insurance rates that was presented by agents at the December Town Commission meeting commenting he would be meeting with Mike Mailliard, MIC Insurance, and staff next week. Chair Green suggested staff request a presentation before the P&Z Board at a time when the Board had seven members.

### **Future Agenda Items**

Mr. Parsons noted:

- The February P&Z Board meeting would include a quasi-judicial hearing on the relocation of one of the Longboat Key Historical Society structures from Broadway Street to the Chiles Property located at 6920 Gulf of Mexico Drive. He mentioned it was being placed on the site through a Temporary Use Permit, but the applicant was requesting modification of their approved site plan to accommodate the structure.
- The Town has issued a Request for Proposal for the update of the Evaluation and Appraisal Report for the Town's Comprehensive Plan.

- With the addition of two new P&Z Board members after the March meeting, staff is working on scheduling a session with Gene Boles, University of Florida, to conduct another P&Z Board training, which will be open to the Town Commission and other surrounding communities.

### **11. Staff Update**

### **12. Adjournment**

The meeting was adjourned at 12:07 pm.

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Penny Gold, Secretary  
Planning and Zoning Board