

**TOWN OF LONGBOAT KEY  
PLANNING AND ZONING BOARD  
MINUTES OF REGULAR MEETING  
DECEMBER 14, 2021**

Members Present: Chair David Green; Vice Chair David Lapovsky; Secretary Jay Plager; Members Gary Coffin, Paul Hylbert, Michael Warnstedt

Members Absent: Margaret Nuzzo

Also Present: Andrew Mai, Assistant Town Attorney; Allen Parsons, Planning, Zoning & Building Director; 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. Call to Order**

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

**3. Roll Call**

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

**4. 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.

**5. Consent Agenda**

**MR. LAPOVSKY MOVED TO APPROVE THE CONSENT AGENDA APPROVING THE NOVEMBER 16, 2021 REGULAR MEETING MINUTES; AND SETTING THE FUTURE MEETING DATE AS JANUARY 18, 2022. MR. HYLBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

**6. Public Hearings**

**La Villa Mexican Restaurant, 5610 Gulf of Mexico Drive, Unit 5, Special Exception 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. Alan Bumberg, agent representing the applicant, previously provided the Return Receipts to staff.

Andrew Mai, Assistant Town Attorney, reviewed the process for Quasi-Judicial hearings as outlined in Chapter 33, Section 33.25, of the Town Code. He asked the Board if anyone had any Ex Parte communications or Conflicts of Interest that they wish to disclose on the record. Regarding Ex Parte Communications:

- Mr Coffin visited the site, and confirmed he could be fair and impartial

- Mr Warnstedt visited the site, and confirmed he could be fair and impartial
- Mr Plager visited the site, and confirmed he could be fair and impartial
- Mr Hylbert visited the site, and confirmed he could be fair and impartial
- Mr Lapovsky visited the site, and confirmed he could be fair and impartial
- Mr Green visited the site, and confirmed he could be fair and impartial

There were no Conflicts of Interest noted for the record

Tate Taylor, Planner, provided an overview of the project with reviewing a PowerPoint presentation and discussing the proposed Special Exception application to allow a restaurant use.

Discussion ensued with staff on the following topics/issues:

- The existing space in the back for outdoor dining, and that it would require another special exception application to allow the outdoor dining
- Concern with parking as the location includes a number of 'reserved' parking spaces; will there be reserved spaces for take-out orders
- Concern with no handicap parking being available closer to the restaurant
- the Solarzano's Pizza van parked at the front of the site blocking ingress/egress to the property
- Page 3 of 4 of the Special Exception Order, Section 2, which states: "*subject to conditions marked Exhibit 'A'; paragraph 2, unless waived or modified by the following conditions*"; suggestion to strike that sentence and revise to read "*shall be complied with or modified by written agreement between the Town and the owner*"
- The lack of lighting in the rear parking lot; it was a very dark location that might result in safety issues; whether standards in the code address adequacy of lighting in public parking areas
- Whether the parking spaces met the handicap total required for each separate retail space
- Federal Americans with Disability Act (ADA) rules and the required number of handicap spaces that are required to be provided

Alan Bumberg, Zimple Development, representing the applicant, discussed:

- The applicant did not have control over the van parked at the front; the property owner is responsible
- The number of handicap spots provided were in accordance with the Town Code
- They will work with the landlord to address the lighting situation in the rear parking lot
- Renovations are expected to begin within the next few weeks following issuance of their building permit; they recently submitted their permit application to the Town for review

Continued discussion between the board and the applicant included:

- Whether the applicant planned on providing outdoor dining to which the applicant noted they were not considering it at this time
- The restaurant's intent to provide 'take-out' service and their consideration to allot a parking space for 'take out' only
- That the restaurant would be applying for a liquor license

- Request for the applicant to take into consideration the concerns voiced related to the parking, the lighting issue, and the location of the handicap spaces (including the possibility of exceeding the requirement)

Mr. Bumberg questioned Condition 3 which noted the Special Exception had a 24-month expiration. He wished to confirm that the condition was only referencing if the applicant did not move forward with their proposal, then the Special Exception would expire if not completed after 24 months. He interpreted the condition to indicate they would have to come back to the Town every 24 months and reapply for the Special Exception. Chair Green confirmed that the intent was once they receive the Special Exception approval, it would continue as long as they were the occupant/user of the facility.

Cecile Coutret, duly sworn, spoke in support of the application.

Diane Hamilton, owner of the property, was sworn. She informed the Board that as of November 1, 2021, Solorzano's Pizza was under new ownership, and they were currently in negotiations to remove the van. She agreed it has been an issue, and they were attempting to resolve it. She noted they will be addressing any parking issues, including paving and lining; the parking in the rear parking lot; and repair/replacement of the large floodlight in the rear lot.

Mr. Parsons provided an overview of the Code Enforcement history related to the pizza van and the Town's Sign Code.

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

Discussion ensued between the Board and Assistant Town Attorney Mai on Condition 3 of Special Exception Order 2021-04 regarding an expiration clause and how it would affect the applicant. Following comments by the Board, Staff, and Attorney Mai, it was recommended the condition be revised to state "The Special Exception Use, **if not commenced**, shall expire the later of 24 months from the date of grant..."

**MR. PLAGER MOVED APPROVAL OF THE SPECIAL EXCEPTION APPLICATION FOR LA VILLA MEXICAN RESTAURANT, 5610 GULF OF MEXICO DRIVE, UNIT 5, WITH THE AMENDMENT TO CONDITION 3 IN SPECIAL EXCEPTION ORDER 2021-04, TO ADD THE WORDS 'IF NOT COMMENCED' IN THE FIRST SENTENCE. MR. COFFIN SECONDED THE MOTION. MOTION CARRIED (6-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; PLAGER, AYE; WARNSTEDT, AYE.**

## 7. Workshop Discussion Items

**Ordinance 2021-11, Adding Buffering and Screening Requirements for Certain Single-Family Residential Structures (*Continued from the November 16, 2021 Regular Meeting*)**

Mr. Parsons reviewed a PowerPoint presentation and provided an overview of the revisions discussed at the previous P&Z Board meetings.

The following issues/topics were discussed related to draft Ordinance 2021-11:

- Page 1, 9th 'Whereas' clause, suggestion to add additional language that states, "*and remodeling existing or alterations that adds a second story*" and remove "*constructed prior to 1975*"
- Page 2 of 4, the date of approval for the Town Commission should be revised from 2021 to 2022

- Page 3 of 4, Section (A) (1), first sentence, suggestion to revise to include the word ‘at’ after the word ‘is’; “A fence or wall of at least 80 percent opacity that is **at** the maximum height...”
- Page 3 of 4, Section (A) (2), first sentence, whether it should be revised from “A *buffer of at least ten feet in width*” to “A *buffer of 10 feet from the property line*”
- Page 3 of 4, Section (A) (2), the word ‘a’ should be ‘an’ before the words ‘eight-foot height’
- Page 3 of 4, Section (A) (4) (a), should include the word ‘and’ following the semicolon after the word ‘screening’
- Page 3 of 4, Section (A) (3), suggestion to include a condition addressing new single-family where a second story is added; and, suggestion to address when there was a change to a non-conforming commercial use next to a residential and adjacent to an existing one-story
- Including a definition for ‘abutting’ when there was no other owner between a particular property
- Suggestion to include the words, “*newly constructed*” in Section A(i) and (ii) for consistency

George Spoll, Harbourside Drive, discussed the definition of ‘abutting’ and whether it would apply to a canal. Mr. Parsons responded ‘abutting’ was considered from the side property lines and not from a rear line. Chair Green pointed out if there was a canal, or road, involved, he believed the owner could come to the Town to request relief from the regulations.

Mr. Parsons informed the Board the ordinance will be scheduled for public hearing at the January P&Z Board meeting.

## 8. New Business

## 9. Staff Update

Mr. Parsons reviewed the ‘2021 Year End Review’ memorandum that was included in the agenda packet for information only.

Chair Green discussed the proposed amendment to the Town Code being considered by the Town Commission to make them the final authority on special exceptions for personal wireless freestanding facilities. Mr. Parsons outlined the Town Commission’s direction on the telecommunications ordinance and the timing for adoption. The P&Z Board will be reviewing the zoning text amendment at their January meeting; the Town Commission will schedule their first reading the next week; and second reading will be scheduled on February 7<sup>th</sup>. The Verizon Wireless application was continued to the February 15<sup>th</sup> P&Z Board meeting, and at that meeting the Board will be making a recommendation to the Town Commission. The Town Commission will be scheduling a special meeting on February 28<sup>th</sup>.

Mr. Plager referred to the periodic update of the status of approved projects and requested that the Board be provided an update each month. Mr. Parsons noted it was staff’s intent to provide the update quarterly.

Mr. Hylbert questioned the status of the proposed units on Broadway Street asking if the application was still active. Mr. Parsons explained the project was denied by the Town Commission, and on November 15<sup>th</sup>, the Town Commission approved orders of denial. The applicant has 30 days to appeal that decision, and the 30 days will expire on December 15<sup>th</sup>. He

noted if there was no appeal filed, the 'window of opportunity' for the applicant will be closed. Staff had not heard anything related to the applications.

Mr. Parsons continued with discussing:

- The 'Zoning Districts Overview and Frequently Asked Questions' guide, which was created by Senior Planner Maika Arnold, with assistance from an outside vendor
- Registration for the Florida League of Cities 'Quarterly Ethics Webinar' scheduled for December 14<sup>th</sup> at 2:00 PM
- Batch 1 of the Comprehensive Plan amendments that will be brought to the Board at their January meeting (these are amendments that bring the current plan into compliance with mandates established by the state)
- That staff will be presenting a more specific approach for the overall Comprehensive Plan review process before the Town Commission, which will include dates.

## **10. Planning & Zoning Board Member Comments**

Mr. Lapovsky referred to the comments earlier by staff that the Board would be reviewing code amendments to the section addressing special exceptions for telecommunications and asked while revising approvals within the Zoning Code, should they consider separating out the approval of waivers for buffering. Mr. Parsons responded staff's perspective was to maintain it with the ordinance, as there was more urgency with addressing special exceptions for the personal wireless facilities.

Mr. Hylbert questioned the Board's role in the review of the Comprehensive Plan and the ability to address environmental impacts within the plan. Mr. Parsons provided an overview of the process that would be undertaken for the review of the Town's Comprehensive Plan, including that the Board would have the opportunity to review and make recommended revisions to the various elements that will be forwarded to the Town Commission for final review.

## **11. Adjournment**

The meeting was adjourned at 11:22 am.

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Jay Plager, Secretary  
Planning and Zoning Board