

**TOWN OF LONGBOAT KEY  
PLANNING AND ZONING BOARD  
MINUTES OF REGULAR MEETING  
FEBRUARY 15, 2022**

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

Members Absent: Chair David Green

Also Present: Maggie Mooney, 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**

Vice Chair Lapovsky 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 Vice Chair David Lapovsky.

**3. Roll Call**

Senior Office Manager, Donna Chipman, called roll for attendance with six of seven members present. Chair David Green was absent.

**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.

Richard Sontag, Tarawitt Drive, voiced concern with a proposed tiki bar restaurant on Gulf of Mexico Drive and adjacent to Tarawitt Drive. He also voiced concern with the use of the beach access by patrons of the businesses located within Paradise Isle Shops.

Sharon Foran, Jungle Queen Way, also addressed the concern with the tiki bar restaurant being proposed and use of the beach access by the businesses.

Dennis Thompson, St. Judes Drive, raised concern with the beach access and abuses seen at the accesses by patrons of the Paradise Isle Shops.

**5. Consent Agenda**

Referring to the January meeting minutes and the agenda item, 'Planning & Zoning Board Member Comments', Mr. Hylbert recommended a comma be inserted after 'March 15<sup>th</sup>' in the second paragraph on page five. He also suggested, in the same paragraph, that "...and then on April 19<sup>th</sup>" be revised to state, "...and then **another meeting** on April 19<sup>th</sup>." Further, the final sentence of that paragraph should be revised to state, "Staff would be discussing the scheduling of additional workshop meetings for review of the pending batches of amendments at the Board's February 15<sup>th</sup> meeting".

Mr. Plager requested that staff provide a copy of the revised Sound Ordinance that was referenced (page 2 of 5) during discussion of Ordinance 2021-11, and also provide an update on the request to ask the Town Manager and Mayor if they wished for a P&Z Board representative to

attend the Town Commission hearing on the ordinance. Allen Parsons, Planning, Zoning & Building Director, responded that he would be updating the Board on their request to the Town Manager and Mayor under 'Staff Update'.

**MS. NUZZO MOVED TO APPROVE THE CONSENT AGENDA APPROVING THE JANUARY 18, 2022 REGULAR MEETING MINUTES, AS AMENDED; AND SETTING THE FUTURE MEETING DATE AS MARCH 15, 2022. MR. WARNSTEDT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

## **6. Public Hearings**

### **A. Verizon Wireless, Special Exception Application**

### **B. Verizon Wireless, Site Development Plan Application**

Pursuant to published notice, the public hearings were opened. All those testifying at these hearings have submitted, and signed, a '*Request to Be Heard*' form affirming their evidence or factual representation. Mike Murphy, representing the applicant, previously provided the 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. Regarding Ex Parte communications:

#### **Ex Parte Communications:**

- Mr. Hylbert visited all the sites and noted he had received comments from residents. Attorney Mooney pointed out that Mr. Hylbert had filed a Conflict of Interest form during the November P&Z Board meeting where the initial public hearing was opened for the Verizon applications. She asked Mr. Hylbert if that conflict carried forward to this meeting. Mr. Hylbert responded yes, and he would be abstaining from voting.
- Mr. Warnstedt had visited all the sites, including walking along Broadway Street, Lois Avenue, and the south side of Binnacle Point Road. He did not speak with anyone. He confirmed he could be fair and impartial.
- Mr. Plager spent time visiting some of the sites, and confirmed he could be fair and impartial.
- Vice Chair Lapovsky visited all the sites and confirmed he could be fair and impartial.

#### **Conflicts of Interest:**

Mr. Hylbert disclosed his conflict that one of the sites is immediately outside of his home. He did not vote at the previous hearings and would not be voting at these hearings. Attorney Mooney explained that Mr. Hylbert would need to complete another 'Conflict of Interest' form. He would be allowed to participate in the discussion; however, at the time of voting, he would need to abstain.

Allen Parsons, Planning, Zoning & Building Director, reviewed a PowerPoint presentation and provided an overview of the revisions since the previous hearings, including that the applicant provided two additional letters with additional information on the site selection criteria and other factors that were considered.

Isaac Brownman, Public Works Director; Paul Dezzi, Town Fire Chief; George Turner, Town Police Chief; and Jason Keen, IT Director, discussed the following topics/issues:

- The Town Commission had adopted Strategic Initiatives, which included providing enhanced cellular coverage on the island
- In March of 2021, a meeting was held with the three major carriers, with two of the three noting interest in providing telecommunication services to the island
- 'Macro' towers are not desired, or allowed by code, on the island. Ordinance 2013-18 was adopted by the Town Commission prohibiting the towers anywhere on Longboat Key
- One of the goals of the Town's undergrounding project was to underground all the electrical, cable and infrastructure island-wide, and to install fiber optic conduit island-wide along with new 'smart' capable street light poles at discreet locations (not all along Gulf of Mexico Drive)
- There were 41 street light poles being added along Gulf of Mexico Drive, with some of the poles possibly being chosen to host providers
- The Town has established standards for these facilities to match Town facilities in style, color, and exterior appearance
- The Town's fire service utilizes wireless technology, including for 911 calls, electrocardiograms (EKG-Bluetooth), fire prevention, Computer Aided Dispatch (CAD), and cellular phone (back-up to hospital communications)
- The Longboat Key Police Department also relies on cellular service for CAD, and their internal backup system for communication using cell phones between officers
- The Town's IT Department discussed issues with coverage on the north end along with the public safety concerns

Discussion ensued between staff and the Board on:

- Communications with the hospitals, including the use of 800-MHz radios, and the use of cellular phones to contact the medical director from the scene
- The use of cellular for patient care reporting, including taking information
- There was concern voiced with the aesthetics of the poles in a February 8<sup>th</sup> email from a resident, who voiced concern not everyone has Verizon service, and if the poles were leased to other carriers, the poles would be 'ugly' and possibly taller; staff was unsure whether ATT and T-Mobile would want to work with Verizon
- There were regulatory limits on pole heights and size of the attachments to poles
- Whether there would be a requirement for additional poles to accommodate other carriers in the future; a carrier would be required to go through the same process if they wished to install their own poles
- The letter from Emerald Harbor residents objecting to the cell tower and that some of the correspondence referred to the concern with aesthetics and location
- That the proposal concerned service on the north end and how it would compare with service on the south end of the island; staff was asking the carriers to provide areas on the island with greatest coverage gaps without degrading service on the south end
- The understanding that the Verizon coverage was better on the south end
- Applicant's reason for the locations of the proposed poles and why they could not be relocated

- Staff's participation in a follow-up discussion addressing the locations and the ability to relocate
- Verizon conducted a site-by-site evaluation and looked at a number of factors; they were wishing to install poles in the least number of locations

James Johnston, attorney representing Verizon, Mike Murphy, SMW Engineering, and Darwin Feliz, RF Engineer, discussed the following with the Board:

- The poles are designed to accommodate one additional carrier
- There is a need for better cellular coverage on the northern part of the island, and approval of the applications would not be detrimental to the coverage on the south end
- Verizon did review the possibility of relocating some of the sites, but determined the current locations were best
- The height of the poles were 25 feet and 35 feet, which met the design criteria within the Town Code
- Reviewed the criteria for site selections
- the precise locations were determined through the RF engineer
- Reviewed the rights-of-way and geographic areas, along with possible utilities and vegetation that might impact pole locations
- The RF engineer reviewed the letter, included in the agenda materials, outlining the reasons for site locations

The following topics/issues were discussed between the Board and Verizon representatives:

- Placement of poles in front of residential areas when there were commercial locations across the street, and why would it be an issue with the RF
- There would be 'breakaway' poles in traffic areas, which were designed to collapse when struck by a vehicle
- Maintenance-free poles planted in bushes and the middle of a hedge rows, and whether any growth of the trees/bushes would interfere with signals; the signal could be blocked by certain trees, but they attempted to find a less obtrusive spot
- Verizon has a maintenance crew that would be responsible to review, trim, and maintain the locations
- Whether Verizon considered the entire town needs, or only focused on the north end
- If Verizon would consider additional sites on the south end; Verizon representatives noted it would be dependent upon the RF signal on the key – there was more coverage and sites on the south end versus the north end
- The entire island was analyzed with a tool that shows what the coverage would look like; installation of the nine poles would cover the entire island
- A number of the poles would interact with each other and the macro sites north and south of the island
- If buildings affect the RF signal to which Verizon replied yes
- Reviewed how a cellular phone call was made and the process it goes through interacting with the poles/towers

Kerry Burrows, Verizon Representative, noted that Verizon registers all their cellular sites as 'peace app' network, which is part of the emergency services system. There was discussion on the

correspondence received voicing concern with the installation of 5G and its impacts. The Board was only discussing 4G; and, Mr. Feliz pointed out Verizon was focusing only on 4G, but providing the poles with capabilities to be ready for future technologies. There was a question as to why an additional node would not be ideal for emergency services and whether Verizon considered a 10<sup>th</sup> pole that might address some of the concerns addressed by residents. Mr. Feliz explained the reason there was not a need for a 10<sup>th</sup> pole is because the system was designed so one signal overlaps another one, and introducing another pole in the location would cause interference.

Attorney Mooney asked if all emails received for this application were included in the record. Ms. Chipman replied yes.

The following residents spoke in opposition:

- Brenda Frost, Emerald Harbor
- Larry Sekel, Spanish Drive North
- Ashlie Thomison, St. Judes Drive
- Dennis Thomison, St. Judes Drive
- Preston Speers, Binnacle Point Drive
- Brooks O'Hara, representative of Chiles Group (Mar Vista Restaurant)
- Doug Walker, attorney representing 6633 Gulf of Mexico Drive
- Wayne Swift, Emerald Harbor Drive

James Johnston, attorney with Verizon Wireless, discussed:

- The reference to 'towers' was incorrect as these were 'poles' being installed, similar to the Town's light poles (with a height of 25 – 35 feet)
- The Town Code established certain criteria to protect the residents, and Verizon met those requirements
- The size of the ancillary equipment for the poles meets code standards
- Concerning the request to change the color of the poles being installed, the Town light poles are black, and Verizon was matching the Town's infrastructure
- Concerning possible impacts to property values, there were studies that show that Macro towers did not impact surrounding values, and the 25-35-foot poles would not impact values; property appraisers and counties do not look for proximity to wireless facilities in deciding property values
- All facilities were properly permitted and met the requirements of the Federal Communication Commission (FCC)
- Poles are located where the need is, and the system is designed to improve those needs
- RF engineer noted they could not be moved without impacting the entire system

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

The Board recessed from 11:29 AM – 11:37 AM.

Following the break, Attorney Mooney asked whether any Board members had Ex Parte communications during the break. No Ex Parte communications were disclosed.

There was discussion between the Board members on the following:

- there is some evidence that RF radiation, at certain levels and circumstances, could be an issue
- the concern voiced by Emerald Harbor residents with the nesting eagles near the Binnacle Point Road location
- concern with not considering the public's interest with various locations and possibility of relocating
- agreement there was a need for improved cellular service, but Verizon requested the continuance from the November meeting to this meeting, and did not address the concerns voiced at the November hearing

**Site Development Plan Order:**

**MR. COFFIN MOVED TO APPROVE SITE DEVELOPMENT PLAN ORDER 2021-05, AS AMENDED, APPROVING NINE FREESTANDING PERSONAL WIRELESS SERVICE FACILITIES FOR VERIZON WIRELESS. MR. PLAGER SECONDED THE MOTION.**

Following the motion, the Board discussed:

- Page 2 of the Order, 3rd 'Whereas' clause, revising the date from November 16, 2021 to February 15, 2022
- Page 4 of the Order, the adoption date should be revised from November 16, 2021 to February 15, 2022
- Memorandum from Attorney Mooney, dated 4-5-2019, which stated there was legislation in the state dealing with 'Advanced Wireless Infrastructure and Deployment Act', its applicability and the need to monitor closely; the record does not provide an update
- The memorandum was provided to show a 'carve out' of protection and preservation of the Town's rights to regulate their rights-of-way

**MOTION CARRIED (4-1) ON ROLL CALL VOTE: COFFIN, AYE; HYLBERT, ABSTAIN; LAPOVSKY, NO; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.**

**Special Exception Order:**

**MS. NUZZO MOVED TO RECOMMEND APPROVAL OF SPECIAL EXCEPTION ORDER 2021-03. MR. WARNSTEDT SECONDED THE MOTION. MOTION CARRIED (4-1) ON ROLL CALL VOTE: COFFIN, AYE; HYLBERT, ABSTAIN; LAPOVSKY, NO; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.**

**7. Workshop Discussion Items**

**8. New Business**

Mr. Hylbert questioned the tiki bar that was raised by a resident under the 'Public to be Heard' section of the meeting. Mr. Parsons explained there was currently an application being reviewed by staff related to a restaurant with outdoor dining located at the Paradise Isles Plaza on Gulf of Mexico Drive.

**9. Staff Update**

Comprehensive Plan Update – Framework and Process

Mr. Parsons provided a PowerPoint presentation and overview of the approach that will be taken with updating of the Town's Comprehensive Plan.

The following topics/issues were discussed:

- The Town Commission direction in November 2021 to use the consultant's review as provided in the Evaluation and Appraisal Report (EAR) document
- The Town Commission's recommendation to not start over with a new plan, because the Town's current plan is good, but some things should be revised/updated
- P&Z Board's responsibility to review the various elements of the plan and their ability to recommend even major changes (i.e., environmental changes, etc.); the P&Z Board has the ability to make recommendations for revisions

Mr. Parsons continued with reviewing the process, including how each workshop/element will be completed. Maika Arnold, Senior Planner, reviewed a PowerPoint presentation and provided an overview of the Town's Comprehensive Plan amendment process, the process through the state, and with other state and local agencies.

Discussion ensued between the staff and Board related to:

- Why is there an 'expedited' and a 'coordinated' process through the state; the 'coordinated' process is when there were required amendments by the EAR, and amendments processed without the requirements is considered 'expedited'
- request for copies of staff's PowerPoint presentation showing the Department of Economic Opportunity (DEO) process
- how the P&Z Board would obtain input from the community and the legal requirements with respect to Ex Parte communications; the approach for reviewing element by element is to advertise each workshop in the local newspapers, provide information on social media and through local media
- every meeting would be open to the public
- Ex Parte communications are only applicable when the P&Z Board is reviewing a specific application; when they were developing policies that have a town-wide application, the Ex Parte restrictions do not apply
- There will be a number of opportunities provided to the public before the P&Z Board and Town Commission for their input

The P&Z Board continued with discussing the schedule of workshops and the seating format for those workshops. The following dates/times were established:

- March 29, 2022 Special Workshop at 9:15 AM
- April 26, 2022 Special Workshop at 9:15 AM
- May 10, 2022 Special Workshop at 9:15 AM
- June 22, 2022 Special Workshop at 9:15 AM

For the March 15, 2022 P&Z Board Regular Meeting, staff will schedule a review of the dates chosen. The March 29, 2022 Special Workshop will concentrate on the Future Land Use Element only.

Mr. Parsons noted that during the January meeting, and discussion of Ordinance 2021-11 related to the Single-Family Buffering, the Board had discussed the possibility of a representative from the Board attending the March 7, 2022 Town Commission Regular Meeting to provide additional input. He discussed the request with the Town Manager, and as long as the Board has a consensus

authorizing someone to represent the Board, and if someone wishes to attend, it would be acceptable for them to attend the March 7<sup>th</sup> meeting to provide additional insight to the Board's decision.

**There was consensus to authorize: first the Chair, second the Vice Chair or third the Secretary, or if an officer is not available, another member, of the P&Z Board to attend the March 7, 2022 Town Commission Regular Meeting.**

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

There were no P&Z Board member comments.

#### **11. Adjournment**

The meeting was adjourned at 1:04 pm.

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Jay Plager, Secretary  
Planning and Zoning Board