

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

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

Also Present: Maggie Mooney, Town Attorney; Jennifer Cowan, Special Town Counsel; Allen Parsons, Planning, Zoning & Building Director; Maika Arnold, Senior Town 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. HYLBERT MOVED APPROVAL OF THE MINUTES OF THE JUNE 15, 2021, REGULAR MEETING. MS. NUZZO SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

6. Public Hearings

A. 551 Broadway Street, 7009 and 7017 Longboat Drive North, Comprehensive Plan Amendment (Legislative)

B. 551 Broadway Street, 7009 and 7017 Longboat Drive North, Rezoning (Quasi-Judicial)

C. 551 Broadway Street, 7009 and 7017 Longboat Drive North, Site Development Plan (Quasi-Judicial)

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. Robert Rokop, architect 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 related to Items B and C. The following comments were provided by the Board members:

- Mr. Warnstedt noted he had driven by the site. He confirmed he could be fair and impartial.
- Mr. Plager visited the property and commented he had a discussion with an adjacent property owner to the north, Eddie Abrams. He confirmed he could be fair and impartial.

- Mr. Hylbert visited the property and confirmed he could be fair and impartial.
- Mr. Lapovsky visited the property and confirmed he could be fair and impartial.
- Chair Green commented he had received a phone call from a resident of the 'Village', who was unable to attend, but wished to talk about their concerns with the project. Chair Green had informed the resident that it was a quasi-judicial hearing and he could not discuss the substance of the applications. He confirmed he could be fair and impartial.

No other Ex Parte communications or Conflicts of Interest were noted.

Tate Taylor, Planner, provided an overview of the three applications with reviewing a PowerPoint presentation and discussing the Conformance Overlay Redevelopment District (CORD) process. Discussion ensued between staff and the Board.

Further discussion took place on the recently installed docks and parking along the 7000 block of Gulf of Mexico Drive for Jewfish Key and its possible impact to the proposal.

The following topics/issues were discussed:

- Building coverage
- Distance between buildings on a single-lot
- Building setbacks
- Fire code requirement for separation between buildings

Robert Rokop, agent representing the applicant, discussed the following with the Board:

- Building height in the flood zone
- The seawalls located on 7009 and 7017 Longboat Drive North
- 551 Broadway does not abut the canal
- The width of, and distance between, the buildings
- The footprint of the buildings were approximately 1,500 square feet, with 2,500 square feet of air-conditioned living space
- The status of the apartments located at 551 Broadway

Further discussion ensued between the Board and Mr. Rokop on maintenance of the seawalls and riparian rights; maintenance of the yards; and, the development as a land condominium.

Stephen Ellis, owner's representative, commented on the following items:

- That the three platted lots were considered one large lot
- Density of the lot
- there will not be a homeowner's association, but will be setup as a condominium association; the land condominium documents have not been drafted at this time
- each owner will have their own boat slip; the existing slips will be renovated
- the previous owner had rebuilt the seawall
- their request for a permit from Florida Department of Environmental Protection (FDEP) to dredge canal

Discussion continued with the Board on the following topics/issues:

- Current use of the property at 551 Broadway
- Demolition and redevelopment of the Broadway Street parcel

- Addressing the land condominium issue by including a Condition of Approval in the PUD/ODP ordinance to stipulate that the land condominium documents will be drafted prior to construction
- Concern from adjacent owners that the units will be used for rentals; ensure they were single-family homes with single-family use
- Each unit being individually owned on a parcel where the land was commonly owned

Don Fancher, Linley Street, was duly sworn. He spoke in opposition to the project voicing concern with it not being in character with the Village, and the higher density.

Cindy Fancher, Linley Street, was duly sworn. She voiced concern if the Board denied the project what alternative will be available to the owners.

Peter Rowan, Broadway Street, submitted an email voicing opposition to the request for rezoning to a higher density, and requesting that the density be reduced from the 4 units proposed to allowing only 2-3 units.

David Morrison, Project Architect, was duly sworn. He explained the property is not three individual lots, but they have been combined into one lot and needs to be considered as one lot. The existing apartments at 551 Broadway Street included six units, and the proposed project will only be four units, which still conforms to the Town's zoning requirements.

Discussion ensued between the Board and staff on the land condominium aspect and any implications under the CORD. Chair Green questioned if it was appropriate to include a condition of approval that would require the applicant to establish a condominium association and the land use entitlements prior to their submitting, and receiving, a building permit. Attorney Mooney reviewed the Town Code pointing out the Board should review Section 158.08F7, *Review Criteria*, subsection A (10). She suggested a condition of approval as follows to address the concern: *"A land condominium or other form of joint ownership shall be formed over the entirety of the property and all units shall be part of such condominium association or joint ownership organization. The condominium association or joint ownership organization shall maintain all common areas associated with the property, including but not limited to the bulkhead."*

The Board continued with discussing:

- 30-day maximum rental requirement and the Town's rental restrictions applying to the property
- The reason for revising the Comprehensive Plan and state law requiring that a rezoning application be consistent with the Town's adopted Comprehensive Plan
- The CORD provisions and Option 3, which required that a Comprehensive Plan amendment be part of the process
- The adjacent zoning and any impacts

Fred Dibratzio, 7012 Palm Drive, was duly sworn and voiced his opposition to the project. He noted his cousin owns the adjacent properties of 7012 Palm Drive and 521 Broadway.

Mr. Ellis understood the concerns voiced on the project being a condominium and that they were proposed to be built close to each other, which was different than other properties located in the Village; however, when they held the required neighborhood meeting there was only support voiced, and this was the first he heard of the residents' concerns. Mr. Rokop pointed out it should be a generalized statement of general ownership and maintenance of property.

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

Further discussion was held by the Board with the following motions being made:

Ordinance 2021-08, Comprehensive Plan Amendment:

MR. WARNSTEDT MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2021-08, APPROVING A COMPREHENSIVE PLAN AMENDMENT FOR 551 BROADWAY STREET, 7009 AND 7017 LONGBOAT DRIVE SOUTH, AS WRITTEN. MR. COFFIN SECONDED THE MOTION.

Mr. Plager commented on the 'Whereas' clauses in Ordinance 2021-08 and the relevancy of clauses 4 through 8 to the document.

MR. PLAGER MOVED TO AMEND THE MOTION TO RECOMMEND DELETION OF 'WHEREAS' CLAUSES 4, 5, 6, 7, AND 8.

Attorney Mooney discussed the processing of Ordinance 2021-08 was contingent upon the Town adopting proposed Ordinance 2021-15, Property Rights Element. She explained the Town could not control the timing as that was up to the State of Florida.

MR. HYLBERT SECONDED MR. PLAGER'S AMENDMENT.

MOTION TO AMEND ORIGINAL MOTION CARRIED (7-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.

MOTION ON ORIGINAL MOTION WITH AMENDMENT CARRIED (7-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.

Ordinance 2021-09, Rezoning:

MR. LAPOVSKY MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2021-09, APPROVING A REZONING FOR 551 BROADWAY STREET, 7009 AND 7017 LONGBOAT DRIVE SOUTH, SUBJECT TO THE FOLLOWING CONDITION: "A LAND CONDOMINIUM OR OTHER FORM OF JOINT OWNERSHIP SHALL BE FORMED OVER THE ENTIRETY OF THE PROPERTY AND ALL UNITS SHALL BE PART OF SUCH CONDOMINIUM ASSOCIATION OR JOINT OWNERSHIP ORGANIZATION. THE CONDOMINIUM ASSOCIATION OR JOINT OWNERSHIP ORGANIZATION SHALL MAINTAIN ALL COMMON AREAS ASSOCIATED WITH THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE BULKHEAD." MR. WARNSTEDT SECONDED THE MOTION. MOTION CARRIED (7-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.

Resolution 2021-04, Site Development Plan:

Mr. Plager requested that Condition 1 of Resolution 2021-04 be revised as follows:

- Remove the words "*application for the above referenced subject property, dated August 12, 2021*"
- Move the words "*by the following conditions*" after 'or modified' and insert after 'as amended'

- Insert the word “*subsequently*” at the end of the paragraph, and remove the words “*between the Town and the Owner or amended pursuant to Code.*”

MR. HYLBERT MOVED TO APPROVE RESOLUTION 2021-04, APPROVING A SITE DEVELOPMENT PLAN FOR 551 BROADWAY STREET, 7009 AND 7017 LONGBOAT DRIVE SOUTH, WITH AN AMENDMENT TO CONDITION 1 AS STATED. MS. NUZZO SECONDED THE MOTION. MOTION CARRIED (7-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.

The board recessed for lunch from 11:55 am – 1:15 pm.

D. Ordinance 2021-15, Adding a New Statutorily Required Property Rights Element to the Town’s Comprehensive Plan

Pursuant to published notice, the public hearing was opened.

Allen Parsons, Planning, Zoning & Building Director, provided an overview of the new state statute and reviewed a PowerPoint presentation, reviewing the proposed language for the Goals and Objectives for this element. Chair Green asked if staff had engaged the Town’s Comprehensive Plan consultant in the drafting of the language. Mr. Parsons responded yes; the consultant has also been working with other jurisdictions around the state to determine what they had in-progress.

MR. HYLBERT MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2021-15 AS WRITTEN. MS. NUZZO SECONDED THE MOTION. MOTION CARRIED (7-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.

E. Ordinance 2021-11, Adding Buffering and Screening Requirements for Certain Single-Family Residential Structures

Pursuant to published notice, the public hearing was opened.

MR. PLAGER MOVED THE P&Z BOARD CONTINUE THE PUBLIC HEARING ON ORDINANCE 2021-11 FOR DISCUSSION AT THEIR OCTOBER REGULAR MEETING. MR. HYLBERT SECONDED THE MOTION. MOTION CARRIED (7-0) ON ROLL CALL VOTE: COFFIN, AYE; GREEN, AYE; HYLBERT, AYE; LAPOVSKY, AYE; NUZZO, AYE; PLAGER, AYE; WARNSTEDT, AYE.

7. Workshop Discussion Items

There were no items scheduled for discussion.

8. New Business

Request of the Planning & Zoning Board to reschedule the December 21, 2021 Planning & Zoning Board meeting due to the Christmas Holiday.

Ms. Nuzzo noted that she would not be available in December for a meeting.

MR. LAPOVSKY MOVED TO RESCHEDULE THE DECEMBER MEETING TO DECEMBER 14, 2021 AT 9:15 AM. MR. HYLBERT SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Mr. Parsons informed the Board there would be a meeting on October 19, 2021; however, he was unsure if there would be items scheduled for the November 16, 2021 meeting.

9. Staff Update

The following topics/issues were discussed:

- Staff providing an update of approved past projects and providing an update at the next meeting
- The status of the clearing activity at Buttonwood and Gulf of Mexico Drive
- The status of the Mote Marine property, 5630 Gulf of Mexico Drive, which had received referendum approval in March 2019

Attorney Mooney discussed Ex Parte Communications and pointed out that once the Town received a filed, or submitted application from a property owner, that is the 'general rule' to consider any Ex Parte communications. Chair Green suggested that staff make the Board aware when there was an application submitted that would possibly come before the Board in a quasi-judicial capacity.

10. Planning & Zoning Board Member Comments

Mr. Lapovsky questioned the status of the P&Z Board's request to allow meeting attendance via communications media technology (CMT), similar to the allowance for the Town Commission. Mr. Parsons responded staff had presented the Board's request to the Town Manager, and the discussion will be placed on the September 27th Town Commission Regular Workshop for consideration and possible application to all advisory boards. Chair Green noted it would not be 'carte blanche' as there were certain criteria that would have to be met in order to utilize CMT. Attorney Mooney pointed out the 'extenuating circumstances' criteria that affords the opportunity to utilize CMT tracks what the Florida Attorney General has set forth as criteria on participating virtually.

Mr. Hylbert commented on the Board considering 'sustainability' (i.e., solar power, etc.) on project submittals and that it might be an issue to consider when they begin their review of the Town's Comprehensive Plan. Discussion ensued between the Board and staff.

Mr. Plager discussed consideration of scheduling P&Z Board workshops from time to time on major issues.

Mr. Parsons informed the Board they would be reviewing the draft Evaluation and Appraisal Report of the Comprehensive Plan at their October meeting.

11. Adjournment

The meeting was adjourned at 12:51 pm.

Jay Plager, Secretary
Planning and Zoning Board