

TOWN OF LONGBOAT KEY

PLANNING AND ZONING BOARD

MINUTES OF REGULAR MEETING

MAY 21, 2019

The regular meeting of the Planning and Zoning Board was called to order at 9:00 AM by Chair BJ Bishop.

Members Present: Chair BJ Bishop, Vice Chair David Green, Secretary Ken Marsh, Members Penny Gold, David Lapovsky, Debra Williams, Phill Younger

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

ADMINISTRATION OF OATH

Savannah Schield, Deputy Town Clerk, administered the Oath to new members Penny Gold and David Lapovsky.

Mr. Younger recognized Mr. Garner and his service on the Planning & Zoning Board and to the Town. Chair Bishop agreed and noted she had forwarded a letter on behalf of the Board thanking him for his service.

ELECTION OF OFFICERS

Chair:

MS. WILLIAMS MADE A MOTION TO NOMINATE BJ BISHOP AS CHAIR OF THE PLANNING & ZONING BOARD. MS. GOLD SECONDED THE MOTION.

There were no other nominations, and the nominations were closed.

MOTION CARRIED UNANIMOUSLY.

Vice Chair:

CHAIR BISHOP MADE A MOTION TO NOMINATE DAVID GREEN AS VICE CHAIR OF THE PLANNING & ZONING BOARD. MR. MARSH SECONDED THE MOTION.

There were no other nominations, and the nominations were closed.

MOTION CARRIED UNANIMOUSLY.

Secretary:

CHAIR BISHOP MADE A MOTION TO NOMINATE KEN MARSH AS SECRETARY OF THE PLANNING & ZONING BOARD. MR. LAPOVSKY SECONDED THE MOTION.

There were no other nominations, and the nominations were closed.

MOTION CARRIED UNANIMOUSLY.

AGENDA ITEM 1

PUBLIC TO BE HEARD

Opportunity for Public to Address Planning and Zoning Board

No one wished to address the board.

AGENDA ITEMS 2 AND 3

CONSENT AGENDA

MR. YOUNGER MOVED APPROVAL OF THE CONSENT AGENDA TO APPROVE THE MINUTES OF THE JANUARY 15, 2019, REGULAR MEETING, AND SETTING THE FUTURE MEETING DATE FOR JUNE 18, 2019. MS. WILLIAMS SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

Pursuant to published notice, the public hearing was opened for Ordinance 2019-05, Amending Chapter 158, Zoning Code.

Allen Parsons, Planning, Zoning & Building Director, provided an overview of the ordinance noting that the Town Commission has approved a new Zoning Code, and part of the revisions included a number of items that were identified for amendments. The amendments were grouped into batches for Zoning Text amendments, and the Board was reviewing the first batch at this meeting.

Tate Taylor, Planner, discussed the amendments noting:

- The original staff recommendation for pickle ball was an activity anticipated within the town
- Tennis courts are easily converted to, and being used for, pickle ball
- Converting tennis courts for use as pickle ball, or other recreational activities, is not reviewed by the Town
- The Town's sound ordinance exempts the sound produced by recreational activities

- Staff found no requirements for the use of pickle ball within any comparison or peer city or town jurisdictions
- Other ordinance amendments include: Docks/Structures Over Water and improper mooring; parking standards for multi-use projects and parking flexibility; parking waivers for alternative transportation options; and, consideration of additional setback standards for when a property owner combines two lots

There was discussion with the Board on the following points:

- Sound attenuation needed to be provided for Pickle Ball
- At the 5-20-2019 Town Commission workshop, the issue was raised and staff discussed sound baffling
- Some associations, who have hard tennis courts, might also have basketball, so the Town might not want to limit discussion to Pickle Ball, but to outdoor courts in general
- There should be a distinction between public versus private, as the proposed ordinance seemed to exempt public facilities from sound requirements
- How the Town would enforce the sound issue; Attorney Mooney explained the current sound regulations do not contemplate decibel readings, and in order to incorporate, the Town would need to undertake a study in order to set certain thresholds
- the requirement addressing a change in use, or new use, and if someone submitted a proposal, they should be required to provide sound mitigation plans, which could be reviewed on an individual basis
- The Town was considered a 'premier community' and it was time to address the noise impact
- The Town would be required to have the equipment, along with staff trained in its use; need to determine whether the noise was from the property line or from a certain distance

Chair Bishop questioned the Town Attorney related to enforcement pointing out if there was not a decibel level, and it was dependent upon Code Enforcement and the Police Department to mitigate the sound issue and have the discretion to determine the level based on their hearing, it might be a difficult case. Attorney Mooney responded on Longboat Key the majority of noise issues related to construction after hours, and there was some subjectivity in the existing code, but most times it was not a protected class. Mr. Younger noted at this point the Town needs to create some provision for sound attenuation. Chair Bishop asked if Mr. Younger would be agreeable with the language stating "recreational activities." Mr. Younger replied he would be reasonably comfortable with the language.

Mr. Marsh discussed the Town's "overreach" into the business of a condominium association to regulate what happens on their own property as it should be an issue they dealt with. The association should not be depending on the Town to regulate the noise on their property. Ms. Gold suggested limiting the hours of facility use. Mr. Green asked staff if they received any noise complaints from the use. Mr. Taylor responded they had not received any complaints about Pickle Ball. Mr. Lapovsky believed they were singling out Pickle Ball, but there are other instances of noise. He agreed with Mr. Marsh in that associations will regulate themselves. Mr. Younger suggested it could be limited to only public property.

There was consensus to limit the requirement to public property and encourage sound attenuation for new public recreational courts.

Mr. Taylor commented the current sound ordinance exempts the public recreational areas from the ordinance, and asked if it was the Board's direction to amend the sound ordinance. Mr. Younger believed staff needed to review and determine how to address it; they could make it specific towards the recreational facilities. Mr. Parsons stated staff would move forward a recommendation to revise the sound ordinance to remove the exemption for public facilities. Mr. Green asked if staff would also revise the emphasis on Pickle Ball to add other court uses. Chair Bishop agreed that the proposed ordinance should be revised as it was very limiting. Mr. Parsons responded staff would revise to state "tennis/recreational courts."

Docks/Structures Over Water:

Mr. Taylor provided the following overview of the amendment:

- Concern with interference or obstruction in Town canals creating a navigational hazard
- the current code allows docks/structures to encroach into the canals 30 percent maximum width
- narrow canals have less canal width in which to navigate
- improper mooring in the navigable area further compounds vessel navigation, but staff believe Town regulations do not need to be modified, because the Florida Statutes address the potential issue, which was subject to enforcement by the Town's Police Department
- staff recommends additional language to provide where new docks, boat lifts, pilings, or pile mounted davits are proposed, the structures should not be located directly across canals from existing structures over water

Discussion followed with the Board on:

- What if the owner could not build a dock where part of it is directly across from another; would the Town be denying property rights
- How would the Town handle enforcement
- Riparian Rights – under Florida law riparian rights are established; the code language would not impair a right, but only request the applicant to offset the structure in order to not create a navigational hazard or interference
- The ordinance language tracks what is existing in Florida Statutes; the supplemental language was an enhancement of the existing code
- Whether there was an existing map that indicated the canal measurements; staff was unable to locate such an inventory
- The definition of ‘navigational hazard’ and suggestion to eliminate the opening phrase ‘to the extent possible’ and insert ‘however’ so it would be clear they could not install a dock directly across from another dock, which would create a hazard
- Attorney Mooney had no objection to the suggestion as staff was attempting to build in the ability for staff to address an individual who might be attempting to build something that would interfere; they might still be able to construct a dock, but it might not be the one the applicant wishes to install
- If the structure is deemed a navigational hazard and would interfere, then the applicant should relocate, or reduce, the lift; they still have the right, but could not interfere with the channel
- that the applicant would need to obtain state approval prior to installation; the Florida Department of Environmental Protection (FDEP) has jurisdiction over docks and anything placed in the waterway
- there is a separate state agency that would also evaluate the request
- typically applicants will file with the state prior to a building permit, because the review took longer, but the Town had to be cautious as they could no longer make permits contingent upon state approval
- if there were other ways that a dock could interfere, or create a hazard, other than building directly across from another dock
- the idea was to encourage some offsetting; the existing code is not creating hazards, but the proposed amendment would assist with creating more navigability through offsetting the docks

Mr. Younger suggested the language be modified to strike 'to the extent possible,' and read, *"a dock, boat, lift, piling, or pile-mounted davit shall not be located in a manner that creates a navigational hazard or interference with another vessel."*

Mr. Marsh pointed out the language did not address the beam of the boat at the end of the dock. He asked if the boat itself would be included, because it was the boat that creates the hazard. Mr. Green believed they were discussing two separate items as the section being reviewed addressed 'structures' and the Florida Statutes addresses 'vessels.' Attorney Mooney suggested that the statute addressed both, and this section is to deal with the structure by incorporating some of the language from the Florida statute.

There was consensus to include Mr. Younger's suggested modifications to the language.

Parking Waivers:

Maika Arnold, Senior Planner, discussed Parking Waivers with the Board as follows:

- Section 158.100 (G)(1) addresses parking standards for multi-use projects
- exceptions have been problematic for redevelopment – complaints of insufficient parking for many commercial properties due to limited space and high demand
- reviewed other similar jurisdictions and their codes and found it was not very common for other codes to have an exception without justification
- staff was recommending removal of the exception from the code, and require multiple uses within a single building or development to provide the entirety of the required parking

There was consensus to follow staff's recommendation.

Parking Flexibility:

- Add the T-3 and T-6 districts to the list of Zone Districts eligible for the use of parking flexibility
- developments in those districts have the ability to provide for options, such as valet and shared parking
- Any development of property that makes the request, and it is approved, the Board would have the authority to revoke the site plan approval if they find the parking is not working out as per approval

Concern was voiced by the Board on:

- Proposing greater flexibility and alternatives that reduce the amount of parking for automobiles
- There should not be a credit for the alternative parking methods

- Not requiring the applicant to have the number of required spaces outlined in the Town Code

Mr. Marsh believed it should be retained as there might be future projects that present a plan that the Town was not able to envision at this time.

MR. YOUNGER MADE A MOTION TO RECOMMEND REMOVAL OF SECTION 158.100 (O), PARKING FLEXIBILITY, FROM PROPOSED ORDINANCE 2019-05. CHAIR BISHOP SECONDED THE MOTION. MOTION CARRIED BY A MAJORITY VOTE WITH MR. MARSH VOTING NO.

Parking Waivers:

Ms. Arnold provided an overview of the revisions to Parking Waivers noting:

- Applicants must provide evidence to support that the property can handle the alternative parking method
- Other zoning codes allow for alternative modes of transportation
- The Town's Comprehensive Plan also encourages using alternative modes of travel to reduce traffic
- Staff recommends allowing an applicant to propose alternative transportation options, potentially in furtherance of the Comprehensive Plan's Mobility policy
- Allow the P&Z Board the authority to revoke parking waivers if the applicant fails to comply with the approved transportation alternatives

Following Ms. Arnold's review, the Board discussed:

- If there was a situation in the town where this provision had been utilized to which staff indicated it had not, but staff was approached by applicants about including shuttle or ride-sharing options
- That all the alternatives are possible, but there was a need to have the parking spot
- If there were other ways to further encourage these types of transportation
- If an applicant wished to construct, they should be required to provide the parking
- Agreement with providing incentives, but not at the cost of reducing parking
- Recommend staff come back at a future meeting with other incentives, other than waiving parking spaces
- Whether the Board should recommend to the Town Commission to remove Section 6 of the proposed ordinance and Section 158.100(P), Parking Waivers

MR. GREEN MADE A MOTION TO RECOMMEND REMOVAL OF SECTION 158.100 (P), PARKING WAIVERS, FROM PROPOSED ORDINANCE 2019-05. MR. YOUNGER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Side Yard Setbacks:

Ms. Arnold continued with discussing Side Yard Setbacks:

- The Town Commission had expressed concern over larger homes built on combined lots, which could potentially affect the character in a neighborhood
- Several code provisions that protect neighboring properties from over-shadowing, building massing, and storm water runoff include: daylight plane, density, height, and lot coverage
- Wide variety of unknown circumstances for development
- Difficult to create an overall blanket standard
- Property owner may choose to combine two lots but build a small home
- Many small lots within the Town that could be developed to their maximum intensity that may be larger than homes that could be developed on larger or combined lots
- Staff is recommending:
 - Standards addressing height, bulk and daylight plane may be more appropriate to consider if the Town believes that out of scale development is or may be occurring
 - Wide variety of potential development scenarios does not necessarily mean that larger lots would necessarily produce larger homes
 - No code change recommended

Chair Bishop concurred with staff's recommendation, but also pointed out the need to review the Daylight Plane requirements and how they were measured. There was also a need to review the height and bulk requirements in the future, because it will be a continuing problem. Mr. Parsons noted the Town Commission would be requesting staff to come back in the fall to discuss Daylight Plane.

There was consensus to follow staff's recommendation on setbacks.

MR. YOUNGER MADE A MOTION TO RECOMMEND APPROVAL OF ORDINANCE 2019-05 AS AMENDED. MS. GOLD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; GOLD, AYE; GREEN, AYE; LAPOVSKY, AYE; MARSH, AYE; WILLIAMS, AYE; YOUNGER, AYE.

Ordinance 2019-06, Amending the Town of Longboat Key Comprehensive Plan
Future Land Use Element

Maika Arnold, Senior Planner, provided an overview of the ordinance noting:

- the ordinance was providing amendments to maintain consistency between the Zoning Code and Comprehensive Plan
- amends policies 1.1.9, 1.1.10 and Table 1 within the Future Land Use Element
- policy 1.1.9 updates the Town's policy regarding Planned Unit Developments and the redevelopment of nonconforming properties
- policy 1.1.10 removes allowance for additional height in Tourist Resort Commercial Established Areas
- adds a description of the Conformance Overlay Redevelopment District (CORD), which includes descriptions of Future Land Use Districts and overlays
- Table 1 revised to reflect the applicable height allowances for TRC-3 and TRC-6 districts, without the previously provided PUD 1-story option
- Removes the term "ODP" from the title
- Adds a footnote to provide additional guidance when redeveloping with a CORD

Attorney Mooney asked staff to speak as to whether or not the removal of the additional height in the 'Tourist-Resort Commercial Established Areas' will in any way impair the ability to redevelop; in other words, will the property owners still be able to utilize those zoning districts for their intended purposes. Ms. Arnold replied yes.

MR. YOUNGER MADE A MOTION TO RECOMMEND APPROVAL OF ORDINANCE 2019-06 AS WRITTEN. MR. MARSH SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; GOLD, AYE; GREEN, AYE; LAPOVSKY, AYE; MARSH, AYE; WILLIAMS, AYE; YOUNGER, AYE.

WORKSHOP DISCUSSION

There were no items scheduled for workshop discussion.

NEW BUSINESS

There was no New Business.

STAFF UPDATE

Mr. Parsons asked if the Board would be interested in training. Chair Bishop noted there were several new members on the Board and believed training on the Florida laws and requirements would be helpful. Mr. Parsons noted the trainer was Gene Boles, who is affiliated with the University of Florida, and the coordinator of the Florida Planning Officials

Training Program. He asked if the Board would be interested in inviting the surrounding municipalities, or would they wish to limit to only the Town.

Following discussion with the Board, Mr. Parsons would discuss the length of training with Mr. Boles.

Attorney Mooney explained that in addition to the planning training, there was a need for the Board to complete training on the Florida Sunshine Law, Public Records, and Ethics Laws. She noted there was a free training being held on May 23rd by Manatee County. This was a four-hour course, presented by Manatee County's Land Use attorneys, that covers these items, along with a segment on quasi-judicial proceedings. Attorney Mooney pointed out there was a requirement for all board members to have annual training.

There was consensus to open the training to other municipalities.

Mr. Parsons commented staff would schedule an update and discussion of training at the June P&Z Board meeting. There was only one item submitted for that meeting, which was a partial right-of-way vacation request for The Shore Restaurant.

Mr. Green questioned the status of the Mote Marine property located at 5630 Gulf of Mexico Drive. Mr. Parsons responded the referendum passed, and he had spoken with their representatives following the referendum, but he has not heard from them in two months.

Mr. Younger announced that the City of Sarasota Commission has decided to look for another venue for the orchestra rather than moving to Payne Park.

ADJOURNMENT

The meeting adjourned at 10:38 am.

Ken Marsh, Secretary
Planning and Zoning Board