

PLANNING COMMISSION
June 27, 2012
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, June 27, 2012**, beginning at 10:05 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL by Gail Creech

PLANNING COMMISSION MEMBERS

Denise Werling, Chair	Present
Randy Wall, Vice Chair	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
William Wiatt	Present

STAFF

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Administrator, Environmental Resources	Present
Mayte Santamaria, Assistant Director of Planning and Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present
Tiffany Stankiewicz, Development Administrator	Present
Rey Ortiz, Planner	Present
Barbara Bauman, Planner	Present
Tim Finn, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

COUNTY RESOLUTION 131-91 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by John Wolfe.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Gail Creech confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

All staff members intending to speak were sworn in by John Wolfe.

CHANGES TO THE AGENDA

There were no changes to the agenda.

APPROVAL OF MINUTES

Motion: Vice Chair Wall made a motion to approve the meeting minutes of May 30, 2012. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

Continued Item:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ADD SECTION 110-144, UNLAWFUL USES; ESTABLISHING PROCEDURES TO REVIEW AND ACT UPON BUILDING PERMIT APPLICATIONS FOR A SITE WITH A KNOWN UNLAWFUL USE THAT MAY BE PROSECUTED BY CODE COMPLIANCE, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-038)

(10:07 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that staff was before the Commission at the last hearing, and based on some comments submitted by the public revisions were made to the amendment. Mr. Haberman specified when this ordinance would apply: One, building permit applications for a known unlawful land use; two, building permits on a site with an unlawful use, but not related to that land use; third, addressing public safety; and finally, a property with nonconforming uses which may or may not be lawful. Whether this ordinance is approved or not has nothing to do with code compliance prosecution. This is just a mechanism for planners to use to try to stop applicants from improving an unlawful use rather than have them spend money on improvements and then have to remove them.

Commissioner Lustberg questioned how under the definition of an unlawful use an applicant could receive a permit. Mr. Haberman explained that that language was left in because in a few rare cases people pursue map amendments and text amendments that would then allow the unlawful use. Mr. Haberman also explained to Commissioner Lustberg that this ordinance would prohibit improving an illegal use, but not improving a legal use on a property that also has an illegal use on it. Mr. Haberman further explained to Vice Chair Wall that this ordinance is used when a planner observes an unlawful use that is obvious in the records. This ordinance will go into the land development code for the planners.

Chair Werling asked for public comment. There was none.

Motion: Commissioner Hale made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

New Items:

2.A public hearing to consider and finalize the ranking of applications in the Dwelling Unit Allocation System for the January 13, 2012 through April 12, 2012 ROGO quarter (3rd Quarter Year 20). Allocation Awards will be allocated for all unincorporated Monroe County. (File 2011-088)

(10:15 a.m.) Ms. Stankiewicz presented the staff report. Ms. Stankiewicz reported that this is for residential allocations. Staff recommended approval of the Lower Keys applicants ranked 1 through 3, Big Pine/No Name subarea applicants ranked 1 through 3, Upper Keys applicants ranked 1 through 20. There were no affordable housing allocations.

Chair Werling asked for public comment. There was none.

Motion: Vice Chair Wall made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

3.Chubs Subs and Wings, Inc. 101429 Overseas Highway, Key Largo, Mile Marker 101: A request for approval of a 2COP (beer and wine on premise and package only) alcoholic beverage special use permit. The subject property is legally described as a parcel of land within Tract A, Tradewinds, (PB7-42), Key Largo, Monroe County, Florida, having real estate number 00454611-000100. (File 2012-057)

(10:16 a.m.) Ms. Bauman presented the staff report. Ms. Bauman reported that this is a request for approval of a 2COP (beer and wine on premise and package only) alcoholic beverage special use permit at the existing restaurant within a multi-business commercial building currently known as Tradewinds Plaza. Ms. Bauman described the property. Ms. Bauman then recited the history of the alcoholic beverage licenses given to different businesses within the plaza. Staff recommended approval of the 2COP alcoholic beverage special use permit with conditions. Ms. Bauman stated that there have been no comments made from neighboring property owners. The proposed conditions were then listed.

Chair Werling asked for public comment. There was none.

Motion: Vice Chair Wall made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

4.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 118-9, OPEN SPACE REQUIREMENTS; TO ADDRESS THE CLEARING OF UPLAND NATIVE VEGETATION TO BE CONSISTENT WITH THE MONROE COUNTY COMPREHENSIVE PLAN, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-032)

(10:23 a.m.) Mr. Ortiz presented the staff report. Mr. Ortiz reported that the Planning and Environmental Resources Department is proposing amendments to address the clearing of upland native vegetation and implement the recommendations of the Administrative Commission and the State Land Planning Agency. At the February 13, 2012 BOCC meeting Resolution 020-2012 was approved to transmit these changes to the comprehensive plan and the matter was heard yesterday during the regularly scheduled DRC meeting with one correction. The title of that section of the code was changed to Clearing Allowances from Open Space Requirements. This is consistent with the comprehensive plan. This amendment is so that the language mirrors what was approved previously by this Commission and by the BOCC, and so that the text amendment and the comprehensive plan would be approved together.

Vice Chair Wall asked why a property owner who aggregates two lots should be held to a higher standard for clearing than anybody else. Ms. Santamaria pointed out that this is existing language that is in the code right now, but in the comp plan a revision was made to this to match the 7500 square feet number.

Chair Werling asked for public comment. There was none.

Motion: Vice Chair Wall made a motion for approval with the change noted for aggregated lots, as well as the title change made. Commissioner Wiatt seconded the motion.

Mr. Schwab explained that the language will match the comp plan. Mr. Roberts then explained that the intent of the language is not to add additional restrictions on Tier III parcels, but to clarify what those clearing limitations area. In the code there is not a clear delineation as to the maximum amount of clearing for Tiers I, II and III-A parcels. The objective here is to include those maximum limits of clearing. It is not the intent of this ordinance to allow clearing of hammock well into a lot, but if in order to get into a lot to reach a disturbed area in order to build a house there, that is what this is intended to allow. Vice Chair Wall reiterated that there is a different standard between a straight Tier III property and a property which is created by aggregation. Ms. Santamaria pointed out that because two lots are being aggregated, hopefully habitat is also being protected and it is not to double the amount of clearing. The whole intent is to reduce the amount of density and hopefully reduce the amount of clearing. Ms. Santamaria clarified that the previous version of this in the comp plan was revised so it matches the clearing limit established here. Ms. Grimsley stated that further clarification may be needed on the driveway square footage in the ROGO applications.

Motion: Vice Chair Wall clarified his motion for approval to include changing Section 118-9's title to Clearing Allowances, and in Item E on Page 4 the language will be changed to more accurately match the section under Tier III on Page 3 so that the clearing numbers match the comp plan. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

5. Drive In, LTD Property, known as Islander Village, 5th Avenue, Stock Island, Mile

Marker 5: A request for a time extension of two years to the major conditional use permit memorialized by Planning Commission Resolution #P35-05. The property is legally described as Block 59, Lots 1-6, west ½ of Lot 7 and adjacent bay bottom, Maloney Sub (PB1-55), Stock Island, Monroe County, Florida, currently having real estate numbers 00123700.000000, 00127400.000000, 00127400.000100, 00127400.000120, 00127400.000121, 00127400.000122, 00127400.000123, 00127400.000124, 00127400.000125, 00127400.000126, 00127400.000127, 00127400.000128, 00127400.000129, 00127400.000132, 00127400.000133, 00127400.000134, 00127400.000135, 01127400.000136, 00127400.000138, 00127400.000139, 00127400.000140, 00127400.000141, 00127400.000142, 00127400.000143, 00127400000144, 00127400.000145, 00127400.000146, 00127400.000147, 00127400.000148, 00127400.000149, 00127400.000171, 00127400.000172, 00127400.000173, 00127400.000174, 00127400.000175, 00127400.000176, 00127400.000177, 00127400.000178, 00127400.000179, 00127400.000180, 00127400.000181, 01127400.000182, 00127400.000183.

(Rile 2012-058)

(10:35 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that this is a unique project and then explained the history of how this project had staggering deadlines, resulting in a situation where the applicant can apply for building permits because that timeline is still in effect, but cannot get any COs because that deadline expired a few years back. The County Attorney's Office and the Planning Department looked into this and determined the dates can now be unified because that is consistent with current code to not have these two different time frames. One clear expiration date can be given in accordance with the code, which would be December 7th of 2013. If applicants need more time, they can ask for additional extensions.

Vice Chair Wall pointed out that the December 7th, 2013 date is the final date for receiving COs, and also the final date for making applications. Mr. Haberman explained that even though it makes no sense they would get a building permit, build it that day and get handed a CO the same day, it makes the bookkeeping clean. This happened because of the legislative extensions, which confused things in terms of bookkeeping, but from now on the one date will be given to finish a project, which should make things a lot easier moving forward.

Chair Werling asked for public comment. There was none.

Motion: Commissioner Wiatt made a motion for approval. Vice Chair Wall seconded the motion. There was no opposition. The motion passed unanimously.

GROWTH MANAGEMENT COMMENTS

Mr. Schwab shared with the Commissioners that comprehensive planner staff member Kathy Grasser is departing the Florida Keys. Staff is advertising for this position, as it needs to be filled as quickly as possible. Ms. Santamaria then updated the Commissioners on the comprehensive plan. Seven brainstorming sessions have been held internally with consultants Keith & Schnars to come up with policy revisions based on the EAR recommendations. Drafts are being worked on now, and a complete draft should be available by mid to late August. Staff is also trying to align the code amendments to be timed with the comp plan amendments. Vice Chair Wall inquired into the date of the special meeting to be held in August. Ms. Creech

reminded the Commissioners that the special meeting is scheduled for August 31, 2012 in Key Largo at the Murray Nelson Building.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:44 a.m.