

PLANNING COMMISSION
August 28, 2013
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, August 28, 2013**, beginning at 10:03 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

William Wiatt, Chair	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
Ron Miller	Present
Denise Werling	Absent

STAFF

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
Steve Williams, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mayte Santamaria, Assistant Director of Planning and Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Laurie McHargue, Senior Biologist	Present
Emily Schemper, Senior Planner	Present
Tim Finn, Planner	Present
Matt Coyle, 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

County staff members were sworn in by Mr. Wolfe.

CHANGES TO THE AGENDA

There were no changes to the agenda.

APPROVAL OF MINUTES

Motion: Commissioner Lustberg made a motion to approve the minutes of the July 31, 2013 meeting. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

1.Longstock II LLC, 7009 Shrimp Road, Stock Island, Mile Marker 5: A request for approval of a 2COP (Beer & Wine, on premise and package) Alcoholic Beverage Special Use Permit. The subject property is described as a parcel of land on Stock Island, Monroe County, Florida and submerged lands in Section 35, Township 67, Range 25, having real estate numbers 00123720.000100, 00123720.000200 and 00123760.000200.
(File 2013-088)

(10:05 a.m.) Mr. Coyle presented the staff report. Mr. Coyle reported that this is a request to allow on-site consumption and package sales of beer and wine. Photographs were shown as Mr. Coyle described the property and outlined prior County action on the property. Staff recommended approval with conditions. Those conditions were then recited.

Bart Smith, Esq. was present on behalf of the applicant. Mr. Smith agreed with the staff report.

Chair Wiatt asked for public comment. There was none. Public comment was closed.

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

2.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS DELETING MONROE COUNTY CODE SECTION 130-158, IMPROVED SUBDIVISION AND COMMERCIAL FISHING VILLAGE DISTRICT DENSITIES AS DUPLICATIVE AND REMOVING OUTDATED PROVISIONS REGARDING COMBINING OF CONTIGUOUS LOTS IN COMMON OWNERSHIP; DELETING SECTION 130-159, URBAN RESIDENTIAL-MOBILE HOME DISTRICT DENSITY AS DUPLICATIVE AND REMOVING OUTDATED PROVISIONS REGARDING COMBINING OF CONTIGUOUS LOTS IN COMMON OWNERSHIP; 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 2013-073)

(10:10 a.m.) Ms. Schemper presented the staff report. Ms. Schemper reported that Section 130-158 and 130-159 include additional density regulations specific to the IS, CFV and URM zoning districts. Density is regulated by both the comp plan and the Monroe County code. Ms.

Schemper pointed out the policies in the comp plan and sections in the code that regulate density for IS, CFV and URM zoning districts. Section 130-158 and 130-159 were in effect as far back as the 1986 code update and adoption and at that time the density tables did not say one dwelling unit per lot, but was acreage-based. As the code and the comp plan were amended and the one per lot was added into those tables these sections remained and were never taken out.

Ms. Schemper stated that staff believes Subsection A duplicates other regulations in both the code and the comp plan and are unnecessary. Numbers 1 through 3 underneath this subsections are also unnecessary as they are covered by other sections of the code. Subsection B states that in the event contiguous lots are owned in common ownership on or after the effective date, the owner thereof shall be entitled to one unit per two lots or 12,500 square feet of land area, exclusive of rights of way, whichever area is less. Ms. Schemper stated that if this subsection of the code is applied, it eliminates density associated with a platted lot just by simple fact of someone owning two contiguous lots, which is not consistent with the comp plan. This regulation is not dependent on a specific development application and has existed also since the 1986 code update. This provision is very difficult for planners to enforce and, to staff's knowledge, has not been enforced in the past. Staff feels this requirement is unnecessary. The ROGO system has incentives for aggregating lots. Ms. Schemper stated that staff would support removing both sections entirely and adhere to the comp plan's density of one per lot and the code.

Chair Wiatt questioned if Section 130-158 Paragraph A regarding a single-family detached dwelling is duplicative of earlier County provisions. Ms. Schemper explained that there are different commercial fishing categories: Commercial fishing area, commercial fishing village and commercial fishing special districts. Each specific commercial fishing category has its own permitted and conditional uses. Chair Wiatt pointed out that the quote of Section 130-158 used in the staff report did not include the language "single-family detached dwelling." Ms. Schemper confirmed that commercial fishing village, Section 130-80, does list as permitted as-of-right commercial fishing detached dwellings.

Commissioner Miller asked for an explanation as to why an IS lot was considered to have no density when a citizen wanted to transfer them for transferable development rights previously and now they do. Mr. Haberman stated that as part of the TDR ordinance recently passed IS lots are allowed to carry one unit per density if they are upland and platted to be an eligible TDR having certain environmental characteristics. That would transfer the density of an IS lot to a property that is less environmentally sensitive. One criterion is when a lot where the TDR came from was either going into County ownership or a conservation easement, which is another added benefit. Ms. Schemper clarified that when lots are aggregated for ROGO a deed restriction must be put on the separate lot.

Motion: Commissioner Miller made a motion to approve. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 122-2(b)3 GENERAL PROVISIONS, BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD

MAPS, SPECIES ASSESSMENT GUIDES (SAGS); PROVIDING A NEW DATE FOR REVISED SPECIES ASSESMENT GUIDES (SAGS) FOR PERMIT REFERRAL PROCESS DETERMINATIONS; 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 2013-102)

(10:28 a.m.) Ms. McHargue presented the staff report. Ms. McHargue presented a brief history of how the FEMA injunction list came to exist. Ms. McHargue then stated the injunction was lifted in September of 2012. The parcels located within these species focus areas and their review for development now require the permit referral process, which is a process to determine the effects of development on the federally listed species. Monroe County then revised its development permit review process to include this additional layer of permit review. This review requires the use of Species Assessment Guides (SAGs), which are specific to each individually listed species. Since the implementation of the SAGs on May 20, 2012 a number of problems arose with the wording of the guides. In April of this year staff and the Fish & Wildlife Service began editing and revising the guides. On July 29, 2013 the finalized SAGs were presented. This amendment to Section 122-2(b)3 is changing the date of the newest approved version of the SAGs used in the reviews to reflect the date from May 20, 2012 to July 29, 2013.

Ms. McHargue explained to Commissioner Miller that a homeowner would have to sign a covenant restriction regarding free-roaming cats. If the homeowner does not agree to the covenant restrictions, Fish & Wildlife deducts the square footage of the development and considers that an impact or a take for that species.

Chair Wiatt asked for public comment. There was none. Public comment was closed.

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

GROWTH MANAGEMENT COMMENTS

Ms. Santamaria reported that there will be three special meetings on September 23, October 1 and October 10 to go through 15 elements of the comp plan. In November the Planning Commission's recommendation will be provided to the BOCC on the entire comp plan. Ms. Santamaria then outlined the amendments that were included to reduce the rate of allocations at the direction of the BOCC.

Mr. Schwab announced that Growth Management has a new staff assistant, Theresa Smith, and Cassie Scanlon is now a planning tech working on NROGO.

BOARD DISCUSSION

Commissioner Miller asked for an update on auxiliary structures on residential lots. Mr. Schwab responded that staff has researched that issue, but would prefer to have that reviewed with a full Commission. Commissioner Miller commented that when he bought two contiguous parcels in

Miami-Dade County the two parcels became one parcel for development purposes. Commissioner Miller announced a meeting is scheduled for tomorrow evening in Key Largo of the group Fair Share for Key Largo.

Commissioner Miller asked for an explanation of Monroe County's vacation rental policy. Mr. Haberman explained that a vacation rental is defined as any rental of less than 28 days. Certain zoning districts allow them to occur within gated communities where somebody is centrally responsible in that community for managing the vacation rentals, making sure that state requirements are complied with. For those not in a gated community, the Planning Department issues yearly vacation rentals for people that meet the qualifications and who can show their state license, county business tax and tenant agreement. Mr. Haberman stated there is a big issue with unlawful vacation rentals and Code Compliance is actively working on that, but they are difficult to prosecute. Vacation rentals are not allowed in IS districts. In 2011 a state statute was passed that said if a county has an existing vacation rental ordinance they are allowed to keep it. However, if it is amended at any point in time in the future or a new one is adopted, that county is preempted by the state statute and Tallahassee will direct that county how to run their vacation rentals.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:46 a.m.