

PLANNING COMMISSION  
**July 30, 2014**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, July 30, 2014**, beginning at 10:00 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, Vice Chair	Present
Elizabeth Lustberg	Present
Ron Miller	Present
Denise Werling	Present

**STAFF**

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
Steve Williams, Assistant County Attorney	Present
Joe Haberman, Planning & Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Karl Bursa, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

Mr. Williams informed the Commissioners that any advice rendered by himself today will be on behalf of the County and staff and that the Commission is essentially operating today without the assistance of their own counsel.

**COUNTY RESOLUTION 131-91 APPELLANT TO PROVIDE RECORD FOR APPEAL**

County Resolution 131-92 was read into the record by Mr. Williams.

**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 Ms. Grimsley.

## **CHANGES TO THE AGENDA**

Ms. Creech stated that the applicant for Item 1 has requested to continue the matter to August 27, 2014. There were some posting issues with Item 3 and that item will not be heard at today's meeting.

## **APPROVAL OF MINUTES**

**Motion: Commissioner Lustberg made a motion to approve the minutes of the June 25, 2014 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

## **MEETING**

### **New Items:**

**1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM INDUSTRIAL (I) TO COMMERCIAL (COMM) FOR PROPERTY LOCATED AT APPROXIMATE MILE MARKER 9, DESCRIBED AS FIVE PARCELS OF LAND IN SECTION 21, TOWNSHIP 67 SOUTH, RANGE 26 EAST, ROCKLAND KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00122080.000000, 00122081.000200, 00122010.000000 AND 00121990.000000, AND FROM MIXED USE/COMMERCIAL FISHING (MCF) AND INDUSTRIAL (I) TO MIXED USE/COMMERCIAL (MC) FOR PROPERTY LOCATED AT APPROXIMATE MILE MARKER 9, DESCRIBED AS A PARCEL OF LAND IN SECTION 21, TOWNSHIP 67 SOUTH, RANGE 26 EAST, BIG COPPITT KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00120940.000100, AS PROPOSED BY ROCKLAND OPERATIONS, LLC AND ROCKLAND COMMERCIAL CENTER, INC.; 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 AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-068)

(10:04 a.m.) Chair Wiatt asked for any discussion from staff associated with the continuance. There was none.

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

**Motion: Commissioner Lustberg made a motion to continue Item 1 to the August 27, 2014 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

**2. Jose & Lilliam Perea, 63 Mutiny Place, Key Largo (Buccaneer Point) approximate mile marker 98.5:** An appeal by a surrounding property owner to the Planning Commission concerning an administrative decision of the Senior Director of Planning & Environmental Resources dated April 16, 2014 approving a special exception to construct a 184.6' long X 4'

wide dock with an 8' X 20' terminal platform and boat lifts. The subject property is legally described as Lot 32, Block 3, Buccaneer Point Subdivision (Plat Book 7, Page 6), Monroe County, Florida, having real estate number 00496131.007600.

(File 2014-058)

(10:06 a.m.) Mr. Roberts presented the staff report. Mr. Roberts reported that County code limits pier-style docks to 100 feet in length beyond mean low water or the shoreline and, in certain circumstances, the Senior Director can allow for a special exception to allow that dock to exceed 100 feet to get it to four feet of water. Such an exception was issued in this case. The Florida Department of Environmental Protection (DEP) required the applicants to extend the dock into five feet of water at mean low water so as not to be located over seagrass. The Senior Director of Planning approved that request for special exception. That required a public notice to the surrounding property owners. In this case an adjacent property owner has appealed that decision because the dock would extend past his own dock and obstruct his view. Mr. Roberts, upon questioning by Mr. Williams, stated he has held the position of Senior Administrator of Environmental Resources with the County for almost five years, has a bachelor's degree in limnology and has been practicing professional environmental land use for over 26 years.

Mr. Roberts clarified for Commissioner Miller that the terminal platform for the dock as designed would end over existing seagrass beds. Section 62-312.420 of the Florida Administrative Code requires that docks terminating in seagrasses be in a minimum of five foot mean low water and DEP, therefore, required the applicant to extend the dock to that length. The applicant has provided the DEP permit that was issued for the dock that had that requirement as a specific condition in the permit, but this permit was not submitted in the Commissioners' packets. Commissioner Miller questioned the advantage of extending the dock, which would increase the shading over the amount of benthic resource there. Mr. Roberts explained the reason for the extension into five feet is more to avoid direct impact associated with the mooring site and the disturbance associated with the vessel rather than shading. The design requirements both by the DEP and the County for pier-style docks over benthic resources require elevation above the water level as well as in certain instances where, if the resource is sufficient enough, spacing in the paneling of the dock to allow light penetration. The width of docks is limited by the County to four feet also to allow light penetration and to decrease any shading effect. Commissioner Miller pointed out that from photographs this area looks like it has already been disturbed. Mr. Roberts agreed this is a well-traveled area. Commissioner Miller believes over-water views are very important in the Keys. Mr. Williams stressed that the right to a view does not exist under Florida law. Commissioner Miller believes the additional dock area could affect community character and compared the limits put on the length of docks to the limit put on the height of buildings, which affects community character. Commissioner Lustberg asked if there is docking material that allows light to penetrate through to the seagrass. Mr. Roberts explained that is addressed by the spacing of the boards of the dock and the walkways. Chair Wiatt asked if the applicant owns the bay bottom where this dock is proposed. Mr. Roberts replied that the property line ends at the shoreline.

The appellant, Terry Polyak, was sworn in by Ms. Grimsley. Mr. Polyak stated a large degree of his opposition comes from the fact that he will be losing significant view during sunset. Mr. Polyak pointed out that the proposed dock would extend a full 30 feet further than his adjacent

dock. Mr. Polyak believes this does affect community character in the area, which sees a lot of kayak travel across the ends of the docks around the point, as well as personal watercraft. Mr. Polyak has four feet eight inches at mean low water at the end of his dock. Directly parallel, where the new dock would be, has four feet six inches at the 154'6" length. Mr. Polyak stated there are decking alternatives that can be used to allow the sunlight through. The seagrass in this whole area is mottled. Although Mr. Polyak does want the applicant to be able to construct a dock, he does not believe the special exception for the extra 30 feet is necessary.

Commissioner Miller pointed out that the site plan shows five foot MLW at the end of the adjacent dock. Commissioner Miller also pointed out that the proposed dock is not oriented towards the west so as to block the appellant's sunset view. Chair Wiatt noted that the applicant cannot build their terminal platform at four feet six inches, so they are required to go out further until they get to five feet of mean low water. Chair Wiatt explained to the appellant that the Planning Commission has no control over the Florida code requiring the five foot depth over seagrass. Further, operation of a motorized vessel in excess of idle speed or four knots is prohibited within 300 feet of developed shoreline. Therefore, this extra 30 feet of dock would not be a navigation hazard. Chair Wiatt stated the fact that there are already piers in the area sets precedence and this dock would not affect community character. Commissioner Lustberg clarified for the appellant that the Commissioners can either uphold staff's decision to allow a dock at this length or they can disagree with staff's decision and allow no dock at this property. There is no in-between on this item. Commissioner Miller voiced concern about the lack of length limitations that DEP would require a dock to extend out to get to five feet. Mr. Roberts commented that there are a number of docks, particularly in the Lower Keys, that extend beyond 200 feet from the shoreline. There are square foot requirements that cannot be exceeded. So the further out a dock extends, the more narrow the walkway has to be to balance that square footage.

Debra Evans, project manager for Glen Boe & Associates, was present on behalf of the applicant and was sworn in by Ms. Grimsley. Ms. Evans pointed out that the Florida Administrative Code requires that the boat mooring area be over the five foot depth. This proposed dock is designed to the Corps of Engineers' dock construction guidelines. The decking has a half-inch gap in the dock boards to allow for lighting. The external platform is proposed with grating that allows 43 percent light penetration below the surface to allow the grass to grow. There is no mitigation required for these structures if they are designed to these guidelines.

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

**Motion: Commissioner Werling made a motion to uphold the approval of the special exception. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

**3.Grobarek Residence, 2 Cypress Terrace, Raccoon Key (aka Key Haven), mile marker 5:**  
A public hearing concerning a request for a Variance of 20 feet to the required 25-foot front yard non-shoreline setback which is adjacent to the Cypress Terrace right-of-way. Approval would result in a setback of 5 feet. The requested variance is required for the development of a proposed accessory tiki hut. The subject property is legally described as Block 3, Lot 21, Key

Haven 8<sup>th</sup> Addition subdivision (Plat Book 5, Page 61), Raccoon Key, Monroe County, Florida, having real estate number 00138970.000000.  
(File 2014-078)

(10:39) Chair Wiatt stated Item 3 has not been posted properly and, therefore, will not be heard. Ms. Creech added that once the re-advertisement occurs a date will be set for this item.

**ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 10:40 a.m.