

PLANNING COMMISSION
August 27, 2014
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, August 27, 2014**, beginning at 10:02 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

Mayte Santamaria, Assistant 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
Mitch Harvey, Comp Plan Manager	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Tiffany Stankiewicz, Development Administrator	Present
Ed Koconis, Principal Planner	Present
Matt Coyle, Sr. Planner	Present
Barbara Bauman, Planner	Present
Karl Bursa, 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 Mr. 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

Ms. Creech stated that there were no changes to the agenda.

APPROVAL OF MINUTES

Motion: Commissioner Werling made a motion to approve the minutes of the July 30, 2014 meeting. Commissioner Miller 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 FUTURE LAND USE MAP FROM INDUSTRIAL (I) TO COMMERCIAL (COMM) FOR PROPERTY LOCATED AT APPROXIMATE MILE MARKER 9, DESCRIBED AS FOUR 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.) Mr. Koconis, the Growth Management Permit Manager, presented the staff report. Mr. Koconis reported that this application was originally submitted in May of 2012 to amend the future land use map for 25 parcels. The request was reviewed by the Development Review Committee with a recommendation of denial due to a significant allowed increase in the residential and transient density, as well as the related issues to the limited amount of ROGO allocations, potentially increased hurricane evacuation time and the location of that density within an AICUZ in which the Navy has recommended to prohibit residential development. Staff recommended at that time the applicant consider the commercial future land use category which allows similar uses and intensity, but does not include a residential component. The applicant has since amended and reduced the request from 84 acres down to approximately 15 acres to mixed use/commercial and another 29 acres to go from industrial to have a new FLUM category of commercial. The comp plan FLUM policies were reviewed for consistency and an evaluation was done on the existing uses versus the proposed uses. There would be a potential increase of up to 27 residential dwelling units. However, this amendment would remove all but approximately 1.1 acres of potential residential uses from the properties within the DNL area of

70 to 74 and remove any potential of those residential uses from the 75 to 79 DNL, which the Navy lists as not compatible for household uses. This amendment would also simultaneously permit the parcels located within that area of 65 to 69 DNL to increase their residential density. Therefore, the potential residential density would be relocated from the highest DNL zones there to the lowest. The application proposes to reduce the nonresidential development square footage by just over 200,000 square feet. The commercial retail, industrial and office uses are all permissible within the 70 to 74 and 75 to 79 DNL with recommendations of measures to achieve an outdoor/indoor noise level reduction of 25 to 30 decibels for certain portions of those buildings. Mr. Koconis then described the surrounding properties and area to this parcel. The potential increase of residential units in this proposed amendment is not expected to cause the staged evacuation times to exceed the 24-hour limit. The proposed amendment is expected to maintain adopted levels of concurrency. The County's traffic engineer has reviewed a submitted trip generation analysis and confirmed that the proposed future land use map would actually result in a trip generation reduction. Staff has found this application to be consistent with the principles for guiding development. Staff recommended approval of the proposed FLUM amendment.

Mr. Koconis confirmed for Commissioner Miller that the potential 27 additional residential units would not affect hurricane evacuation and stated it would take thousands of trips to change that time by mere minutes. Bart Smith, Esquire, present on behalf of the applicant, then explained for Chair Wiatt that the original application was submitted and amended based on staff's recommendations in August of 2013. The applicant waited until such time as a commercial FLUM category was adopted in order to submit the amendment. The applicant has since worked through the various different components of the amendment, as well as worked with the Navy to move density away from the high noise areas. Chair Wiatt then asked the County Attorney whether the Planning Commission is to consider the original date of the application of May 18, 2012 or the date when the applicant made their amendment in August of 2013. Ms. Grimsley replied that the original date should be used.

Mr. Smith then explained again that this has been a long process of working with staff to make sure that all the interested parties are comfortable with what is occurring. Mr. Smith stated the applicant will hopefully be coming back before the Planning Commission in the next six months with a proposal for a development agreement and a conditional use for a significant affordable housing project on the upper portion on this parcel, which is a recognized need in the Lower Keys. Most of the affordable housing would be located in the 65 to 69 and 60 to 64 DNL.

Commissioner Miller then asked if the transient allocations would affect hurricane evacuation. Mr. Koconis explained that any possible transient allocations would be a relocation, so only very slightly. Mr. Smith noted that transients evacuate in the first phase of evacuation, which under the current study is at 16 ½ hours. There would be 7 ½ hours left of evacuation time in the first phase. Mr. Smith explained to Commissioner Lustberg that the applicant wishes to switch from industrial to commercial because under commercial it allows for larger buildings and more retail-type uses, but does have more open space. The industrial land is remaining on the parcel. Then there is a portion right on US-1 more appropriate for a commercial category with a more varied amount of uses. Most of the uses are the same between industrial and commercial, but

commercial lowers the square footage allowed and eliminates the density. This shift creates a more compatible use with the Navy and also creates the same compatibility with the neighbors.

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

Commissioner Miller questioned the new FLUM allowing for use of a commercial center, but having a reduction in the trip generation. Mr. Smith explained the idea of the trip generation at this juncture is theoretical only. When the applicant comes in for a conditional use the traffic study will analyze how many trips are going to be generated by the actual use as compared to the trips that are in existence now. Chair Wiatt asked legal staff about the liability to the County of providing 27 additional dwelling units to a property that currently has zero. Mr. Williams clarified there are potentially already 20 units, so it is only an additional seven in theory. Ms. Santamaria further clarified that this parcel of mixed use/commercial fishing already has a residential density component. Overall the net change on all the parcels together is an increase of about 27 units, but they already have existing residential development potential, which is specifically why the commercial category was created: To encourage people to go to uses that do not have a residential density.

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

New Items:

2.Northstar Resort Enterprises Corp., Point of View Key Largo RV Resort, 99060 US Highway 1 (Overseas Highway), Key Largo, Mile Marker 99: A public hearing concerning a request for a 6-COP (Beer, Wine and Liquor; on premise and package) Alcoholic Beverage Special Use Permit. The subject property is legally described as a portion of lots 4, 8, 9, 11 and 12 in Section 32, Township 61 South, Range 39 East (Plat Book 1, Page 68) and Block 3, Lot 3, El Dorado Heights (Plat Book 1, Page 203), Key Largo, Monroe County, Florida, having real estate number 00088020.000000.
(File 2014-093)

(10:29 a.m.) Ms. Bauman, Planner, presented the staff report. Ms. Bauman reported that the applicant is requesting a 6COP special use permit to sell beer and wine and liquor by the glass and package sales. The alcoholic beverages will be sold in the tiki bar, which is an accessory use to the RV resort to the guests of the resort. Photographs of the property were shown. Mr. Bauman stated the site has prior received minor deviations to a major conditional use and building permits for this resort. They have met the criteria by which the Planning Commission shall consider approval for a special use permit. Staff recommended approval with the two standard conditions and one additional condition: The establishment of any retail package store and/or restaurant or bar that is open to the general public requires additional approvals, including but not limited to a deviation or amendment to the major conditional use permit.

Commissioner Miller noted the large amount of vegetative seagrass shown in the aerial photograph.

Jim Saunders, representing Northstar, was sworn in by Mr. Wolfe. Mr. Saunders, in response to questions by Commissioner Miller, stated the tiki bar right now is only an accessory unit to the resort, which limits the people that can be served there only to guests of the resort.

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

Commissioner Lustberg questioned the language of Item 2 on Page 4 of the staff report regarding music and entertainment being located inside the air-conditioned building in the future. Ms. Bauman explained that the applicant will have to come in for approval for outdoor seating and music. The applicant has informed staff that any music performed on the premises would be inside the clubhouse.

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

3.A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR APRIL 15, 2014, THROUGH JULY 14, 2014, ROGO (4th QUARTER YEAR 22). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY.
(File 2014-147)

(10:36 a.m.) Ms. Stankiewicz presented the staff report. Ms. Stankiewicz pointed out the proposed applicant ranked Number 30 of the Big Pine sub-area has received perseverance points and was moved up to Number 28. Ms. Stankiewicz then reported that the Planning Department recommends approval of the following market rate rankings: Applicants ranked 1 through 18 are recommended for allocation awards; Big Pine Key applicants ranked 1 and Upper Keys applicants ranked 1 through 5 are recommended for allocations awards; there were no affordable housing applicants; and Big Pine Key applicant ranked Number 2 is recommended for a deferral.

Commissioner Miller asked how half an allocation is arrived at. Ms. Stankiewicz explained that affordable housing allocations are based on the number of allocations available and sometimes the math computation results in half an allocation. In the code the affordable housing allocations can be adjusted based on the category. Chair Wiatt recommended rounding the numbers off to alleviate the half allocation issue.

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

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

4.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, CREATING POLICY 202.8.6 TO IMPROVE THE WATER QUALITY IN THE CANAL SYSTEMS BY PROVIDING FOR REMOVAL OF ORGANIC MATERIAL BY VACUUM DREDGE FROM ARTIFICIAL CANALS CHARACTERIZED AS POOR OR FAIR WATER QUALITY WITHIN THE MONROE COUNTY CANAL

MASTER PLAN BY PUBLIC ENTITIES (COUNTY, STATE, OR FEDERAL); 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 INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.
(File 2014-108)

(10:41 a.m.) Mr. Roberts presented the staff report. Mr. Roberts reported that the poor water quality found in residential canals that influences the nearshore water quality has been studied at length and in depth. The Florida Keys National Marine Sanctuary's Water Quality Protection Program Committee has looked into potential solutions. As a result a Canal Management Master Plan was produced in 2012. Part of that plan identified possible restoration techniques for a number of the canals throughout the County. One of the potential technologies identified was the removal of organic sediments from some of the canals, but the comprehensive plan policies, as well as Land Development Code criteria, prohibit excavation or dredging in a canal below six feet. This amendment is to address those situations where a canal has been identified as having poor or fair water quality by the Canal Master Plan for which dredging is necessary below six feet in order to remove organic material. The amendment language is specific to manmade canals, specific to organic removal and specific to vacuum-dredging. The dredging can only be done by the County, the State or the Federal Government, not by the private sector.

Ms. Santamaria pointed out that there is currently a provision for an applicant to apply to maintenance-dredge their canal as long as they are not going below six feet and they do not have seagrasses and hard bottom. This particular exemption is for state and federally approved projects for organic removal and the water quality improvement program. Ms. Grimsley questioned that this amendment is limited to dredging by government entities. Mr. Roberts specified that is the intent. Ms. Grimsley suggested clarifying the wording to clarify that the actual dredging is going to be done by a governmental entity, or at least sponsored by a governmental entity. Mr. Williams believes the current language could be read that the characterization as poor or fair water quality can only be done by the public entity. Mr. Roberts stressed that the specific intent is to allow for organic removal from the canals that have been identified in the master plan as needing that specific remedy to improve the water quality and to not make that provision or that opportunity available for any other reason. Ms. Grimsley suggested after "Master Plan" adding "which is to be performed or funded by." Further discussion was held regarding the exact language to be used. Ms. Grimsley agreed with the language "Organic material removal by vacuum dredge from artificial canals characterized as having poor or fair water quality within the 2013 Monroe County Canal Master Plan which is performed or funded by public entities (County, State or Federal) is exempt from the provisions in Policy 202.8.4." Commissioner Miller asked whether a definition for vacuum-dredging should be included. Ms. Santamaria will double-check for the necessity of that definition, but pointed out that the term "dredging" is defined as "excavation by any means," and the means that will be provided in this policy is simply vacuum-dredging. Mr. Wolfe believes the language is clear enough in that regard.

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

Motion: Commissioner Lustberg recommended approval of this to the BOCC with the noted changes in the language of Policy 202.8.6. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 118 ENVIRONMENTAL PROTECTION; AMENDING SECTION 118—10(4)C.3 TO IMPROVE THE WATER QUALITY IN THE CANAL SYSTEMS BY PROVIDING FOR REMOVAL OF ORGANIC MATERIAL BY VACUUM DREDGE FROM ARTIFICIAL CANALS CHARACTERIZED AS POOR OR FAIR WATER QUALITY WITHIN THE MONROE COUNTY CANAL MASTER PLAN BY PUBLIC ENTITIES (COUNTY, STATE, OR FEDERAL); 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 INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

(File 2014-110)

(10:54 a.m.) Mr. Roberts presented the staff report. Mr. Roberts reported that the Land Development Code needs to be amended to mirror the comprehensive plan amendment that was just approved. The same edits to clarify the language will be made in this amendment.

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

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

Mr. Roberts confirmed for Commissioner Miller that the criticism of the science used in the Keys Carrying Capacity Study is totally separate from the science used in this Canal Master Plan. The time it will take to address the approximately 300 canals identified in the Canal Master Plan as having either fair or poor water quality is unknown. Also, not all of the problems that these canals have can be cured by vacuum-dredging alone. One ongoing issue will be funding made available either at the State or Federal level.

BOARD DISCUSSION

Commissioner Werling wished Ms. Grimsley well in her retirement.

Ms. Santamaria stated that the BOCC approved changing their November meeting to November 18, which is when the Planning Commission meeting is currently scheduled. Ms. Santamaria asked if the Commissioners would be willing to move the November Planning Commission meeting to the 19th so as to allow the meeting to be televised. The Commissioners agreed with the change in date.

ADJOURNMENT

The Monroe County Planning Commissioner meeting was adjourned at 11:04 a.m.