

PLANNING COMMISSION
February 25, 2015
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, February 25, 2015**, 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
Beth Ramsay-Vickrey	Present
Elizabeth Lustberg	Present
Ron Miller	Present
Denise Werling	Present

STAFF

Townsley Schwab, Sr. Director of Planning and Environmental Resources	Present
Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
Pete Morris, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Tiffany Stankiewicz, Development Administrator	Present
Emily Schemper, Comprehensive Planning Manager	Present
Matt Coyle, Senior 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 Item 3 has been postponed to an uncertain date.

APPROVAL OF MINUTES

Motion: Commissioner Lustberg made a motion to approve the January 28, 2015, meeting minutes. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

1.A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR OCTOBER 15, 2014, THROUGH JANUARY 12, 2015, ROGO (2nd QUARTER YEAR 23). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY.

(File 2014-153)

(10:03 a.m.) Ms. Stankiewicz presented the staff report. Ms. Stankiewicz reported that the Planning Department recommends the Lower Keys market rate applicants ranked 1 through 14 for allocation award, Big Pine Key applicants ranked 1 through 2 for allocation award subject to mitigation, and Upper Keys applicants 1 through 9 for allocation award. There were no affordable housing applicants.

Commissioner Miller asked whether a permit is still required to get into ROGO. Ms. Santamaria explained that there was discussion several years ago to reverse that process, but that never moved forward. Commissioner Miller asked about the possibility of including addresses on the allocation awards. Mr. Wolfe explained that legal descriptions are used because typically lots do not have addresses assigned to them until someone lives there to accept mail.

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

2.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM URBAN RESIDENTIAL-MOBILE HOME (URM) TO URBAN RESIDENTIAL (UR), FOR PROPERTY LOCATED AT 97801 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATE MILE MARKER 98, DESCRIBED AS PARCELS OF LAND LOCATED IN SECTIONS 5 AND 6, TOWNSHIP 62 SOUTH, RANGE 39 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00090810.000000, 00090820.000000, 00090840.000000, 00090840.000100, AND 00090860.000000, AS PROPOSED BY PL OCEAN RESIDENCE HOLDINGS, LLC; 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 LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2014-165)

(10:06 a.m.) Ms. Schemper presented the staff report. Ms. Schemper reported that this is a request for a property located around Mile Marker 98 in Key Largo. The current land use district is urban residential-mobile home, which is consistent with their current FLUM designation of residential high. Currently the parcel is primarily scarified with a few patches of vegetation. There are six partially constructed buildings on the site approved under previous development approvals, which have expired. The site is officially considered vacant. The five parcels together have 4.61 acres of upland area and have a tier designation of Tier III. The site previously had 20 mobile homes on it and a letter of understanding in 2002 recognized those 20 units as being lawfully established and exempt from the ROGO process. Their density is also protected. Under their current zoning there is density for two permanent dwelling units, but because those 20 units were lawfully established the APPLICANT could rebuild 20 units under their current zoning. The proposed zoning of urban residential would increase development potential by seven dwelling units above and beyond that 20. There is no change to the non-residential intensity. Under the current zoning and the proposed zoning there is no development potential for nonresidential floor area because there is no FAR for nonresidential intensity under a residential high FLUM. The increase in potential transient units is 23 rooms or spaces, but because of the uses that are allowed in urban residential it would be limited to institutional residential uses only. The parcels surrounding this property are zoned urban residential-mobile home, urban residential and suburban commercial. One of the main reasons the applicant wants to amend the zoning is because they would like to redevelop the site with detached units and attached units, some of which would be affordable housing, which is required as inclusionary housing when redeveloping more than ten mobile homes. Attached units are not a permitted use under the urban residential-mobile home zoning category. By switching to urban residential a mix of both detached and attached units are allowed. Ms. Schemper recommended approval of this proposed land use district map amendment from URM to UR for the five parcels.

Commissioner Lustberg asked for clarification on the transient uses being institutional only. Ms. Schemper explained that one of the defined uses is institutional residential uses, such as dormitories or something associated with a nonprofit institutional use. Because they are considered transient, they would be subject to ROGO and would have to get the transient ROGOs from somewhere else. Chair Wiatt voiced concern that adding density could actually increase takings liability for the County. Mr. Williams replied that at the end of this meeting a future meeting on that issue will be announced. Mr. Williams stated that this particular amendment is not a concern and will not increase the County's potential takings liability. Commissioner Lustberg noted that even though this is an increase in density on this property, it will be protecting other places from development where the development would be less ideal. Commissioner Ramsay-Vickrey pointed out that 20 units are already allotted to this property and is encouraged to see the affordable housing aspect being incentivized in areas that are scarified. Ms. Santamaria clarified that the affordable housing requirement is 30 percent, which would be a minimum of six affordable units, but urban residential has a max net density of up to 25 units per buildable acre for affordable housing. All setbacks, open space requirements and clearing limits would have to be met. The mobile homes could be transferred through a mobile home transfer process, but the affordable housing would have to be deed-restricted in order to replace any mobile homes that are transferred.

Commissioner Miller requested to discuss a mechanism to deny a land use change that causes a density increase during Board Discussion at the end of this meeting. Ms. Schemper clarified that a land use change can be denied if it has an adverse impact on community character, but staff's opinion is this amendment does not have an adverse effect. All other criteria for a land use change have been met in this instance. Commissioner Werling asked if the affordable housing can be developed off site. Ms. Santamaria explained that they can, but building them off site would increase the requirement for affordable housing. Ms. Schemper noted that the applicant's main purpose for the amendment is so they can build the attached units, which will help with the affordable housing issue.

Chair Wiatt emphasized that approving the applicant's request increases density and the Planning Commission has an obligation to ensure the goals of the comprehensive plan are met. Commissioner Miller believes the County does not have adequate infrastructure for increasing density. Commissioner Lustberg voiced concern regarding small increases being allowed over and over adding up to a significant number and that this could set a precedent for the future. Commissioner Miller believes the County should have a discouragement policy for land use designation changes. Chair Wiatt pointed out that Goal 101 requires Monroe County to manage future growth to enhance quality of life, which adding density to the County does not do. Chair Wiatt agrees that small increases in density will add up to a bigger problem. Mr. Wolfe cautioned the Commissioners to make an independent decision on the merits of each proposed amendment. Commissioner Ramsay-Vickrey agreed that the amendment should be considered independently and believes that this does accomplish goals in the comp plan by directing development to an appropriate area and addressing affordable housing. The residents of this affordable housing would be the same people causing traffic issues being complained of. Ms. Santamaria stated enhancing quality of life has many views and interpretations which have to be balanced in looking at the criteria and policies in place for development. Commissioner Lustberg pointed out that the ROGO system does not increase the total amount of development, but directs where that development can happen. Chair Wiatt brought up the fact that one day ROGO will be built out and there is no guarantee that development will not commence past ROGO. Commissioner Miller commented that increasing density increases the need for affordable housing.

Jorge Cepero, present on behalf of Prime Group, the applicant, was sworn in by Mr. Wolfe. Mr. Cepero stated Prime Group is also the developer of the Playa Largo Resort, located across the highway from this proposed project. The applicant has learned since moving into the Keys how important affordable housing is. The affordable housing component going into this project will mainly serve and benefit the Playa Largo Resort. Without the change in zoning employees will have to come down from the mainland or find more expensive accommodations nearby. This property is improperly zoned and should be changed to be consistent with neighboring properties. The property has been scarified. Mr. Cepero further stated the affordable component is not triggered by the residential units, but is triggered by businesses in the County. Commissioner Miller disagreed with that statement. Mr. Cepero clarified the affordable housing requirement for this development is six units, but the applicant is proposing to build 24 affordable units. Mr. Wolfe reminded the Commissioners that this application deals with zoning and not development at this time. An approval today would not obligate the owner to build 24 affordable housing units. Mr. Cepero mentioned that the density will either happen here or

somewhere else and the affordable housing units will have to be built somewhere because of the need for them.

Ms. Schemper clarified for Chair Wiatt that if the current zoning is maintained the applicant would not be able to exceed the density through a major conditional use. Commissioner Miller supports the flexibility for this property being allowed to have attached and/or detached units, but does not support the density increase. Mr. Cepero emphasized that the density is not created out of thin air, but will have to be pulled from somewhere else, maybe more environmental lots. This is not a net increase. Building the affordable housing units on this property is more desirable for the applicant because the cost of other properties might make it unaffordable for the applicant. Ms. Santamaria clarified that the applicant can build affordable housing up to max net without the use of TDRs because the County is trying to incentivize affordable housing. All of the proposed affordable housing units on this property would still have to meet all of the siting criteria and provisions of the code, but the applicant is not required to build the affordable units on this site. The current zoning on this property would allow for no affordable component at all to be built on this property.

Motion: Commissioner Ramsay-Vickrey made a motion to approve. Commissioner Lustberg seconded the motion. The roll was called with the following results: Commissioner Ramsay-Vickrey, Yes; Commissioner Lustberg, Yes; Commissioner Miller, No; Commissioner Werling, Yes; and Chair Wiatt, Yes. The motion passed four to one.

3.17 Cypress Avenue, Key Haven, Approximately mile marker 5: A public hearing concerning a request for a variance of four (4) feet from the required five (5) foot side yard non-shoreline setback along the northeastern property line in order to construct a pool. The subject parcel is legally described as Lot 4, Block 3, Key Haven – 8th Addition (Plat Book 5, Page 61), Key Haven, Monroe County, Florida, having real estate number 00138800.000000. (File 2015-001)

This item was postponed to an uncertain date.

BOARD DISCUSSION

Motion: Commissioner Miller made a motion to nominate Denise Werling for Chair. Commissioner Lustberg seconded the motion. The roll was called with the following results: Commissioner Ramsay-Vickrey, Yes; Commissioner Lustberg, Yes; Commissioner Miller, Yes; Commissioner Werling, No; and Chair Wiatt, Yes. The motion passed four to one.

Motion: Commissioner Lustberg made a motion to nominate William Wiatt for Vice Chair. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.

GROWTH MANAGEMENT COMMENTS

Mr. Williams informed the Commission that on March 9, 2015, the BOCC will be holding a meeting at 10:00 a.m. in Marathon to discuss takings liability for the County. This meeting will be from a planning and zoning perspective as opposed to a ROGO perspective. It is anticipated

the County is going to receive renewed interest in projects and, in light of some of the changes in the laws, the County Attorney's Office will present the status of the law and explain how current case law affects Monroe County.

Commissioner Miller again requested consideration be given to the feasibility of having a discouragement policy for land use designation changes that increase density as far as market rate residential units. Ms. Santamaria agreed to look into that, but explained the discouragement policy applies to the FLUM amendment, which is the overarching map where the controls are set. It will take BOCC action and policy changes for a discouragement policy for land use designation changes to be allowed. A zoning approval cannot be conditioned. Ms. Santamaria clarified for Commissioner Miller that Policy 101.4.4 recognizes nonconforming uses in the four residential categories and allows the nonresidential use to continue. Commissioner Miller would like to see increases in density not allowed, but flexibility regarding attached and/or detached units be allowed. Commissioner Lustberg stated the ideal situation would be to have rules in place that allow for an increase in density where appropriate and still have the ability to have ROGO on other lots where it is not as good of an idea to increase density, but allowing for no density increase as a blanket rule would not work.

Commissioner Lustberg asked staff to consider a mechanism by which one would be able to use properties that are currently restricted regarding accessory structures without having to put a house on the property, such as paying to retire the rights to a piece of property.

Commissioner Ramsay-Vickrey thanked legal staff for holding the meeting scheduled for March 9 to discuss takings liability.

Chair Wiatt asked that staff consider language in the comp plan or code that addresses ferry terminals in light of the recent changes in restrictions for travel to Cuba. Ms. Santamaria will check into that. Chair Wiatt believes there would not only be an increase in number of people traveling to and from Cuba, but there would also be an increase in the need to move material in and out through a ferry terminal.

Mr. Cepero invited the Commissioners to visit the Playa Largo Resort to see firsthand the quality of the project as well as the environmental sensitivities that went into putting this project together. Mr. Williams cautioned the Commissioners to not do that as a group, but to visit individually.

Ms. Santamaria informed the Commissioners that staff is taking forward the height and offshore island comp plan policies that the BOCC asked be pulled out of the comp plan and processed as separate amendments to the March DRC meeting. Depending on the comments and the number of revisions, it may go to the April Planning Commission meeting. The first meeting for the LDC update is scheduled for March 19, 2015.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 11:22 a.m.