

# MINUTES

## Planning Commission

March 24, 2010

PLANNING COMMISSION  
MARATHON GOV'T CENTER  
2798 OVERSEAS HIGHWAY  
MARATHON, FL  
MONROE COUNTY  
March 24, 2010

### CALL TO ORDER

10:03am

### PLEDGE OF ALLEGIANCE

### ROLL CALL

#### COMMISSION:

|                            |         |
|----------------------------|---------|
| Randy Wall, Chairman       | present |
| Jim Cameron, Vice Chairman | present |
| Denise Werling             | absent  |
| Jeb Hale                   | present |
| Elizabeth Lustberg         | present |

#### STAFF:

|  |         |
|--|---------|
| Townsley Schwab, Senior Director of Planning and Environmental Resources | present |
| Susan Grimsley, Ass't County Attorney                                    | present |
| John Wolfe, Planning Commission Counsel                                  | present |
| Mitch Harvey, Comprehensive Plan Manager                                 | present |
| Kathy Grasser, Comprehensive Planner                                     | present |
| Joe Haberman, Principal Planner  | present |
| Debby Tedesco, Planning Commission Coordinator                           | present |

### COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

### SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

### SWEARING OF COUNTY STAFF

### APPROVAL OF MINUTES

Motion to approve Minutes from Planning Commission Meeting (3.10.10) was made by Commissioner Jim Cameron  
Seconded by Commissioner Liz Lustberg  
Motion was unanimously approved

### CHANGES TO THE AGENDA

Items #2 and #3 were requested to continue to Planning Commission meeting on April 14, 2010 so as to have a full, five person Planning Board present.

New Items:

1.4W Cooks Island Limited Partnership Property, Part Government Lot 2, New Found Harbor Keys, aka Cooks Island, Mile Marker 29: An appeal to the Planning Commission concerning an administrative decision of the Senior Director of Planning & Environmental Resources dated July 20, 2009 denying a request for an exemption from the Rate of Growth Ordinance (ROGO) permit allocation system. The subject property is legally described as part Government Lot 2, New Found Harbor Keys, aka Lot 4W Cooks Island (0.34 acre), Monroe County, Florida, having real estate number 00107930.002900.

10:07

Read into record by John Wolfe

Staff report was presented in Power Point by Joe Haberman

Staff recommended to the Board to uphold the decision of the Planning Director

10:20 – 10:41am

Andy Tobin, attorney for applicant, handed out exhibits including a staff report from 2009, copy of early photographs, and two more recent color photographs. His presentation included but was not limited to prior applications he deemed to be relevant, the 1986 re-zoning done by Monroe County changing Cooks Island zoning, practices he stated were followed by Monroe County Building Department regarding issuance of building permits, and Monroe County Property Appraiser's assessment practices and that equal protection must be applied to all properties on Cooks Island.

He stated that his client had a sales contract dated in 1984 and it showed his lot was improved. He stated that if his client's property is not presently buildable, he said they would pursue the course of "taking property" and noted his client would prefer to build.

10:41-10:54am

Board Discussion

Discussion included, but was not limited to, Chair Wall commented on Mr. Tobin's presentation using a different case as a comparable to the current one, stated that the comparable case presented had been on the tax rolls whereas there was no record found of the current applicant paying or being assessed taxes, GU District was defined (Joe Haberman provided a copy of Monroe County Code section for GU District to the Commissioners as an exhibit), Susan Grimsley stated that if this was approved it would set a precedent for any Monroe County resident to build a hut and then apply for a variance to receive a building permit. Discussion regarding the survey submitted by the applicant was addressed and it was concluded that since it was a hand-drawn survey that had no signature nor any metes and bounds description, it could not be used as evidence that structures (as shown on the hand drawn survey) existed as dwelling units on the property.

10:54-11:03am

Comments by the applicant, Mr. Wood

Sworn in by John Wolfe

He stated he tried to build a home on the property prior to the zoning change in 1986 and was turned down by the Health Department. He stated that while other property owner's on Cooks Island were building illegally, he tried to go through a permitting company but could not get through all the approvals needed before the zoning change took effect. He stated that aerial photography which had been submitted by staff would not be accurate as it was taken from a high altitude and that the lot contained heavy vegetative cover.

No Public Comment

11:03-11:09am

Kathleen Windsor, previously the Code Inspector on the Wood property was sworn in by John Wolfe. She presented her history of communication with Mr. Wood, and stated he was cited by the Department of Health in 2000 because there was no bathroom. She stated there is no record of taxation because there were no structures.

11:09-11:16am

Andy Tobin presented his closing arguments which included, but was not limited to, a suggestion to the Commissioners to look closely at the photo taken 6.19.06 (entered as an exhibit previously) as it showed structures on the property, and he stated his hope that the Board would treat Mr. Wood fairly by recognizing his structure under Monroe County's previously loose standards on Cooks Island, deeming other structures not on tax rolls and without benefit of a building permit, as buildable.

11:16-11:21am

Commissioner Jeb Hale made a motion to uphold the Planning Director's ruling.  
Commissioner Liz Lustberg seconded the motion  
Motion passed unanimously (4 members)

2. An Ordinance of the Board of County Commissioners of Monroe County, Florida, creating Section 130-131 of the Monroe County Land Development Code, creating the Lower Sugarloaf Key Community Center Overlay District for Real Estate Number 00118470.000000 and for portions of parcels having Real Estate numbers 00118420.000000 and 00117930.000000 described as a portion of Government Lot 3 and portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17.

Staff submitted a request to continue to the April 14, 2010 meeting so there would be a full, five person Board present to hear the request as per the applicant's request.

Commissioner Jim Cameron motioned to approve the continuance

Commissioner Jeb Hale seconded the motion.

The motion was unanimously approved (four member Board)

3. An Ordinance of the Board of County Commissioners of Monroe County, Florida, amending the Land Use District Map designation from Destination Resort (DR), Native Area (NA) and Suburban Commercial (SC) to Mixed Use (MU) for Real Estate Number 00118470.000000 and for portions of parcels having Real Estate numbers 00118420.000000 and 00117930.000000 described as a portion of Government Lot 3 and Portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17.

Mr. Good submitted a request to continue April 14, 2010 so there would be a full, five person Board to hear his request.

Commissioner Jim Cameron motioned to approve.

Commissioner Jeb Hale seconded the motion.

The motion was unanimously approved (four member Board)

#### BOARD DISCUSSION

Townsley Schwab mentioned that 2010 Comprehensive Plan update workshops will be held on April 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup>. He asked that the Commissioners reach out to the population in their respective districts. Mitch Harvey provided flyers to Planning Commissioners. Townsley mentioned that the Comprehensive Plan is critical to the growth in Monroe County and the public input is critical.

Commissioner Cameron asked what else is being done to get the word out and Director Schwab referred to the link on the County website, flyers, newspaper ads, and the radio as examples of some of the outreach. He mentioned that the planning consultants have a very strong public outreach process.

11:32am

#### GROWTH MANAGEMENT COMMENTS

Commissioner Lustberg stated her need to get packets before Fridays, or to be able to pick them up after 5pm on a Friday before the forthcoming Planning Commission meeting. Director Schwab answered by explaining that the Planning Department is working to have staff reports available sooner. Commissioner Cameron suggested that she pick up at the Key West Library which is open later than 5pm. Susan Grimsley noted in an isolated emergency it could be mailed or sent via Fed Ex to her home.

#### ADJOURNMENT

11:33am