

# MINUTES

Planning Commission

December 15, 2009

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

## CALL TO ORDER

10:03am

## PLEDGE OF ALLEGIANCE

### Introduction of Christine Hurley, newly appointed Growth Management Director

ROLL CALL by Debby Tedesco, Coordinator

10:05am

## COMMISSION:

Randy Wall, Chairman  
Jim Cameron, Vice Chairman  
Jeb Hale  
Denise Werling  
Elizabeth Lustberg

present  
present  
present  
present  
present

## STAFF:

Townsley Schwab, Senior Director of Planning and Environmental Resources  
Susan Grimsley, Ass't County Attorney  
John Wolfe, Planning Commission Counsel  
Mitch Harvey, Comprehensive Plan Manager  
Tiffany Stankiewicz, Development Administrator  
Joe Haberman, Current Principal Planner  
Thomas Lloyd, Planner  
Debby Tedesco, Planning Commission Coordinator

present  
present  
present  
present  
present  
present  
present

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

Read into record by John Wolfe

## SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

All accounted for according to Debby Tedesco, Planning Commission Coordinator

## SWEARING OF COUNTY STAFF

Sworn in by John Wolfe

## Changes to the Agenda

Request stated by Debby Tedesco that Item #1 is to be continued to PC 1.27.10  
Motion was presented by Commissioner Denise Werling to continue Item #1 to PC 1.27.10  
Commissioner Jeb Hale seconded the motion

## APPROVAL OF MINUTES

Planning Commission Meeting 11.17.09  
Commissioner Jim Cameron made a motion to approve the minutes  
The motion was seconded by Commissioner Denise Werling  
The motion was unanimously approved

## PUBLIC HEARING

### Continued Item:

**1. An ordinance of the Monroe County Board of County Commissioners amending the definition of "Accessory Uses or Accessory Structures";** defining "Adjacent Land" and eliminating "Adjacent Landowner" In Section 101-1 of The Monroe County Code; permitting some accessory uses or structures on adjacent non-contiguous land; permitting docking facilities on adjacent land under certain conditions and creating an approval process; providing for a variance process to determine adjacency for certain accessory uses and structures; providing for severability; providing for repeal of conflicting provisions; providing for codification; providing for an effective date.

Continued to January 27, 2010 See above "Changes to the agenda" for motion to continue.

### New Items:

**2. A request for approval of a variance** of eight (8) feet to the required ten (10) foot side yard setback along the northern property line and of four (4) feet from the required five (5) foot side yard setback along the southern property line to allow the approval of after-the-fact coral pavers. The subject parcel is legally described as Duck Key Yacht Club Island, Section 4, Tom's Harbor, Block 1, Lot 24, Duck Key, Monroe County, Florida, having Real Estate Number 00384370.000000.

10:10am

Read into record by John Wolfe

10:11am-10:18am

Staff report presented by power point by Bill Harbert

Bill Harbert stated that pavers in the side yard setback cannot be seen by adjacent owners, and that the use of the area as a walkway will not change.

He stated the 2' request for pavers has no effect on adjacent property.

He stated that 620 sq. ft. of pavers in the shoreline setback must be removed as there is a 41% requirement for shoreline open space.

He stated staff also recommends approval of an 8' side yard setback

### PUBLIC COMMENT:

10:18-10:59am

James White attorney for Mr. Thomas stated that pavers provide for water retention on site and that they provide absorption of storm water runoff.

He noted that any "run off issues" will be looked at by the Building Department before a building permit is issued.

He noted that a Text Amendment will be heard later in this meeting addressing the side yard walkways which is part of this variance request.

He asked that the Planning Commission Board approve the variance request

Commissioner Denise Werling asked why a variance for pavers was not addressed prior to this.

Jim White answered and said the applicant believed it to be landscaping, not requiring a permit.

10:22am

Mr. Thomas was sworn in by John Wolfe

Mr. Thomas said he hired a landscaping company who told him he didn't need a permit for pavers.

10:23am

Lillian Tallent was sworn in by John Wolfe

Exhibits 1 & 2 pictures from July 18 & October 20

Mrs. Tallent lives next door to Mr. Thomas who she stated is the owner and a contractor.

Her concerns included:

a. The grade was raised substantially during construction causing flooding on the street and on her property

b. The fence footing has been covered with gravel to gain a few more inches

c. The concrete wall on the Tallent property is 5' according to code. She stated their wall is used by the owners of the adjacent property as a bench, as a table, as a bike lean to among other things.

d. She stated the owner, Mr. Thomas, installed a large gate on his property secured with screws & braces to the Tallent fence footing

Discussion and questions:

Commissioner Denise Werling asked Mrs. Tallent if the Thomas gate was attached to the Tallent wall.

Mrs. Lillian Tallent answered affirmatively stating the gate is not free standing.

Commissioner Jeb Hale asked Mrs. Tallent if she is still experiencing run off and Mrs. Tallent answered affirmatively.

10:27am

Joseph Raul sworn in by John Wolfe

He stated his concern about storm water run-off to his property. He said he thought we had stricter rules.

Chair Randy Wall added that the requirement for all owners is conformity to the rule of 1" of rainfall within an hour be absorbed by their own property before overflow measures are taken.

Townsley Schwab affirmed the 1" of rainfall per hour rule, and stated the elevation and swales were approved, and that the Building official has instructed Mr. Thomas to remove the attached gate.

Mr. Raul said Mr. Thomas needs a moat.

Chair Randy Wall explained that a "moat" is now called a berm & swale according to our biologist

John Wolfe stated to the Board that this is a variance for pavers, and that stormwater issues are addressed by the building department permit.

Chair Randy Wall stated the two issues appeared connected.

10:33am

Jim White attorney for Mr. Thomas stated that regarding stormwater and drainage, his client has not filled the property without inspection and permitting.

10:35am

Sworn in by John Wolfe

Steven Tallent stated Mr. Thomas raised the grade of his property with 4 ½' of gravel plus he put pavers on top. Mr. Tallent suggested the Board look at the property before approval.

Chair Randy Wall asked if a Building Department permit history should be in front of the Board.

Townsley Schwab answered that Mr. Thomas was permitted to fill with the original building permit; however, if he's added more without a permit that would become an issue for Code Enforcement.

John Wolfe again stated that there is a variance before the Board and that the issue of additional fill would be a code compliance issue.

Jeb Hale stated he had been to the property which appeared to be a great deal higher than it should be. He stated his discomfort with the situation.

Discussion followed regarding retention of fill on the property by the concrete retaining wall owned by the southern neighbor (Tallent), flooding probability, granting a paver variance as it relates to stormwater retention, with Mr. White pressing for approval of the variance and leaving storm water retention issues to the building department permit.

10:43am

Townsley Schwab suggested the power point presentation of picture be shown again

Commissioner Randy Wall suggested rather the biologist should give his opinion since he had been to the property.

Biologist Janis Vaseris said that within the single family home building permit there were no rainwater retention issues; however, since pavers were installed the issue of retention cubic footage will be re-addressed when an after-the-fact building permit is applied for.

Commissioner Wall asked Janis Vaseris whether the masonry wall can provide the retention needed, or is a berm and swale also required.

Janis Vaseris answered affirmatively that an engineer designed berm and swale would still be needed.

10:46am

Commissioner James Cameron moved for approval and discussion

Commissioner Liz Lustberg seconded the motion.

Discussion followed regarding that there was no hardship shown, that the property did seem to create a serious run-off problem to adjacent owners, that variances were important and should not be issued lightly or at 100% setback (which was close in this instance per Commissioner Jeb Hale), and that the not costly alternatives of stepping stones or gravel could be used which would not require an engineer's report.

Susan Grimsley noted there are two variances being requested here and conceivably they could be split and voted on independently.

Townsley Schwab noted there are two variances being applied for here; a north side yard variance and a south side yard variance. He noted the shoreline setback will be brought into compliance and is not a part of the variances in front of the Board.

10:54am

Commissioner Lustberg stated that approval of the variance on the side that no one has a problem with (north), and denial on the other side (south) makes sense.

Commissioner Jim Cameron agreed to modify his original motion for approval, to a motion that the Board will grant the variance for the north side but not for the south side  
Commissioner Liz Lustberg seconded the motion.

**ROLL CALL** was taken by Debby Tedesco

Commissioner Jeb Hale:	No
Commissioner Jim Cameron:	Yes
Commissioner Liz Lustberg:	Yes
Commissioner Denise Werling:	No
Chair Randy Wall:	Yes

**3. An Ordinance by the Monroe County Board of County Commissioners** amending Monroe County Code Section 130-189, Applicability of required yards; amending as-of-right development that may exist in the required non-shoreline setbacks; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

10:59-11:48am

Read into record by John Wolfe

Staff report presented by Joe Haberman

Joe Haberman noted that the need for an engineer regarding storm water on site was added

Chair Randy Wall noted that there must be an upper-end definition for storm water run off.

Joe Haberman noted that the subject was up for discussion and would be left for the experts on storm water.

Discussion followed with many questions, including but not limited to, no parking in a front yard, rear yard setbacks and heights of structures in the rear setback, storm water retention on property must have an upper limit containment, elevation differences between the Upper and Lower Keys.

Townsley Schwab noted that the Planning Department will evaluate and prioritize and with the excellent comments made by the Planning Commissioners, the Planning Department will re-address this and bring it back to the Planning Commission with revisions.

Commissioner Jim Cameron made a motion to table this item and re-advertise it for a future Planning Commission Meeting

Commissioner Jeb Hale seconded the motion.

There was no discussion.

Motion was unanimously approved.

**4. A public hearing to consider and finalize the ranking of applications** in the Dwelling Unit Allocation System for the July 14, 2009 through October 12, 2009 (ROGO 1<sup>st</sup> quarter, Year 18). Building permits will be allocated for all unincorporated Monroe County.

11:51am-12:07 pm

Read into record by John Wolfe

Susan Grimsley briefly explained the history behind an existing problem concerning 3,000 parcels that were included in a final DCA order issued on September 27, 2009 that were rendered without a tier level. She noted they need to be re-evaluated for ROGO purposes. She indicated the County is in compliance with a DCA timeline to resolve the Tier Map corrections through a DCA Tier Review Committee.

Susan Grimsley explained that the problem did not become known until it was realized that some people were not in any Tier level, yet were given ROGO allocations.

Discussion between Susan Grimsley, John Wolfe, Townsley Schwab, Commissioner Jim Cameron and Chair Wall concerning people being in a limbo situation that could conceivably take a year or more to resolve, that those allocations given in September 2009 for the ROGO Quarter ending July 13, 2009 do not have a Tier, and are not receiving an allocation today, and what alternatives may be available.

12:07pm

Staff report presented by Tiffany Stankiewicz

Staff is holding some applications in abeyance as there is not Tier allocation for these properties.

Discussion between Chair Wall, Commissioner Jim Cameron, Townsley Schwab, and Tiffany Stankiewicz that the County is not issuing Affordable Housing permits as there is not demand, that those units should be turned in to market rate units, and that there are zero market rate permits in the Key Largo area.

Commissioner Jim Cameron made a motion to approve the allocations as presented  
Commissioner Denise Werling seconded the motion  
No discussion  
Motion passed unanimously

12: 10-12:13pm

**BOARD DISCUSSION**

Commissioner Liz Lustberg noted that open space in rear yards on the water is needed. She remarked she preferred less open space, if people would not use chemicals on plants.  
Townsley Schwab noted that the drainage should be going away from the canal just for that reason.

**GROWTH MANAGEMENT COMMENTS**

12:13pm -12:23pm

Joe Haberman announced a resolution to present to the Planning Board which did not need to be advertised.

**United Pentecostal Church of the Keys, 550 Avenue F, Big Coppitt Key, Mile Marker 10: A request for an exemption** of 450 square feet of new non-residential floor area from the Non-Residential Rate of Growth Ordinance (NROGO) permit allocation system. The subject property is legally described as Block 2, Lot 1, Coppitt Sub Amended Plat (PB4-50), Big Coppitt Key, Monroe County, Florida, having real estate number 00149580.000000.

Joe Haberman stated the applicant produced documentation that they were federally tax exempt.  
Joe Haberman stated the applicant must meet the criteria that they do predominantly serve the population of Monroe County, and they do so as a church.  
Joe Haberman stated the applicant meets all other required criteria.  
Joe Haberman stated that staff recommends approval with conditions.

Commissioner Cameron made a motion to recommend approval to Board of County Commissioners  
Commissioner Werling seconded the motion  
Motion passed unanimously  
Commissioner Liz Lustberg asked how the neighbors will be notified of this.  
Joe Haberman replied that a decision about noticing will be Christine Hurley's decision.

12:23-12:27pm

Townsley Schwab noted the Planning Commission Schedule for 2010 needed Board approval  
Chair Randy Wall motioned to approve the 2010 PC Schedule  
Commissioner Jeb Hale seconded  
No discussion  
Motion passed unanimously

**RESOLUTIONS FOR SIGNATURE**

P52-09  
P53-09  
P54-09  
P55-09

**ADJOURNMENT**

**12:27pm**