

PLANNING COMMISSION
April 27, 2016
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, April 27, 2016**, 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

Denise Werling, Chair	Present
William Wiatt, Vice Chair	Present
Elizabeth Lustberg	Present
Ron Miller	Present
Beth Ramsay-Vickrey	Present

STAFF

Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
Peter Morris, Assistant County Attorney	Present
Tom Wright, Planning Commission Counsel	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Kevin Bond, Planning & Development Review Manager	Present
Devin Rains, Sr. Planner	Present
Thomas Broadrick, Sr. Planner	Present
Janene Sclafani, Planner	Present
Gail Creech, Sr. 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. Wright.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Creech confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff members and all members of the public intending on speaking today were sworn in by Mr. Wright.

CHANGES TO THE AGENDA

Ms. Creech stated the applicant of Item 4 has requested a continuance to May 25, 2016. **Motion: Commissioner Wiatt made a motion to continue Item 4 to May 25, 2016. Commissioner**

Lustberg seconded the motion. There was no opposition. The motion passed unanimously. Ms. Creech asked to have Items 1 and 2 read together with separate votes taken on each.

APPROVAL OF MINUTES

Motion: Commissioner Wiatt made a motion to approve the February 24, 2016, meeting minutes. Commissioner Lustberg 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 RESIDENTIAL MEDIUM (RM) TO MIXED USE/COMMERCIAL (MC), FOR PROPERTY LOCATED AT 105030 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 105, LEGALLY DESCRIBED AS BLOCK 3, LOT 11, OF THE REVISED AMENDED PLAT OF RIVIERA VILLAGE SUBDIVISION (PLAT BOOK 2, PAGE 80), KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE #00510640.000000, AS PROPOSED BY ANDREW ANDRUSHKO; 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 AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2016-007)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO MIXED USE (MU), FOR PROPERTY LOCATED AT 105030 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 105, LEGALLY DESCRIBED AS BLOCK 3, LOT 11, OF THE REVISED AMENDED PLAT OF RIVIERA VILLAGE SUBDIVISION (PLAT BOOK 2, PAGE 80), KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE #00510640.000000, AS PROPOSED BY ANDREW ANDRUSHKO; 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 2016-008)

(10:03 a.m.) Mr. Broadrick presented the staff report. Mr. Broadrick reported that the applicant is proposing a map amendment to eliminate a nonconformity of the existing office use on the property. In 2015 the County recognized the lawfully nonconforming use. The proposed FLUM amendment will change from residential medium to mixed commercial and the proposed zoning amendment will change from improved subdivision to mixed use. Along US-1 the residential

density will be decreased and the nonresidential density will be increased. There is less than 1200 square feet of available commercial space. Staff recommends approval of the proposed amendment to the FLUM and to the zoning district.

Chair Werling asked for public comment.

The applicant, Andrew Andrushko, commented that he has owned this property five to six years and it is one of the oldest buildings in Key Largo. Mr. Andrushko thanked staff and complimented staff's work on this proposal.

There was no further public comment. Public comment was closed.

Motion: Commissioner Wiatt made a motion to approve staff's recommendation for Item Number 1. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Wiatt made a motion to approve staff's recommendation for Item Number 2. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

3.SBA Towers, Inc./Florida Keys Key Lime Products, 95231 Overseas Highway, Key Largo, Mile Marker 95.2: A public hearing concerning a request for a Variance of 15 feet to the required 20-foot Class D bufferyard, which would be around the development area of the proposed 130-foot-high antenna-supporting structure, previously approved by Planning Commission Resolution No. P24-14. Approval would result in a Class D bufferyard of five (5) feet in width. The requested variance is requested for the development of a proposed 130-foot-high antenna-supporting structure, previously approved by Planning Commission Resolution No. P24-14. The subject property is legally described as Lots 1, 2, 27 and 28, Block 4, of the Revised Plat of Sunrise Point Subdivision (Plat Book 3, Page 11), Key Largo, Monroe County, Florida, having real estate number 00484790-000000.
(File 2016-039)

(10:11 a.m.) Mr. Bond presented the staff report. Mr. Bond reminded the Commissioners that back in June of 2014 the Planning Commission approved a major conditional use permit for a new antenna-supporting structure near Mile Marker 95.2 oceanside on a suburban commercial property. Last year the property owner applied for an amendment to the major conditional use and a variance to reduce the required 20-foot Class D bufferyard that is supposed to go around the perimeter of the antenna equipment area. Images of the property and the plan were shown. Mr. Bond reported that staff has reviewed the requested variance against the eight required criteria in the code. Staff found that the applicant did not meet Standards 2, 3, 4, 5 and 8. Mr. Bond recommended denial of the request.

Russell Yagel, Esquire, present on behalf of the applicants, stated that although the report makes it sound like a dramatic change, in reality it is a pretty minimal change. The only difference in the vegetation plan between what was previously approved and what is being submitted today is

the removal of three trees. The other vegetation remains exactly the same. The reason for this request is a 20-foot dead zone was created by virtue of application of this ordinance. As the ordinance is written and applied the buffer zone cannot be used for the placement of any inventory, for which it is currently being used. Mr. Yagel disagreed with staff's analysis that there is no burden created. Mr. Yagel stated the goal of a buffer has been achieved and having this dead zone on a commercial piece of property situated in the rear of the property does create an undue burden on the applicants. Mr. Yagel asked the Commissioners to grant this minor variance that consists of only removing three trees.

Chair Werling asked for public comment.

Burke Cannon, Vice-President of the Federation of Homeowners in Key Largo, emphasized the fact that when this project was initiated it was not popular with the surrounding homeowners. At every public meeting SBA Towers' representatives emphasized that they were not asking for any variance and were meeting all the setbacks and other requirements. The Federation believes a precedent will be set by this setback change. The Federation is opposed to any removal of trees and reducing buffers. The Federation supports staff's recommendation for denial.

Bill Hunter, resident of Sugarloaf Key, voiced concern about cell towers up and down the Keys. Mr. Hunter stated this ordinance is a balance between a so-called burden and protection of the community. Mr. Hunter asked the Commissioners to not back off the setback requirements.

Chris Sante, the applicant, stated none of the towers in Key Largo from Mile Marker 90 to 106 have opaque fencing or vegetation surrounding them. Mr. Sante is willing to meet the requirements set forth, but is simply asking not to lose over 2,000 square feet of retail space. The equipment will be hidden from view up to six feet by the different buffers and a six-foot wooden fence, which is what the intent of the ordinance is. The ordinance should have the availability to be modified to allow the use of the property. This particular tower is important because it provides service to an area previously considered a dead zone of cellular service.

Mr. Yagel asked to address comments of the public speakers. Mr. Yagel stated that Mr. Sante is the adjacent property owner. Chair Werling pointed out that he is also the owner of the tower property. Mr. Yagel reminded the Commissioners that the purpose of the buffer is to hide something and that purpose is achieved on this property even with the variance intact. The existing plan creates a dead zone that does not accomplish anything other than denying the owner the opportunity of some economic benefit from the property. Mr. Williams disagreed with Mr. Yagel's comment about the deprivation of economic benefit of the property.

Chair Werling asked for further public comment. There was none. Public comment was closed.

Commissioner Miller questioned the term "dead zone" used by Mr. Yagel. Mr. Yagel explained it is an area of the property that cannot be used for any purpose. Commissioner Miller pointed out that would be called a "buffer." Commissioner Wiatt emphasized there is certain criteria that have to be met in order for the Planning Commission to even get to the point of providing a variance. Commissioner Wiatt agrees with staff that the applicant has actually created the hardship that is necessary in order to pass Number 2 and also agrees with staff that the applicant

has created the unique and peculiar circumstance that has to be in place in order to meet Number 4. Based on those two standards Commissioner Wiatt does not believe the variance meets the requirements of the code. Chair Werling and Commissioner Ramsay-Vickrey agreed. Commissioner Ramsay-Vickrey stated that the applicant was aware of this buffer zone requirement when the original major CUP was proposed. Chair Werling noted that a lot was taken into consideration at the time of the original conditional use proposal with a lot of input from both sides and believes the right decision was made at that time.

Commissioner Miller asked about the new guidelines for the placement of cell towers away from residential areas. Mr. Williams explained those guidelines are being brought into the new code, but that is not effective yet. The BOCC has asked staff to look into new siting criteria that would include collapse zones of a certain percentage of the height of a tower. Mr. Williams pointed out that this tower or the proposed Sugarloaf tower may be the last towers ever approved under the old rules, and the end result of the Sugarloaf tower is unknown at this point.

Motion: Commissioner Wiatt made a motion to deny the applicant's request for a variance based on the fact that they have failed to meet Items 2 and 4 of the LDC Section 102-186. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

4. John T. and Susan M. Slattery, 1516 Shaw Drive, Key Largo, Mile Marker 103: An appeal, pursuant to Section 102-185 of the Monroe County Land Development Code, by the property owner to the Planning Commission concerning an administrative decision of the Planning and Development Review Manager dated December 4, 2015, in which the Planning & Environmental Resources Department failed the owner's building permit application for a new single-family detached residential dwelling on property located within the Improved Subdivision (IS) Land Use District. The subject property is legally described as Parcel 18, a portion of Tract A, Twin Lakes First Addition, according to the Plat thereof, recorded in Plat Book 5, Page 68, of the Public Records of Monroe County, Florida, having real estate number 00551000-001800. (File 2015-234)

This matter was continued to the May 25, 2016, Planning Commission meeting.

GROWTH MANAGEMENT COMMENTS

Ms. Santamaria informed the Commissioners that the comp plan and the code have finally been adopted. They are under review by the State and hopefully will be effective late July or early August of this year.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:32 a.m.