

PLANNING COMMISSION

December 14, 2010

Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Tuesday, December 14, 2010**, beginning at 10:05 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**

Randy Wall, Chairman	Present
Denise Werling	Present
Jeb Hale	Present
James Cameron	Present
Elizabeth Lustberg	Present

**STAFF**

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Mitch Harvey, Comprehensive Plan Manager	Present
Joe Haberman, Planning and Development Review Manager	Present
Tiffany Stankiewicz, Dev. Administrator-Planning and Environmental Resources	Present
Ray Ortiz, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

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

County Resolution 131-92 was read into the record by John Wolfe.

**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

Gail Creech confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

All staff members intending to speak were sworn in by John Wolfe.

**APPROVAL OF MINUTES**

**Motion: Commissioner Cameron made a motion to approve the May 26, 2010 minutes. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

**Motion: Commissioner Cameron made a motion to approve the September 22, 2010 minutes. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

### **CHANGES TO THE AGENDA**

Item 5 has to be re-advertised and will not be heard.

## **MEETING**

### **NEW ITEM:**

**1.A public hearing to consider and finalize the ranking of applications in the Dwelling Unit Allocation System** for the July 13, 2010, through October 12, 2010, ROGO quarter (1<sup>st</sup> Quarter Year 19). Building permits will be allocated for all unincorporated Monroe County.

(10:09 a.m.) Tiffany Stankiewicz presented the staff report and recommended approval of the market rate rankings listed in the staff report. Commission Cameron asked for a status report on the mitigation bank for Big Pine Key. Mr. Roberts reported that the County is still ahead of the 3-to-1 mitigation requirements and that the mitigation bank is right where it needs to be.

**Motion: Commissioner Cameron made a motion for approval. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

**2.Spottswood Partners Inc. Property, Overseas Highway (US 1), Stock Island, Mile Marker 5:** A request for approval of a major deviation to the site plan and major conditional use permit approved by Planning Commission Resolution #P32-05. The subject parcel is legally described as Square 29 and Block 26, Lots 5-16, part Lot 4, part Lot 17, Maloney subdivision (PB1-55), also known as Parcels A and B; a vacated portion of East Laurel Avenue; and a vacated portion of Fourth Street, Stock Island, Monroe County, Florida, having real estate number 00124140.000000.

(10:12 a.m.) Mr. Haberman presented the staff report and gave a brief history of the applicant's permit approvals. The staff report was corrected to reflect that the minimum yards in the setback variance are in compliance. Staff recommended approval with conditions, which were outlined by Mr. Haberman. The sizes of the buffer yards on the property were discussed.

(10:20 a.m.) Donald L. Craig was present on behalf of the applicant and was sworn in. Mr. Craig stated that the applicant has the opportunity to create an even better site plan along Highway 1 from a view standpoint and landscaping standpoint by being able to do 48 units of affordable housing. Staff was commended for their outstanding job done on this application. The applicant is in agreement with all the conditions proposed. Mr. Craig reported that the traffic analysis was completed and that the County's traffic consultant agreed that there is sufficient access capacity on Highway 1. Approval of the traffic analysis will be available in writing before the signing of the resolution. Mr. Craig requested approval by the Commission.

Ms. Grimsley asked that the Planning Commission make the additional finding when voting that more than 20 units of affordable housing are appropriate at this location.

Chairman Wall asked for public comment. There was none.

(10:27 a.m.) Tom Pope, the project architect, was present and was sworn in by Mr. Wolfe. Mr. Pope clarified where the ADA parking spaces are on the site plan. Commissioner Lustberg questioned if it was possible to make the front porches larger. Mr. Pope responded that revision might jeopardize some of the green space, but that it was something that could be reviewed and considered.

**Motion: Commissioner Cameron made a motion to approve subject to the conditions stated in the staff report. Commissioner Hale seconded the motion.** There was a discussion regarding how much deed-restricted affordable housing currently exists on Stock Island and what percentage is currently occupied. **There was no opposition. The motion passed unanimously.**

**Motion: Commissioner Cameron made a motion to approve a resolution finding that this particular site is suitable for more than 20 units of affordable housing. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

### **3. Spottswood Partners Inc. Property, Overseas Highway (US 1), Stock Island, Mile Marker**

**5:** A request for approval of a development agreement between Banyan Grove Development Corporation and Monroe County. The development agreement would allow the property owner to transfer market-rate Rate of Growth Ordinance (ROGO) exemptions associated with 51 previously existing, lawfully established dwelling units to another receiver site or sites in exchange for maintaining an equal or greater number of deed-restricted affordable dwelling units on the subject property or sender site. The development agreement is required as part of an affordable housing incentive program as set forth in Section 130-161.1 of the Monroe County Code. The subject parcel is legally described as Square 29 and Block 26, Lots 5-16, part Lot 4, part Lot 17, Maloney subdivision (PB1-55), also known as Parcels A and B; a vacated portion of East Laurel Avenue; and a vacated portion of Fourth Street, Stock Island, Monroe County, Florida, having real estate number 00124140.000000.

(10:35 a.m.) Mr. Haberman presented the staff report and gave a brief overview on the purpose of the development agreement. Mr. Haberman stated that this development agreement is in compliance with the general standards in Florida Statutes that apply to all development agreements and the additional standards in Section 161. Clarification was made that the development agreement will allow the process to unfold, but the actual reservation of allocations should be done by separate resolution by the Board of County Commissioners and not included in the development agreement. Staff recommended approval of the development agreement.

It was clarified for Chairman Wall that the banking of the market rate units was only good for ten years, the duration of the development agreement, but if for some reason some units were left over, they would go back to the County to use for the purposes of administrative relief. The applicant could hypothetically extend the development agreement and possibly get more time, but they would have to come before the Planning Commission and ask for the extension.

(10:41 a.m.) Donald Craig explained to the Commission that the language regarding very low income and low income categories in the development agreement was written the way it was because of the State Housing Finance Agency requirements for tax credit financing. Mr. Craig informed the Commission that the very low and low income projects in place right now are full, and that this is the market that the applicant is aiming for because that is where the need is. The process through which the applicant must proceed in order to obtain tax credit financing was described. Mr. Craig stated that the applicant is asking for ten years in order to be able to respond to the market, but as a result of the development agreement the affordable housing will be in place by 2013 and that the use of the market rates are limited to the Lower Keys. The applicant is also in full agreement with being given the allocations by resolution rather than development agreement, so long as they have the allocations by February so that they can represent truthfully to the state that they have final site approval or allocations to support the units. Mr. Craig clarified for Commissioner Cameron that the applicant will do one of two things with the market rate units that they will have available to them: Use them on lands that the Spottswoods own in the Lower Keys that meet the eligibility requirements or sell them to individuals or a subdivision owner who has lots for which they can be used. Mr. Craig also stated that there are 51 allocations that are allocated to this property as a result of previous approvals by the Planning Commission and they need 49. The other three allocations will go to the County for beneficial use purposes.

(10:57 a.m.) Ms. Grimsley answered a question by Chairman Wall that the County tries to keep the units within their sub-areas. Chairman Wall asked to hear from Mr. Trepanier about the affordable requests for the Roy's Trailer Park project.

(10:59 a.m.) Owen Trepanier was present on behalf of Roy's Trailer Park and was sworn in. Mr. Trepanier explained to the Commission that Roy's has 108 allocations to be given to them and that they are proposing to receive 54 the first year and are requesting a reservation of 54 units. Mr. Schwab clarified that the reservations will not be an item that the Commission will be making a determination on today.

Mr. Haberman explained the process for getting the minor conditional use permit to transfer the market rate ROGOs elsewhere. Commissioner Lustberg requested to change the placement of a period under G5C at the end of "hammock patch" and remove the rest of the sentence. Commissioner Lustberg stated further that it is important to specify where the ROGO units should go in the development agreement, and it should include that it should be in the same sub-area, it should be on Tier III parcels, and that it should also be transferred to scarified lots that don't require a clearing of upland hammocks.

(11:08 a.m.) Mr. Craig responded that one is precluded by law from making a material change in a land development regulation that is in a development agreement and making that change may subject the County or the developer to an automatic basis for appeal. Ms. Grimsley agreed that the language is right out of the code and added that there are adequate protections for the transfer already in place. Commissioner Lustberg voiced her concern that the County seems to be lacking in guarantees for the maintenance of affordable housing. Ms. Grimsley informed the Commission that the development agreement is binding on the successors and assigns of the

property and that the 99-year deed restriction would be binding for that long. Mr. Craig added that a developer who develops affordable housing that is not occupied by people who meet that requirement can lose tax credit financing and eligibility to participate in the future. Ms. Grimsley clarified that the federal government and the state do not require 99 years, but only 50.

**Motion: Commissioner Cameron made a motion for approval with the changes suggested by Ms. Grimsley and accepted by the applicant. Commissioner Hale seconded the motion.** Commissioner Werling received confirmation that the fees are just the standard fees that would be waived because of it being an affordable project. **There was no opposition. The motion passed unanimously.** Ms. Grimsley announced that the second public hearing on this matter will be before the Board of County Commissioners on January 19, 2011 at 3 o'clock in Key West.

**4.Roy's Trailer Park, 6500 Maloney Avenue, Stock Island, Mile Market 5:** A request for approval of a development agreement between Roy's Trailer Park, Inc. and Monroe County. The development agreement would allow the property owner to transfer market-rate Rate of Growth Ordinance (ROGO) exemptions associated with 108 existing, lawfully established dwelling units to another receiver site or sites in exchange for maintaining an equal or greater number of deed-restricted affordable dwelling units on the subject property or sender site. The development agreement is required as part of an affordable housing incentive program as set forth in Section 130-161.1 of the Monroe County Code. The subject property is legally described as Lots 4-11 and 40-47, Square 46, Maloney Sub (PB1-55), Stock Island, Monroe County, Florida, having real estate number 00126090.000000.

(11:23 a.m.) Mr. Haberman presented the staff report. Mr. Haberman informed the Commission that they will need to vote on a separate resolution that Roy's Trailer Park is not approved as an area of 20 or more affordable units, as well as their vote on the recommendation for the development agreement. Staff recommended approval with the revisions noted in the staff report.

(11:25 a.m.) Owen Trepanier was present representing the applicant. Michael Browning, one of the owners of Roy's Trailer Park, was introduced. Mr. Trepanier explained how the applicant is proposing a mixed income development within the affordable housing context. The phasing of what is being proposed was outlined. The applicant committed to converting half of the park to deed-restricted affordable units within five years, with the County reserving 54 units for that same period of time, and if no action is taken within five years the applicant will lose their reservation on those units and the units would go back to the County. Mr. Trepanier stated that without a guarantee that the applicant will have at least half the park to be able to deed-restrict, it would prevent the applicant from entering into the agreement, since by deed-restricting a single lot detrimentally affects the property rights of the entire property.

(11:31 a.m.) Ms. Grimsley recommended deleting anything having to do with the 54 units out of the agreement and letting the BOCC determine how many should be used each year since there is no concrete guarantee of a deed restriction here. Ms. Grimsley proposed that all of the deed restriction be done by resolution. The long-term leases currently existing in this park were

discussed. Mr. Trepanier pointed out that the applicant is only asking for a recommendation on the concept that half of the park be reserved for five years, which allows the applicant to act.

(11:37 a.m.) Michael Browning was sworn in by Mr. Wolfe. Mr. Browning presented a brief history of Roy's Trailer Park. Mr. Browning stated that this project would not work if the applicant is not able to secure the ROGO units for an appropriate period of time. Ms. Werling expressed the concern of setting a precedent for other people to come in who may not be as reputable and not do as good a job as Roy's Trailer Park. Mr. Browning explained that most of the units in the park are owned by the residents and that what would be deed-restricted as affordable is the land rent charged for people to put their own unit on the parcel. Mr. Trepanier added that there is a provision in place that any time a lot is re-rented or re-sold, if the person that is in that unit doesn't qualify for affordable housing, it reverts back to the level it was at the time of sale or re-lease, so that the next person coming in needs to qualify under that original level.

(11:52 a.m.) Commissioner Cameron asked what would happen if a trailer were replaced which caused an increase in the mortgage. Mr. Browning stated that the applicant at this point is trying to come up with a general framework within which they can work, and that with an agreement such as is being proposed programs could become available where one can get a new modular unit put on one's site via grant and other opportunities that hopefully will be available in the future. The replacement of mobile homes with modular units and/or manufactured homes was discussed. The percentage breakdown on the different categories of affordable proposed for this project was outlined.

Chairman Wall asked if the lots could individually be deed-restricted and brought into compliance with this agreement or if a conditional use approval for the park would be necessary. Mr. Haberman explained that no conditional use is required for the park, everything is as of right. Commissioner Werling questioned if a resident would be required to convert their property over to affordable housing or if they could just keep what they have. Mr. Trepanier explained that if a resident doesn't qualify, then the park is not eligible to convert that unit and it would remain unchanged. Mr. Haberman explained to Commissioner Lustberg how the ROGO allocations run with the land because the approvals are associated with the property, not with the building.

Chairman Wall wondered if the appropriate thing would be to continue the matter until the next meeting. Mr. Schwab agreed. **Motion: Commissioner Cameron made a motion for a continuance of this matter to the January meeting.** Mr. Haberman stated that the reservation issue and the administration issue were the two most important issues to be worked on. **Motion: Commissioner Cameron amended his motion to continue the matter to the January 26, 2011 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

#### **BOARD DISCUSSION**

There was no Board Discussion.

### **GROWTH MANAGEMENT COMMENTS**

(12:14 p.m.) Mr. Harvey presented an update on the comprehensive plan progress. Mr. Harvey informed the Commission that at the Planning Commission meeting on Wednesday, January 12, 2011, Keith & Schnars will be providing a presentation of the draft technical document, and on Wednesday, February 23, 2011, a presentation of the final technical document will be presented. On Wednesday, June 22, 2011, a public hearing will be held to review the evaluation and appraisal report.

Mr. Schwab pointed out that Growth Management is in the process of interviewing for the position of Assistant Planning Commission Coordinator and that Julie Thomas has resigned from the department.

### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 12:19 p.m.