

PLANNING COMMISSION
January 12, 2011
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, January 12, 2011**, beginning at 10:03 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
Joe Haberman, Planning and Development Review Manager	Present
Richard Jones, Marine Resources Administrator	Present
Steven Biel, Senior Planner	Present
Barbara Bauman, Planner	Present
Ron Demes, U.S. Navy Liaison	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 June 23, 2010 minutes. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Cameron made a motion to approve the November 16, 2010 minutes. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.

CHANGES TO THE AGENDA

There were no changes to the agenda.

MEETING

New Items:

1. Montalto Property, 24814 Overseas Highway (US 1), Summerland Key, Mile Marker 25:

A request for approval of a 3APS (package only, included beer, wine and liquor) Alcoholic Beverage Special Use Permit. The subject property is legally described as Block 1, westerly ½ of Lot 11, Lots 12 and 13, Summerland Key Cove, Amended Plat (PB4-35), Summerland Key, Monroe County, Florida, having real estate number 00189010.000000.

(10:07 a.m.) Joe Haberman presented the staff report and recommended approval with conditions, which were then outlined. Virginia Stones, Esquire was present on behalf of the property owners and the applicant for the permit. Ms. Stones requested that the Planning Commission approve the request conditioned upon the applicant meeting all of the criteria that is designated to be reviewed and considered in conjunction with this application and stated that the conditions imposed are all acceptable to the applicant. Ms. Stones assured Commissioner Cameron that existing parking was in compliance at the time the shopping center was constructed and, therefore, there is no need for a variance or traffic study.

Chairman Wall asked for public comment. Cindy Gay, owner of the adjoining business, was present. After listing other businesses in the area that sell liquor, Ms. Gay stated that she does not see the need to increase alcohol consumption in this area and that it will change the character of the neighborhood of Summerland Key. Ms. Gay further stated that this will impact her business in this economy. Ms. Gay submitted two letters from other residents who were not able to be present.

Chairman Wall asked if the effect on competition by approving these licenses is something that should be a consideration of the Commission. Mr. Haberman answered that one criterion is the effect of such use upon surrounding properties in the immediate neighborhood, but that staff could not consider competition because it is not part of the criteria. Commissioner Cameron stated that market forces will rule. Commissioner Cameron asked why a rationale for this application is not being requested as it is when someone applies to increase the number of gas pumps. Mr. Haberman explained that the difference is that gas pumps are visible from the road

and have a visual impact. Chairman Wall reminded the Commission that the State controls the number of liquor licenses issued and the County only issues a permit. Commissioner Werling agreed that the area is inundated with businesses that sell liquor and that the parking for that building is really poor.

(10:20 a.m.) Deb Curlee, resident, was sworn in. Ms. Curlee stated that there is limited parking at this property and that it is unrealistic to think that people will not drink on the property, which is not appropriate for that area. Mr. Haberman confirmed that the parking for the property meets the parking requirements. Chairman Wall asked for further public comment. There was none.

Ms. Stones addressed the letters that oppose the request based upon the perceived traffic impact and stated that they would need to produce qualified evidence of that fact other than just lay opinion. Ms. Stones again asked that the Commission approve the staff recommendation and the findings in the absence of any other qualified testimony or proof or evidence that the location and this applicant is not qualified and justified for approval based upon the criteria that this Commission must use to make its determination. Mr. Haberman confirmed that no consumption would be allowed on the premises, but that a temporary license could be obtained for temporary events that would allow on-site consumption.

Motion: Commissioner Cameron made a motion for approval. Commissioner Hale seconded the motion. Mr. Haberman informed the Commission that today was the first time anybody has formally objected to the application and that staff does not consider competition issues, but does consider if it would impact community character. **There was no opposition. The motion passed unanimously.**

2. Surprise Island LLC, 107900 Overseas Highway (US 1), Key Largo, Mile Marker 107.9:

A request for approval of a major conditional use permit in order to develop the property with a marina for the purpose of boat storage and boat ramp, the construction of a bathhouse and dockmaster's office, parking, and associated site improvements. The subject property is legally described as Section 36, Township 60S, Range 39E, Part Fractional, Key Largo, Monroe County, Florida, having real estate number 00083760.000000.

(10:29 a.m.) Steven Biel presented the staff report. Mr. Biel explained that there is a recommendation of approval for the components that can be approved now for the upland portions of the development and then there is a different set of approvals pertaining to the dinghy dockage that is tied into the marina site plan. The conditions for approval of the development were outlined. Mr. Biel noted two areas of clarification: Page 3 in the staff report, Line 20 should read, "marinas are consistent;" Page 6, Line 33, should read to the effect that the bathhouse is accessory to the marina facilities.

Susan Grimsley requested that the following change on Page 3 be made: A period placed after "is consistent with the purpose of the RC category" and delete the rest of the sentence. Ms. Grimsley also noted that Page 6 should include that the bathhouse is accessory to the marina and it is not exempt from NROGO.

(10:48 a.m.) David de Haas, of De Haas Consulting and Design, was present on behalf of the applicant and was sworn in. Mr. de Haas presented an overview of the intent for the property with a slide presentation. The applicant proposes to take this vacant piece of land and use it to launch boats, to store tackle, to have some bathrooms and to have a picnic area that would allow guests to observe the waters in this scarified area. Chairman Wall asked Mr. de Haas to speak about the proposed dinghy docks. A presentation of that area was given. Mr. de Haas explained for Chairman Wall why the dinghy dock location was on the canal that accesses Lake Surprise as opposed to the canal that accesses the creek. The reasons for why the Commission should vote to approve this development were given. Mr. de Haas outlined the restrictions in place for a marina in an area zoned native area and then asked staff to address the NROGO issue in the applicant's exemption. Mr. de Haas asked that the scale listed on the site plan be changed.

In addressing Condition C, Mr. de Haas stated that regardless of where the boat ramp is located, mangroves will be impacted. The applicant is aware they will be required to mitigate with trees and probably with costs involved, and it will be established where the best location for the boat ramp would be for everyone. The applicant is willing to have the width of the boat ramp conditioned at 16 feet. Mr. de Haas stated that the rest of the conditions are acceptable to the applicant. Chairman Wall asked for public comment.

(11:13 a.m.) Ron Miller was sworn in by Mr. Wolfe. Mr. Miller questioned why there is a need to clear out mangroves if the applicant already owns a boat ramp 100 feet away from the proposed boat ramp. Mr. Miller feels this proposal exploits both sides of this island, when one of the major themes of the comprehensive plan is to confine development to the least sensitive areas.

(11:18 a.m.) Roger Akers was sworn in by Mr. Wolfe. Mr. Akers stated that he believes in the man's property rights and that he should be able to build on it. Public comment then was closed.

Commissioner Cameron asked Mr. de Haas to address the economic viability of this project, which was then explained. It was confirmed that denial of the dinghy dock in the canal that accesses Lake Surprise would not kill the project. Mr. de Haas stated that the applicant would be willing to put the dinghy dock on either side. The water depth surrounding the proposed development was discussed. Mr. Schwab answered to the Commission that without either the dinghy dock or the boat ramp, the development is not a marina and at that point the application does fall apart.

Mr. de Haas described where the boat storage on the property would be. The reasoning behind developing this project in such close proximity to the applicant's neighboring business was given. Chairman Wall questioned why the Commission should take a stance to oppose bathrooms as a part of this concept. Commissioner Werling voiced her concern of encouraging development on a piece of property where part of it is scarified and part is environmentally sensitive. Mr. de Haas stated that although he does not promote clearing or development of mangroves, he does promote smart development and asked the Commission to consider the application.

Mr. de Haas confirmed that, if required, the applicant could provide a pump-out facility. Commissioner Cameron is in favor of letting the applicant go forward with this plan to see if DEP or the Corps of Engineers will allow the ramp. Mr. Haberman clarified the need for continuous four feet of depth to that location and confirmed an aggregation of the applicant's two developments will not change the requirements. The elements included in the definition of a marina in an NA district were discussed. Mr. Haberman explained that the beekeeping permit gives the property a permitted use and that is considered development under the code. Mr. de Haas reiterated that placing a condition that the dinghy dock will only be permitted on the west side of the channel is fine with the applicant and that there is zero impact to the mangroves for the creation of the dinghy dock.

(12:00 p.m.) Reinhard Schaupp, the applicant, was sworn in by Mr. Wolfe. Mr. Schaupp explained how the idea of the dinghy dockage arose and then stated that the idea is to control the liveboards' actions in this area. There were two boat ramps closed on the 18-mile stretch and that is what caused the need for another boat ramp. Mr. Schaupp stated that this development would make the area controlled, safe and clean. Chairman Wall feels this project is a good idea. Commissioner Hale agreed and stated that the applicant still has to get approval from the DEP and Army Corps of Engineers.

Motion: Commissioner Cameron made a motion to approve this plan subject to the conditions in the staff report and subject to the additional condition that the dinghy dock be moved to the west side of the property. Commissioner Hale wished to see a limitation placed on the size of the dinghies. The applicant agreed with that. **Commissioner Cameron amended his motion to limit it to dinghies no bigger than 14 feet and more powerful than 25 horsepower. Commissioner Hale seconded the motion.**

Mr. Schwab added that the marina siting plan must be completed before the applicant can move forward with construction as a condition. Commissioner Lustberg commented that it seems like the Commission is approving a plan that asks the applicant to redo the whole proposal and feels it needs more work and more clarification with staff. Mr. Wolfe suggested changing Condition C to read, "The applicant shall revise the site plan to relocate the boat ramp so as to minimize the impact on mangrove areas."

Mr. Schwab then mentioned that Growth Management did contact the applicant and asked if they would be willing to continue this due to its status, and the applicant declined. Ms. Grimsley suggested that the Commission require that the site plan be resubmitted to define what and where things will be located so staff can follow their direction. **Commissioner Cameron again amended the motion to add that the dinghy dock move to the west side and be no more than a total linear feet of 140 feet, broken up as necessary.** Commissioner Lustberg reiterated that the details need to be worked out and then brought back before the Commission. Mr. Schwab agreed that if the site plan does not communicate enough detail to make judgments or to make recommendations, it puts staff in an awkward position planning-wise. Mr. de Haas requested a continuance to be able to provide the Commissioners more information.

Motion: Commissioner Cameron withdrew his original motion and moved that the matter be continued until February 9th. Commissioner Werling seconded the motion. The

Commissioners requested the following information be obtained by staff: A water depth study to confirm that the four foot depth is there; confirmation that the width of the canal meets the 10 percent width criteria; revision of the site plan showing where the dock and ramp is going to go, as well as the walkways to the dinghy docks that will be put over the top of the mangroves; the extent of alteration of mangroves; and a clear definition of the development regarding the parking spaces and boat storage. Mr. de Haas asked for some guidelines for delineating the parking and boat storage. Mr. Schwab requested the applicant include blocks on the site plan representing the area that is required to park a car and trailer. **There was no opposition to the motion. The motion passed unanimously.**

A luncheon recess was held from 12:31 p.m. to 1:40 p.m.

Chairman Wall requested to hear Item 5 next.

5.Hill Family Investments Inc., aka Key Largo Fisheries, 1313 Ocean Bay Drive, Key Largo, Mile Marker 99: A request for approval of a 2-COP (beer and wine on premise and package sales) alcoholic beverage special use permit. The subject property is legally described as Block 9, Lots 1, 2 & 3, Key Largo Beach Addition (PB4-22), Monroe County, Florida, having Real Estate Number 00502870.000000.

(1:42 p.m.) Barbara Bauman presented the staff report and recommended approval with conditions, which conditions were then outlined.

(1:45 p.m.) Lily Moretti was present on behalf of the owners. Owner Tom Hill was also present. Both Ms. Moretti and Mr. Hill were sworn in. Mr. Hill submitted a letter from the Pilot House restaurant stating that they were in favor of the license being issued. Mr. Hill then stated that Key Largo Fisheries was looking for different ways to subsidize their income since the Federal Government has imposed fishing limitations and to be able to use the products they they have and offer a service to the community was well.

Chairman Wall asked for public comment. There was none.

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

It was agreed that Item 3 and Item 4 would be heard together, but voted on separately.

3.Tom Thumb Food Store, 30662 Overseas Highway (US 1), Big Pine Key, Mile Marker 30.6: A request for a variance of 10 feet to the required 25-foot front yard setback along US 1, thus resulting in a 15-foot front yard setback, and to the access standards in order to develop the property with a new convenience store/gas station and associated improvements. The subject property is legally described as Lots 1 through 7, Rogers Subdivision, Big Pine Key (PB3-79), Big Pine Key, Monroe County, Florida, having real estate numbers 00275410.000000, 00275430.000000 and 00275450.000000.

4. Tom Thumb Food Store, 30662 Overseas Highway (US 1), Big Pine Key, Mile Marker

30.6: A request for approval of an amendment to a major conditional use permit in order to redevelop the existing gas station and convenience store by demolishing all existing buildings, constructing a new convenience store/commercial retail building, relocating the two (2) existing fuel pumps and constructing five (5) new fuel pumps – thus establishing a total of seven (7) fuel pumps with fourteen (14) fueling stations; demolishing the existing fuel pump canopy; constructing a new fuel pump canopy; constructing a car wash; and carrying out associated improvements. The subject property is legally described as Lots 1 through 7, Rogers Subdivision, Big Pine Key (PB3-79), Big Pine Key, Monroe County, Florida, having real estate numbers 00275410.000000, 00275430.000000 and 00275450.000000.

(1:49 p.m.) Joe Haberman presented the staff report for Item 3. Mr. Haberman found that the applicant met all of the standards of the variance and recommended approval. Commissioner Cameron spoke of how narrow the road is right in front of this property and how traffic stacks up in the front on US 1. Mr. Haberman stated that he feels the revisions are going to make the area safer by eliminating conflict points with access drives, as well as the increase in the number of fueling stations will reduce stacking onto the road in front. Mr. Haberman then outlined the conditions that staff wanted placed on that approval.

Mr. Haberman presented the staff report for Item 4. Issues in the staff report that need to be resolved were described as: The existence or non-existence of pineland on the property; the minimum yards; the maximum height; landscaping; the access; the total amount of floor area; and compliance with the Big Pine Corridor Plan. Mr. Haberman stated that staff feels the applicant will come into compliance to the best that they can and there will not be any unresolved issues. Squaring off of the canopies was discussed. Mr. Haberman recommended approval with conditions, which were then outlined.

(2:07 p.m.) Steven Grasley, President of Solaris Design and Consulting, was present on behalf of the owner and was sworn in by Mr. Wolfe. Mr. Grasley then introduced the owners, Jim McCarthy and Tom McCarthy. Mr. Grasley reviewed some of staff's conditions and stated that the applicant did not have any great concerns with staff's findings and some of the conditions. Mr. Grasley informed the Commission that Dr. Phil Frank found no evidence of pinelands on the property and emphasized the importance of the setback issue to the project. The applicant intends to continue working with staff very closely on the last remaining issues. Chairman Wall asked for public comment.

(2:15 p.m.) John Scharch was sworn in by Mr. Wolfe and stated that he was the owner of the adjacent property known as True Value. Mr. Scharch had no opposition to the project and stated that he agrees with the variance for the setback. Mr. Scharch wished to state for the record that the County needs to properly align the road between his property and the McCarthys' property.

(2:20 p.m.) Deb Curlee, having been previously sworn, voiced her concerns about the design elements of this plan being compatible with the Big Pine Master Plan and her concern about the turn lane in front of the property. Ms. Curlee urged staff to contact the Overseas Heritage Trail organization to make sure that everybody is on the same page with regard to that issue. Ms.

Curlee stated that the number of fueling pumps may be too many, and also hoped that the owners will see fit to include a dive shop on their location.

(2:25 p.m.) Mr. Grasley pointed out that the applicant is mindful of the Heritage Trail issue and that has been appropriately dealt with on the site design and that the applicants are in negotiation with the dive shop. The number of fueling stations was based on the business model. Commissioner Cameron suggested that the Fish & Wildlife Commission be included in the decision-making of including a fence along the back side of the property due to the number of Key Deer who are in this area. Mr. Grasley spoke of the very advanced types of features being discussed for this project that are not only good for the environment, but also good for the business.

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

Motion: Commissioner Cameron made a motion for approval of the major conditional use permit, excluding the squaring off of the canopies. Commissioner Werling disagreed with that exclusion. Mr. Grasley stated that the applicants do not object either way. **Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

6.Presentation by Keith & Schnars of the Draft Technical Document of the Monroe County Comprehensive Plan update.

(2:39 p.m.) Debbie Love, of Keith & Schnars, gave an hour-long presentation to the Commission of the Draft Technical Document of the Monroe County Comprehensive Plan, which included the review update process, some highlights of the document, and information on the next steps of the process.

Commissioner Cameron made several suggestions of how to make the document easier to read and comprehend, and then commented on how informative the document is. There was discussion regarding the use of an older Census report than the 2010 Census. Ron Demes spoke on behalf of the Navy. Mr. Demes stated that the military's biggest concern is how the Air Insulation Compatible Use Zone study and criteria is addressed in the document. Mr. Demes then went through the document and pointed out his questions and concerns. Ms. Love reminded the Commission that the Evaluation Appraisal Report will be addressing the military compatibility as required by state statute.

(4:17 p.m.) Chairman Wall allowed Ron Miller to approach and speak regarding this item. Mr. Miller requested assurance that the fact that there could be up to about 2,000 allocations in the County, which would constitute about ten years' of growth, would be addressed in the technical documents. There was discussion regarding from where these ROGOs could have developed. Roger Akers surmised that those are from the multi-family units that have been turned into single-family homes in Key West. Mr. Wolfe pointed out that the City of Key West units don't apply to the County. Ms. Love confirmed for Commissioner Lustberg that information from the 2010 Census gets updated in the document on the website as well. Ms. Love then outlined the

phases of the comprehensive plan amendment. Commissioner Lustberg wondered if water pollution attributable to lawn care was included in the report. Ms. Love stated that it is included in the information regarding pesticides.

BOARD DISCUSSION

Commissioner Cameron announced that this is the end of his service on the Planning Commission and said goodbye to everybody and what a pleasure it was to serve. Commissioner Cameron's vast knowledge was discussed and the Commissioners and staff thanked Commissioner Cameron for all of his help. It was agreed to postpone the election for chair and vice chair to the first or second meeting in February.

ADJOURNMENT

The Monroe County Planning Commission was adjourned at 4:34 p.m.