

DEVELOPMENT REVIEW COMMITTEE

Tuesday, September 25, 2012

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, September 25, 2012**, beginning at 1:02 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Gail Creech

DRC MEMBERS

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present
Mitch Harvey, Comprehensive Plan Manager	Present

STAFF

Mayte Santamaria, Assistant Planning Director	Present
Rey Ortiz, Planner	Present
Tim Finn, Planner	Present
Judith Clark, Director of Engineering	Present
Gail Creech, Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

Mr. Schwab stated he will make an adjustment to the minutes from the August 28, 2012 meeting and will approve them at the next meeting.

MEETING

New Items:

1. Proposed CVS/Pharmacy, 5610 Overseas Highway, Stock Island, Mile Marker 5: A request for a minor conditional use permit in order to construct a 14,600 SF CVS/Pharmacy with a drive-through. The subject property is legally described as Square 24, Lots 1 through 20, Maloney Subdivision (PB1-55) and an abandoned portion of US 1, Stock Island, Monroe County, Florida, having real estate number 00124090.000000.
(File 2012-072)

(1:02 p.m.) Mr. Finn presented the staff report. Mr. Finn reported that the applicant is requesting approval of a minor conditional use permit to allow a CVS/Pharmacy consisting of 14,600

square feet of nonresidential floor area. The commercial retail building would serve as a pharmacy and have a drive-through window. Staff is requesting that all references regarding the signal at Second Street be removed and all references with regard to the Second Street opening be removed. Staff recommends approval with conditions. Those conditions were then outlined.

Mr. Schwab stated that clarification of staff's expectations of the applicant is to be accomplished at this meeting. Ms. Clark added another condition to be met of reducing the width of the driveway from 30 feet wide to the County standard of 24 feet. Ms. Clark voiced concern over the fact that the proposed amount of storage on Third Street is more than what the County's traffic consultant believes would fit in that area. Ms. Clark agreed with the Second Street connection to US-1 being removed.

Paul Tremblay of Boos Development Group, the developer for CVS, was present. Mr. Tremblay thanked staff for their efforts in getting this project to the goal line. Mr. Tremblay asked for assurance that the architecture as proposed today is acceptable. Mr. Haberman concurred. Mr. Tremblay then asked for clarification in regards to the drive-through width on Second Street. Ms. Clark explained that Second Street cannot be connected to US-1 with the adjacent property owner's driveway where it is currently located. It would need to be relocated. The County will not require the adjacent property owner, Murray Marine, to relocate its driveway. In order for the applicant to relocate the driveway and create an intersection that is safe, Murray Marine would have to be on board and agree to have it done.

Mr. Haberman added that if an agreement is reached with Murray Marine, the applicant would be able to proceed with a Public Works permit. Ms. Clark further clarified that the County would have to be the applicant for the connection to US-1, but as far as the approval of it, it would not come back to the DRC. Mr. Tremblay asked if striping the driveway at 24 feet and providing diagonals in the 30-foot space would be acceptable in order to help delivery trucks maneuver in the area. Ms. Clark responded that even if it is striped at 24 feet, the 30-foot width is still not allowed. Mr. Tremblay stated that the applicant will make the adjustment to use of mountable curbs.

Mr. Haberman explained that the stacking on the roadway needs to be addressed, because before the Director of Planning can approve this it has to be in compliance with the code. Mr. Schwab encouraged the applicant to address the issue since this has been brought up as a concern by Public Works and the County's traffic engineer. Mr. Tremblay then described the adjustment the applicant would propose would be to remove the request to signalize Third Street, which would reduce the time that it takes to cycle the lights. The applicant will request a permit from FDOT to move the stop bar up and shift Third Street over to add a longer right-turn lane. Mr. Haberman added that signage helping to direct Key West traffic would alleviate some traffic also.

John Melendez, the applicant's traffic engineer, explained how the change from a signalized to an unsignalized condition at Third Street reduces the queue length dramatically. Mr. Schwab acknowledged the applicant's concerted effort to address staff's and the County traffic engineer's concerns.

Mr. Haberman inquired into the progress of the settlement agreement. Mr. Tremblay explained that the settlement agreement has been renewed, which if reached will make the process as smooth as possible and will expedite the process. Mr. Schwab stated that it looks as though the applicant is ready to move forward. Mr. Tremblay added that the applicant is in discussion with Murray Marine now in an effort to resolve the Second Street issue. Mr. Schwab asked the applicant to keep the Planning Department apprised of any developments in that regard. Mr. Haberman informed Mr. Tremblay that two free-standing signs on US-1 that are both visible from US-1 are not allowed, which can be dealt with at the building permit stage. Mr. Haberman then recommended adding a condition that the applicant show sight triangles on their plans and revise their signage location.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENTS TO THE TIER OVERLAY DISTRICT MAP DESIGNATIONS FOR APPROXIMATELY ONE HUNDRED TWELVE (112) PARCELS THAT HAVE NO PREVIOUSLY DESIGNATED TIER OR WHICH HAVE A TIER DESIGNATION RECOMMENDED FOR CHANGE; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE AND THE STATE LAND PLANNING AGENCY; AND PROVIDING FOR AN EFFECTIVE DATE.
(File 2012-118)

(1:31 p.m.) Mr. Roberts presented the staff report. Mr. Roberts reported that this will be done in two ordinances rather than one: One ordinance covering parcels that have a tier designation and are being recommended for change, and then a separate ordinance for those parcels that never got a tier assigned to them that staff is now recommending for change. Mr. Roberts disseminated the map series for those parcels that have a staff and/or Tier Designation Review Committee (TDRC) recommendation for change.

Mr. Robert recited a brief history of the genesis of the group of parcels being looked at today. 85 parcels were added to the review by staff that staff believe needed to be examined again. Staff also added 80 parcels that never had a tier designation, three of which are in the Lower Keys and were actually what were right-of-way parcels and are now privately owned, and the other 77 are all right offshore of Ocean Reef Club on the very extreme northern end of the County. Of the 515 parcels that staff reviewed, over 400 of those did not have a tier change. Eight were recommended to move to a more restrictive tier, from Tier III to Tier I, three to move from Tier III to Tier III-A, or SPA, and four to move from Tier III-A to Tier I. 21 parcels went to a less restrictive tier. The only parcels that had a difference in staff's recommendation and the TDRC's recommendation were on Map M. The TDRC recommended these two parcels be Tier III-A, whereas staff's recommendation is for them to be Tier III based on the tier policies and the land development code that state for purposes of determining connectivity with a hammock, a developed parcel breaks that line. Ms. Santamaria added that at the last TDRC meeting the majority of these parcels were reviewed.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM INDUSTRIAL (I) TO MIXED USE/COMMERICAL (MC) FOR

PARCELS OF LAND ON STOCK ISLAND, HAVING REAL ESTATE NUMBERS 00123660-000000, 00123720-000400, 00123760-000200, 00123720-000100, 00123720-000200, 00123730-000100, 00123740-000000, 00123770-000000, 00127290-000000, 00127380-000000, 00127250-000000, 00127280-000000, 00123600-000100, 00123600-000102, 00123600-000101, 00123590-000000, 00123570-000000, AND 00123540-000000, LOCATED ON SOUTH STOCK ISLAND; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2012-075)

(1:40 p.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this is a private application for a future land use map amendment from industrial to mixed use/commercial for 18 parcels located around the Safe Harbor core minus the public facilities on the tail end of it. This area is zoned Tier III and has no protected species. The surrounding properties are mainly mixed use/commercial, as well as residential high. It has an existing variety of uses, including commercial fishing and other marine-related uses. This is based on a recently adopted comprehensive plan text amendment changing the mixed use/commercial category to allow some additional uses, such as transient, but provides for protection of working waterfront uses. The amendment has been found to be consistent with the comp plan, the principles for guiding development, the surrounding uses, the existing uses, the limited habitat and environmental features. This amendment was applied for back in May of 2012 and, therefore, is not subject to the new military policies put in place regarding comp plan changes. Based on the military's data from their 2007 AICUZ report there is a portion of this property that is located with the 65 DNL line, but Ms. Santamaria noted that in the newest release of information in the draft EIS for NAS-Key West this property is actually excluded from the 65 DNL line altogether.

Ron Demes and Ashley Monnier were present on behalf of NAS-Key West. Mr. Demes stated that the Navy has objected to this application going back to when it was in the DRC in October of 2011 and spoke against it in the Planning Commission meeting in December of 2011 and will continue to object to this. The Navy's main objection is that it allows for a new use which includes transient use and increases the residential type use. Mr. Demes explained that the Navy does not use draft studies, such as the EIS, in making decisions, but falls back on the 2007 AICUZ study. Mr. Demes pointed out differences the Navy has with staff in this regard.

Ms. Santamaria responded that the Board of County Commissioners (BOCC) has not adopted the 2007 AICUZ and reiterated that this application came in prior to the County's recently adopted military policies.

Bart Smith, Esq. was present on behalf of the applicant, Safe Harbor Property Owners Association, Inc. Mr. Smith thanked staff for the thorough review of the documents in their processing of this application. Mr. Smith agreed with the comments made by Ms. Santamaria that the 2007 AICUZ has not been adopted and are only recommendations, and that this

application was submitted before the County's newly-adopted military policies. Mr. Smith believes this application is compliant and consistent with the comp plan.

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY 2010 COMPREHENSIVE PLAN TO CREATE POLICIES WITHIN THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT TO ESTABLISH SUB-AREA POLICIES APPLICABLE TO A SPECIFIC GEOGRAPHIC AREA OF SUBMERGED LANDS TO ENACT SITE-SPECIFIC, TAILORED PARAMETERS FOR THE RE-DREDGING OF PRIVATELY-OWNED SUBMERGED LANDS AND TO AMEND POLICIES TO DEFINE THE SPECIFIC, LIMITED CIRCUMSTANCES AND CONDITIONS WHICH SHALL MUST BE MET TO ALLOW THE REDREDGING OF PRIVATELY-OWNED ACCESS CHANNELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2010-046)

(1:55 p.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this is a private application for a text amendment to the comprehensive plan to address the re-dredging of areas that are privately owned and previously dredged, but to establish a mechanism that would be site specific as well as require the adoption of comprehensive plan sub-area policies specific to the area to ensure that the site-specific project is fully reviewed, as well as reviewed by the various reviewing agencies at the State that review all comprehensive plan amendments. The general project based on the sub-area policy that is included right now is around Conch Key. The comprehensive plan today does not allow any new dredging and only allows maintenance dredging in areas that have no resources whatsoever. This particular amendment would allow limited dredging in areas with some benthic resources if it meets certain conditions, as well as the sub-area policy adopted. Ms. Santamaria gave examples of conditions that must be met. There have been extensive coordination meetings with the Federal and State agencies, as well as the other local governments here in the Keys, the County staff, as well as with the applicant regarding this proposed amendment. This has been revised throughout the process to address all the concerns of those resource agencies at limiting the scope of the dredging, but allowing some dredging to occur for navigational access.

Sandy Walters was present on behalf of the applicant, Tom Esposito, who was also present, along with his attorney, Patty Silver. Ms. Walters thanked staff for having worked with the applicant to identify and find ways to address the issues. Ms. Walters stated that this provides a means for a public/private partnership to protect resources in a reasonable and implementable and enforceable fashion.

Ms. Walters asked to make some changes in this draft. The first one, Item Number 6 on Page 7, refers to "at a minimum mitigation for seagrass impacts will be provided." Ms. Walters recommended that this be revised to take out the "at a minimum" and add another numbered condition that reads, "Quantity of mitigation for seagrass impacts will conform with

requirements specified by the State of Florida's Uniform Mitigation Assessment Method (UMAM) or its successors." Ms. Santamria stated that staff would be comfortable with that and believes the State would be comfortable with that as well. Ms. Walters will submit the alternative language in writing.

Next, Ms. Walters asked to delete the phrase in Policy 202.8.6, "an approved and permitted State and/or Federal," and following the words "seagrass restoration project" insert a phrase that says, "consistent with the PEIS and Florida's UMAM process," both of which will have been spelled out earlier. Ms. Walters explained that because of the statutory change last year, the County cannot ask for permits from State and Federal agencies prior to applying with the County, and this takes out that implication. Ms. Santamaria agreed.

Ms. Walters addressed making some small changes in Objective 202.9 so as not to require a comp plan amendment when obtaining permits from the U.S. Army Corps of Engineers and the National Marine Sanctuary. Ms. Santamaria will confer with the County Attorney on the specific language to address this issue.

Ms. Walters then suggested adding on Page 15, after "Additional data provided by the applicant indicates that there is 40 to 45 percent seagrass coverage within the access channel and less than 5 percent within the boat basin," continue that sentence to say, "as compared to 50 to 70 percent in surrounding undisturbed seagrass beds." Ms. Santamaria agreed.

Ms. Santamaria clarified for Mr. Ortiz that this will apply countywide, but the process for other applicants to come in to utilize this, they need to propose and get their sub-area policy adopted. They would have to amend the comprehensive plan, which would ensure that there is a thorough public process review of the project, as well as an opportunity for the State agencies to review it as well. The U.S. Fish & Wildlife Service's comments would be filtered through the National Marine Fisheries.

Ms. Walters explained to Mr. Roberts that in the application copies of documented aerial photographs from 1955 were provided showing that this was not dredged compared to 1957 photographs showing that it was dredged. These are USGS aerial photographs. The South Florida Water Management District has accepted this aerial photography as evidence that this area was dredged. Ms. Walters stated that further evidence was provided to the South Florida Water Management District of depth surveys which show the difference in depth between the current surface of the sediment and the depth before the dredging, which is commonly used documentation of previous dredging.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 2:14 p.m.