

DEVELOPMENT REVIEW COMMITTEE

Tuesday, April 23, 2013

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, April 23, 2013**, beginning at 1:04 a.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
Timmy Leonard, Fire Prevention	Present

STAFF

Rey Ortiz, Planning & Biological Plans Examiner Supervisor	Present
Tim Finn, Planner	Present
Gail Creech, Planning Commission Coordinator	Present
Cassi Scanlon, Staff Assistant	Present

CHANGES TO THE AGENDA

Ms. Creech stated Agenda Item Number 2 was added this morning.

MINUTES FOR APPROVAL

Mr. Schwab postponed approving the minutes until the next meeting.

MEETING

New Item:

1.Little Palm Cottages (Proposed), 133 Barry Avenue, Little Torch, Mile Marker 28.5: A request for a minor conditional use permit to allow the redevelopment of a site with 48 residential dwelling units and accessory uses/structures. The subject property is legally described as Lots 2 and 3, Barry Beach (PB2-127), Little Torch Key, Monroe County, Florida, having real estate number 00214970.000000.

Tim Finn presented the staff report. Mr. Finn reported that this is a request for a minor conditional use permit to allow the redevelopment of a site with 48 residential dwelling units and accessory uses/structures on a parcel of land in Little Torch Key. The applicant is requesting approval of a minor conditional use permit to allow the redevelopment in the form of 24 new duplex facilities and modification to three existing structures to become a community building,

management office, garage and storage building. The development will also have a new swimming pool and docking facilities. Mr. Finn then recited the history and background of this property. Staff found some issues with the application. The inclusionary housing requirements are not in compliance because the applicant wishes to build all 48 market rate units with the caveat that Monroe County will reserve 14 affordable units and at some future date those 14 affordable units would be built at another site in Monroe County. Therefore, this request agreement must be evaluated and approved by the Board of County Commissioners (BOCC). The plans do not indicate the building height relative to existing grade or crown of the road, so that will need to be revised. Compliance is to be determined on the required parking. There is not an ADA accessible route to the community building shown, so when the applicant submits for permits ADA compliance must be shown. Required buffer yards are not in compliance. The buffer yard along the URSC boundary line is incomplete. A Class E buffer yard is required along the URSC district boundary. Compliance is to be determined on access standards. Barry Avenue at the intersection of US-1 does not have turn lanes and there are no driveway construction details in the plans. Staff recommended approval with conditions. Those conditions were then read into the record.

Barbara Mitchell, representing the applicant, showed the Committee members the proposed plans for the project. Ms. Mitchell stated various amenities to the site, which include another swimming pool, a park/recreation area in between common ground, as well as dockage is being proposed to be added. The adjacent properties were described. Ms. Mitchell pointed out that there is an existing wooden fence that runs along the back of the Jehovah Witness property that may be added to, depending upon how the landscaping buffer issues are worked out. Ms. Mitchell introduced Ed Scales, the applicant's land use attorney for the project.

Mr. Scales stated that the applicant's representatives met with Susan Grimsley and Christine Hurley about the concept of "linkage" of the market rate units and affordable units. What is different is that this applicant is asking for the ability to have linkage for a period of time of 15 years. Mr. Scales explained that at all times there will be 14 affordable units associated with this project, which meets the requirement of 30 percent of the units being designated affordable. Mr. Scales further explained the applicant is requesting that the County set aside 14 affordable housing allocations for a period of 15 years to allow the applicant, if the applicant wants to in the future, to build one or up to 14 off-site affordable units, and when those off-site units are CO'd then be able to transfer off of this property the deed restriction for an equal number of affordable units so that these other units will remain affordable. At no point will there be any less than 14 completed affordable deed-restricted units. The applicant is in the affordable housing business. Since there is a provision in the Land Development Regulations authorizing the BOCC to designate private companies to administer and be required to administer the affordable housing components of the Land Development Regulations, the applicant is requesting that instead of making BOCC approval contingent upon the development order, making BOCC approval contingent upon the issuance of building permits so the progress is not slowed down. Mr. Scales clarified for Mr. Schwab that there would not be any draw-down of any of the County's affordable ROGO units initially because the market rate units would be used to build those units, but they would be designated and deed restricted affordable up until the applicant built the off-site units.

Jack Weir, a representative of the applicant, explained the applicant is active in affordable housing, so it is highly likely that the applicant will do an affordable housing complex somewhere in the Keys over the next two to four years and wants to have the opportunity to shift the 14 units from this site to another site as part of a larger affordable housing complex. Mr. Schwab stated his comments will be tabled until hearing from Ms. Hurley and Ms. Grimsley. Mr. Schwab voiced concern that the number of affordable housing units seems to be growing.

Mr. Haberman noted that the way it is supposed to happen is 30 percent is reserved on that site and a 99-year deed restriction is put on it. All staff can say is 30 percent can be deed-restricted for 99 years on site and the rest has to go to the BOCC for approval. Mr. Haberman explained to Mr. Scales that the prior cases where the BOCC has authorized other people to qualify themselves is because in those cases they were comfortable because there was certain funding which had more restrictive requirements.

Mr. Scales asked if the provision of the agreement that instead of being prior to the issuance of the minor conditional use permit it could be prior to the issuance of a building permit to allow the application process to continue to move forward. Mr. Haberman explained that would put Mr. Schwab in the position of approving something that is not his to approve. Mr. Haberman cautioned that once the development order is signed, the development can move ahead with the risk that if anybody in the public appeals it the permit is stayed and the project would have to be returned to its original state if they are successful in the appeal. Ms. Mitchell responded the applicant will go forward with the BOCC.

Mr. Scales asked Mr. Schwab to get together with Ms. Hurley and Ms. Grimsley relatively soon so that the application would be ready for the June 19th BOCC meeting. Mr. Haberman will send Mr. Scales a separate application for alternative compliance that must be submitted to start the process. Mr. Weir then questioned how the County is computing the rent levels for the affordability. Mr. Weir explained how the applicant arrived at the monthly maximum rent, which differs from the County number. Mr. Haberman asked the applicant to send their calculation so that issue can get fleshed out.

Ms. Mitchell then addressed the recommended actions. Ms. Mitchell stated that the elevation plans will be adjusted to demonstrate compliance with restrictions. The district buffer yard requirements for an alternative compliance are met, as the required plant material is distributed throughout the site. Ms. Mitchell asked permission to resubmit the landscape plan to demonstrate compliance utilizing this existing plant material and taking the credit for the fact that these two properties are developed and there is an existing wooden fence. Mr. Roberts explained the problem becomes the district boundary buffer extending through the site where there is currently no vegetation. Ms. Mitchell will be able to demonstrate the requirements are satisfied in the revised landscape plans within a couple of days. Mr. Schwab agreed to look at this more closely.

Ms. Mitchell then addressed the parking recommended action. The ADA issue will be able to be shown. Mr. Haberman noted the engineer's report seems to say it is acceptable, but things may need to be removed from the clear sight triangle or on the right-of-way. Mr. Leonard then reviewed the access allowed for fire trucks. Mr. Leonard stated there is more than enough room

for egress. Smoke detectors will need to be hard-wired in the bedrooms and in the hallway outside the bedrooms. Bill McCain, representative of the applicant, informed Mr. Leonard there are two proposed fire hydrants internal to the subdivision on the final plans. Mr. Leonard stated there needs to be a two-hour firewall separation between duplexes, a one-hour firewall in the floor between the house and parking underneath, a ten-foot distance between the homes, and fire extinguishers are required on the boat docks with a maximum distance of 75 feet. Mr. Haberman informed the applicant if boat slips are commercially leased out to somebody not an occupant of the property, that will call for additional requirements of parking. Commercial leases associated with the SC portion would be allowed, but not the UR portion. Mr. Leonard then pointed out if there are ADA requirements in the bathrooms of the clubhouse, visual and audio alarms and emergency lighting are required. Ms. Mitchell will address these issues when the site plan change is brought in. Mr. Haberman commented that the architectural details are left up to the applicant, but the design needs to fit in with the Lower Keys CommuniKeys plan.

Mr. Weir asked for confirmation that the project is in compliance with the traffic requirements. Mr. Haberman responded that it is in compliance with what the planners and biologists review, but somebody else is going to be reviewing the right-of-way access permit. Mr. McCain questioned the need for curbing since no adjacent walkways to the roadway have been designated. Mr. Haberman stated internal sidewalks would not, therefore, be a requirement. Mr. McCain will look at addressing curbing around the clubhouse area.

Ms. Mitchell then asked about the requirement of a waiver to the front yard setback if this community is gated in the future. Mr. Haberman stated staff would need to look and make sure that it is not an excessive amount of impervious area. Mr. McCain explained the applicant was not able to accommodate any kind of stacking internally if it was decided at some future date to gate the project. Mr. Haberman commented he did not have a problem with the design as long as it does not interfere with a buffer. Mr. Haberman then explained for a gate to be in the setback, it has to be in compliance with the fence height, which would be six feet. Mr. McCain described how renters would access the gate by clickers. Mr. Ortiz asked about wheel stops for the parking spaces next to the clubhouse. Mr. McCain replied there will be curb stops on all of them.

Mr. Scales asked about the possibility of applying for 14 affordable units and then bank the 14 market rate units. Mr. Haberman explained the only thing not allowed under current code is the transfer off of market rate units. Mr. Scales stated the applicant will leave it the way it is, but then asked to include in that application approval to have the developer designated as an authorized administrator of affordable housing. Mr. Haberman referred the applicant to Ms. Grimsley for that answer. Mr. Haberman then stated from a departmental standpoint staff does not want to be in the position of qualifying people.

Bob Pabian, a representative of the applicant, stated the building will be painted different colors and asked if that would violate Item E that requires similar and consistent design materials and colors be utilized. Mr. Haberman stated the “and” should be an “or,” to read “similar or consistent.”

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-160, TRANSFERABLE DEVELOPMENT RIGHTS, TO REVISE THE LAND DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH POLICY 101.13.4 OF THE MONROE COUNTY COMPREHENSIVE PLAN, 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 CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.
(File 2013-050)

Mr. Haberman presented the staff report. Mr. Haberman reported that a local applicant brought to staff's attention the recently passed ordinance related to TDRs was not entirely consistent with the comp plan policy because the term "and" was used. Mr. Haberman asserted that perhaps "and/or" should be used, which has a meaningful difference in terms of these zoning characteristics and/or these environmental characteristics. Mr. Roberts agrees it should be "and/or." If the BOCC decides it should be "and," then the comp plan will need to be changed.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 2:39 p.m.