

## DEVELOPMENT REVIEW COMMITTEE

Tuesday, May 28, 2013

### MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, May 28, 2013**, beginning at 1:00 p.m. at the Marathon Government Center, Media & Conference Room (1<sup>st</sup> floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

#### CALL TO ORDER

ROLL CALL by Gail Creech

#### DRC MEMBERS

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|--|---------|
| Townsley Schwab, Senior Director of Planning and Environmental Resources | Present |
| Mike Roberts, Sr. Administrator, Environmental Resources                 | Present |
| Joe Haberman, Planning & Development Review Manager                      | Present |

#### STAFF

|  |         |
|--|---------|
| Mitch Harvey, Comprehensive Plan Manager                   | Present |
| Rey Ortiz, Planning & Biological Plans Examiner Supervisor | Present |
| Matt Coyle, Planner  | Present |
| Gail Creech, Planning Commission Coordinator               | Present |

#### CHANGES TO THE AGENDA

Agenda Item 2 will be heard as Item 1 due to the number of the public attending for this item.

#### MINUTES FOR APPROVAL

Mr. Schwab approved the minutes of the February 13, 2013, February 14, 2013 and April 23, 2013 meetings.

### MEETING

#### **New Items:**

**1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTION 118-12(m) SHORELINE SETBACK, DOCKING FACILITIES, REVISING THE LAND DEVELOPMENT REGULATIONS TO PROVIDE CRITERIA FOR LOCATION OF DOCKING FACILITIES, 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 2013-051)

Mr. Roberts presented the staff report. Mr. Roberts reported that this item is to address the setback from the side property line for davits and boatlifts. Over the years there has been some inconsistency in the application of the setbacks at the review and permit level. Another amendment being made is that the DEP and Corps permits are required prior to the notice to proceed rather than prior to the permit issuance. Part of what spurred this amendment was citizen requests/complaints about boatlifts and davits beginning to clog the waterways. Staff has looked at setback ordinances and setback requirements for other counties in South Florida that have significant waterfront lots. Staff found that the counties that specifically addressed setbacks for docking facilities were mostly at ten feet or more. Staff is considering mooring facilities and appurtenances for securing vessels to a dock should be located no closer than seven-and-a-half, ten or 12 feet to an adjacent property line. "Cleats" have been deleted from this ordinance. Mr. Roberts prefers to pick one number for the setback that would apply to all lifts and davits regardless of zoning codes or physical characteristics of the property. Mr. Schwab agreed that a certain number should be applied across the board.

Mr. Roberts clarified for Kay Thacker that floating docks are addressed separately in the code. Mr. Roberts feels the setback issue in the code is in more urgent need of being resolved. Mr. Haberman cautioned Mr. Roberts to write the language in a way that it cannot be gotten around through a special approval section. Mr. Schwab agreed that language should be added noting that there will be no variances to the setbacks. Mr. Ortiz noted that not all properties are a standard rectangular lot. Mr. Roberts emphasized riparian rights are not included in the code. Mr. Roberts also reported that after reviewing the permit reviews for the last six to seven months 60 percent of the lifts permitted were of a 15,000-pound capacity, which equates to 30 to 34-foot boats. Restricting the number to 12 feet from either side would possibly restrict property owners on narrow lots to one lift. Mr. Roberts and Mr. Schwab discussed the fact that using ten feet would reduce the impact on adjacent property owners a bit, which is a total of 20 feet, but would negatively affect property owners with narrow lots.

Mr. Schwab asked for public comment.

Burke Cannon, president of the Federation of Homeowners in Key Largo, feels the main issue is obstructions the four-post boatlifts cause in a canal because of limited access onto this type of lift. Ms. Thacker believes floating docks cause the same problems.

David DeBrule, owner of Upper Keys Marine, stated a property owner has the capability and right to park their boat from property line to property line. Mr. DeBrule believes seven-and-a-half feet for lifts is workable, but feels five feet with adjustments would work better. Davits should be no more than five feet, because a boat on davits can hang right on the property line. Mr. DeBrule feels grouping all docking facilities together is not a good idea.

Murray Shatt, representing Florida Marine Contractors and Florida Keys Contractors, believes trying to apply the same setback distances will be problematic. Mr. Roberts commented that listing specific facilities in the ordinance would not work because all facility types inadvertently may not be represented in the ordinance.

Wendy Diaz from Southeast Marine Construction stated there are hydraulic scissor lifts that can open right over the property line. Ms. Diaz cautioned that making regulations does not ensure that homeowners will follow all the rules.

Mr. Shatt recommended the first sentence of the ordinance needs to be eliminated and all that needs to be included is the regulation that the boat cannot end up over the property line. Mr. Shatt thinks this proposed ordinance severely restricts the citizens of Monroe County that live on the waterfront by using an arbitrary amount of space. Mr. Shatt agrees that using five feet for davits works fine. Mr. Shatt pointed out that passing this ordinance as it is written would make every davit and lift not included nonconforming. Mr. Shatt feels Code Compliance should deal with complaints of boats hanging over the property line. Mr. Roberts responded there are not enough compliance officers to respond to complaints or look for complaints of boats being bigger than what they should be on a lot. Also, there is nothing in the code currently regarding this issue to enforce. Mr. Shatt then suggested using language that boatlifts and davits cannot be any closer than five feet to the property line without all of the accessory items being included.

Gay Marie Smith asked about replacement of davits and lifts after a hurricane. Ms. Smith asked about the special approval section mentioned by Mr. Haberman. Mr. Haberman responded that replacement of a nonconforming structure would require 50 percent of the entire docking facility being damaged, including the seawall, which would be unlikely, although possible. Mr. Roberts noted that the nonconforming section of the code applies to every structure built in Monroe County, not just docking facilities. Ms. Smith then asked, if this ordinance is written as seven-and-a-half feet, would that override the section of code for planning that calls for five feet on each side. Mr. Haberman explained there is no zoning district that has a five-foot setback on each side. The code reads five and ten, but this has been misapplied in the Upper Keys office.

Sean Kirwan of Glen Boe and Associates commented one area of concern is the offshore docks in places like outdoor resorts where boats moor perpendicular to the dock. This setback would eliminate the opportunity for these people to protect their boat. Mr. Kirwan then questioned the effect of the ordinance on owners in a condominium association with individual slips. Mr. Haberman explained condominium developments are considered one larger site by the County, so this ordinance would potentially only affect those outside slips.

Ms. Thacker then commented that use of the term “reasonable” is too subjective. Mr. Roberts replied that the term has been eliminated from the ordinance. Mr. Roberts then emphasized that this matter cannot be left as it is because of staff’s inability to consistently review and permit docking facilities. Mr. Shatt repeated that this ordinance goes overboard and it should just say boatlifts and davits cannot be closer than five feet to the adjacent property and nothing can stick over the property line. Ms. Diaz recommended verifying the complaints being received.

Mr. Schwab stated that staff will arrive at language that eliminates the vagueness and confusion. Mr. Schwab encouraged the public to watch for and attend the Planning Commission meeting where this will be addressed. Mr. Roberts added this item will probably go before the Planning Commission in July. Mr. Shatt and Mr. Roberts further discussed the pros and cons of using a setback of more than five feet.

Randy Whiteside of Neptune Boat Lifts agrees that language stating nothing can extend over the property line takes care of the placement of a boatlift or davit. Mr. Haberman noted that sometimes property lines extend out into the water. Setback requirements of neighboring counties were discussed.

**2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** APPROVING AN AMENDMENT TO THE LAND USE DISTRICT MAP AMENDING THE LAND USE DISTRICT MAP DESIGNATION FROM RECREATIONAL VEHICLE (RV) TO SUBURBAN COMMERCIAL (SC), FOR PROPERTY LEGALLY DESCRIBED AS A PARCEL OF LAND IN SECTION 14, TOWNSHIP 62 SOUTH, RANGE 28 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00088840.000000; 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 MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2013-042)

Matt Coyle presented the staff report. Mr. Coyle reported that the applicant is requesting this map amendment for properties located on the oceanside of US-1 in Key Largo at approximately Mile Marker 95. The business is J&M Scaffolds of Florida, which has been continually in existence at this site since 1984. The office/commercial retail use was deemed lawfully nonconforming in 1986 when the land use district map was adopted, and prior to that it was BU2 medium business and was then changed to recreational vehicle. After reviewing the County records staff concluded there has never been an RV park or any approved residential use on this property in the past. The property may have been inadvertently included with the RV land use district following an assumption that it was a part of the neighboring RV property, which is right next door. The amendment was found to be consistent with both the comprehensive plan and the Tavernier CommuniKeys Plan and this ordinance would eliminate the existing nonconformity on the site. Staff recommended approval to the Planning Commission and the Board of County Commissioners.

Mr. Haberman noted this will eliminate the nonconforming use issue, but may not eliminate setback nonconformities. Mr. Haberman pointed out that this property was mistakenly shown on the Key Largo Ocean Resort RV URM map amendment, but it was not legally changed to URM.

### **ADJOURNMENT**

The Development Review Committee meeting was adjourned at 2:16 p.m.