

DEVELOPMENT REVIEW COMMITTEE

Monday, November 18, 2019

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Monday, November 18, 2019**, beginning at 1:00 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER by Emily Schemper

ROLL CALL by Debra Roberts

DRC MEMBERS PRESENT

- Emily Schemper, Senior Director of Planning and Environmental Resources
- Cheryl Cioffari, Assistant Director of Planning
- Bradley Stein, Development Review Manager
- Mike Roberts, Assistant Director, Environmental Resources
- Judith Clarke, Engineering Department Representative
- Ashley Monnier, Community Planning Liaison for Naval Air Station Key West

STAFF MEMBERS PRESENT

- Steve Williams, Assistant County Attorney
- Jay Berenzweig, Principal Planner
- Debra Roberts, Senior Coordinator

APPLICANTS & PUBLIC PRESENT

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| Don Horton | Kathy Hutson | Blaine Lounsbury | David Thompson |
| Lizzie Thompson | Chelsea Vanadia | | |

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, October 29, 2019.

MEETING

Items 1 and 2 were read together.

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE / COMMERCIAL (MU), FOR PROPERTY LOCATED AT 103965, 103955, 103945, 103935 AND 103925 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATELY MILE MARKER 103.9, WITH REAL ESTATE NUMBERS 00475240-000000; 00475250-000000; 00475260-000000; 00475270-

000000 AND 00475280-000000; AS PROPOSED BY ISLAND CONSTRUCTION MANAGEMENT ON BEHALF OF ABIT HOLDINGS, LLC; 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 INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-029)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO SUBURBAN COMMERCIAL (SC), FOR PROPERTY LOCATED AT 103965, 103955, 103945, 103935 AND 103925 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATELY MILE MARKER 103.9, WITH REAL ESTATE NUMBERS 00475240-000000; 00475250-000000; 00475260-000000; 00475270-000000 AND 00475280-000000; AS PROPOSED BY ISLAND CONSTRUCTION MANAGEMENT ON BEHALF OF ABIT HOLDINGS, LLC; 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 (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE. (File 2019-028)

Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. This application was received on February 21, 2019. The proposal is to amend the FLUM from Residential Medium to Mixed Use Commercial and to amend the Zoning Map from Improved Subdivision to Suburban Commercial for five platted lots at roughly mile marker 104. The property is Tier III in the X Flood Zone. Prior to 1986 it was in the BU-1 Zoning District, in Suburban Residential from 1986 to 1992, and was designated as Improved Subdivision in 1992. In 1997, the property was given the current FLUM designation of Residential Medium. The applicant states the reason for the proposed amendment is to allow various uses of residential and non-residential excluding industrial and similar uses. The full justification is provided in File 2019-028 and 2019-029. Staff has reviewed the file for consistency with the Comp Plan, Land Development Code and State Statutes. A community meeting was held on August 26, 2019, having 37 people in attendance. Issues identified included limiting the development to high-end single-family residences, concern regarding the increased density, affordable housing and traffic. Five emails were received in public comments recommending staff to not approve the proposed changes. This item is scheduled to go before the Planning Commission tomorrow on 11/19/19.

For the proposed FLUM amendment, changes shown in the blue portion of the table are a decrease in permanent residential development of 2.86 units, an increase of 10.29 units in max net residential development per market rate units with TDRs, increase of 10.29 units in affordable residential development, an increase of 17 rooms or spaces for transient units, and an increase in 14,001 square feet in non-residential development potential. The community character in the immediate vicinity includes vacant land to the east and south, and commercial uses to the north and west. Commercial uses across U.S. 1 include The Big Chill, Jimmy Johnson's, Caribbean Club and Gus's Toy Box. The property has had an existing building since the late 1950s but that portion of the block is still zoned Improved Subdivision and Residential

Medium. The proposed FLUM Amendment was reviewed for compatibility with the Comp Plan and concurrency in Policy 101.1, and staff finds the proposal to be compliant and consistent with the Key Largo CommuniKeys Plan, Florida Statutes, Principles for Guiding Development, and is recommending approval.

Ms. Emily Schemper, Senior Director of Planning and Environmental Resources asked if there were any comments or questions from staff. There were none. Ms. Schemper then asked for questions or comments from the applicant. Mr. Don Horton thanked staff for their review and findings. Ms. Schemper asked for public comment. There was none. Public comment was closed.

3. WRECKERS CAY APARTMENTS AT STOCK ISLAND, 5700 LAUREL AVENUE, 6325 FIRST STREET AND 6125 SECOND STREET, STOCK ISLAND MILE MARKER

5: A PUBLIC MEETING CONCERNING A REQUEST FOR A DEVELOPMENT AGREEMENT BETWEEN MONROE COUNTY AND WRECKERS CAY APARTMENTS AT STOCK ISLAND, LLC. THE REQUESTED AGREEMENT RELATES TO THE DEVELOPMENT OF 40 UNITS PER BUILDABLE ACRE OF DEED-RESTRICTED AFFORDABLE DWELLING UNITS NOT TO EXCEED 38 FEET FROM GRADE, MECHANICAL EQUIPMENT AND ARCHITECTURAL FEATURES UTILIZED TO HIDE MECHANICAL EQUIPMENT, INCLUDING PARAPETS, MAY BE UP TO 44 FEET ABOVE GRADE, AND SUCH STRUCTURES MAY CONTAIN THREE (3) HABITABLE FLOORS, THE TRANSFER OF EIGHTY (80) MARKET RATE PERMANENT TRANSFERRABLE RESIDENTIAL RATE OF GROWTH ORDINANCE EXEMPTIONS AND EIGHTEEN (18) TRANSIENT TRANSFERRABLE RESIDENTIAL RATE OF GROWTH ORDINANCE EXEMPTIONS. THE SUBJECT PROPERTIES ARE LEGALLY DESCRIBED AS A PARCEL OF LAND HEREIN DESCRIBED IS LOCATED ON STOCK ISLAND, MONROE COUNTY, FLORIDA AND IS BLOCK 32 ACCORDING TO PLAT ENTITLED "ALL LOTS 1, 2, 3, 5, 6, SECTION 35; LOT 2, SECTION 36; LOT 3, SECTION 26; LOT 2, SECTION 34; STOCK ISLAND, TOWNSHIP 67 SOUTH, RANGE 25 EAST RECORDED IN PLAT BOOK 1, AT PAGE 55, OF MONROE COUNTY, FLORIDA, A PARCEL OF LAND ADJACENT TO GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 67 SOUTH, RANGE 25 EAST, STOCK ISLAND, MONROE COUNTY, FLORIDA, A PARCEL OF FILLED LAND IN BOCA CHICA CHANNEL, ADJACENT TO AND CONTIGUOUS WITH LOT 18, BLOCK 33, OF MALONEY'S SUBDIVISION OF STOCK ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 55, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, LOTS 1 AND 2, BLOCK 33, OF MALONEY'S SUBDIVISION OF STOCK ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 55, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND AS LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19 AND 20, BLOCK 34, MCDONALD'S PLAT OF STOCK ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 55, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBERS 00124540-000000, 00124550-000000 AND 00124560-000000. (FILE#2018-147)

Mr. Bradley Stein, Development Review Manager, presented the staff report, first recommending the legal description be changed to three parcels of land for the section township

array to simplify it. Ms. Schemper responded that they would discuss that afterwards. Mr. Stein continued, this is the redevelopment of three mobile home parks with 280 deed-restricted affordable dwelling units. The site was formerly known as Waters Edge, Tropic Palm and Woodson's. The development agreement contemplates the development of 40 units per acre for a total of 280 units with the transfer of 80 market rate and 18 transients. The development agreement discusses a height difference from what was transmitted of 38 feet to 44 feet for mechanical equipment and parapets for screening. Mr. Stein referenced page five of the staff report, section three of the requirements, subsection (m) regarding the request that the site plan of Wrecker's Cay be accepted after approval of this development agreement. The development agreement is required to show consistency with the Comp Plan and Land Development Code, and the current proposed plan has not been fully reviewed to show complete compliance. Mr. Stein requested that section (3)(m) include a statement indicating that it not be accepted until the conditional use is approved. The requested transfer of TDRs was stricken during the BOCC meeting and Mr. Stein recommended any mention of TDRs be removed from the development agreement. The agreement cannot be entered into until all proposed Comp Plan Text Amendments and Map Amendments have become effective, to include the change of the Land Use District, Policies changing density, and creating Goal 111 which would allow this to be done. The Development Agreement could not be entered into until this is all finalized. Ms. Schemper interjected that there had also been a request for abandonment of the right-of-way of several roadway portions. Staff recommends approval of the proposed Development Agreement if it is updated to be consistent with the Subarea Policy as approved by the BOCC for transmittal to DEO and pending approval and effectiveness of the Subarea Policy. Staff reserves the right to request revisions as the process is ongoing.

Ms. Schemper asked for questions or comments from staff. Ms. Judith Clarke, Engineering Department Representative, stated that she had reviewed the conceptual site plan and traffic study and asked if there would be more rounds of review once it is less conceptual. Ms. Schemper stated that there would be with the Conditional Use Permit, but suggested going through her comments now. Ms. Clarke noted that at the intersection of First Avenue and First Street, this block was not one that was proposed to be abandoned and the parking aisle slightly encroaches on the right-of-way. At the end of First Avenue are three parking spaces that would back out into the intersection. The last area of parking has an access drive coming out of it into the intersection which doesn't meet Code with respect to distance from an intersection; however, there is another entrance further into the development. These would be issues for a right-of-way permit. Ms. Schemper reviewed and confirmed with Ms. Clarke the areas she was referencing. Ms. Clarke also noted that the traffic study with respect to traffic counts on Maloney Avenue and Third Street included the parking count had been done in the middle of June to end of July which is the slower part of the season. Mr. Steve Williams, Assistant County Attorney, did not believe that the time of year the count was done could be specified. Ms. Schemper clarified that it would be left up to the methodology discussion which is reviewed by A-Com. Mr. Mike Roberts asked if the shoreside facilities for the mooring field had been addressed at this phase of the Development Agreement. Mr. Stein responded that Marine Resources had reviewed it and was satisfied with the existing language. There were no further staff questions or comments.

Ms. Schemper then asked for applicant questions or comments. Ms. Chelsea Vanadia with Smith Hawks thanked staff on behalf of the applicant, adding that the mention of the TDRs was left over in error and would be revised.

Ms. Schemper then asked for public comment. Ms. Ashley Monnier, Community Planning Liaison for Naval Air Station Key West added that discussions on this project up to this point had been potential inclusion of noise disclosure in the Development Agreement, and she also requested consideration of that as part of the leasing process so that residents would be apprised. Additionally, Ms. Monnier requested some signage addressing unmanned aerial systems or drone activity on the site, and some type of statement regarding the sound attenuation disclosing the military operations; and, further coordination on the TDR or TRE conversation going forward, especially within the ACUIZ footprint. As an ancillary comment, Ms. Monnier also requested coordination on any anchoring activity in the area. Ms. Schemper asked if she was asking for the noise disclosure and signage issues to be mentioned in the Development Agreement itself. Ms. Monnier clarified that she was asking that it be considered if it's an appropriate time to include it, adding that there had been some language used in previous projects on Stock Island that may be able to be used again to notify the public. There was no further public comment. Public comment was closed.

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE TO AMEND SECTION 101-1 TO ADD DEFINITIONS FOR HAZARDOUS VEGETATION AND MAJOR PRUNING; AND TO AMEND SECTION 114-103 TO PROVIDE FOR A PRUNING AND TREE REMOVAL PERMIT, FEE AND MITIGATION EXEMPTION AS PROVIDED BY STATE STATUTE, AND TO INCORPORATE A TEMPORARY PERMITTING SUSPENSION BY THE BOCC FOR THE MAJOR PRUNING OR REMOVAL OF NATIVE HAZARDOUS VEGETATION AFTER A NATURAL DISASTER; 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 AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (File 2019-130)

Mr. Mike Roberts, Assistant Director, Environmental Resources, presented the staff report. This is a proposed amendment to the Land Development Code and not the Comp Plan to address House Bill 1159 which was adopted by the Florida Legislature this year exempting property owners from the removal of what was deemed hazardous vegetation on their private property. However, the House Bill did not include any definition of what constituted the hazardous tree nor did it provide any other guidelines for that removal. These amendments propose one definition within the Code for the type of vegetation that is applicable to the Statute. Mr. Roberts read, "Hazardous vegetation is defined as a tree or trees that have structural defects in the trunk or branches that may cause the tree or tree part to fail, where such failure may cause property damage or personal injury." The Section of Code dealing with removal and major pruning to be amended as, "Major pruning is defined as removal of any major parent branch or limb or any lateral branches of trees in excess of three inches in diameter; and further limiting the amount of pruning per tree that can occur in a given season. Tree abuse has been defined as

the pruning that does not conform to the American National Standards Institute (ANSI) standards for tree care operations.” The actual proposed Code language is pursuant to Section 163.045 Florida Statutes. “If a property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that a tree presents a danger to persons or property, the pruning, trimming or removal of trees on residential property will not require a notice, application, approval, permit fee or mitigation. A property owner shall not be required to replant the tree that was pruned, trimmed or removed in accordance with the referenced Florida Statute section. This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to Sections 403.9321 or 403.9333 Florida Statutes. Should Florida Statute 163.045 be repealed or otherwise withdrawn, the exemptions of this Section 114.103(b) shall no longer apply.” Mr. Roberts added that a provision was added for BOCC action in the event of natural disaster and that section reads, “Notwithstanding the requirements of Sections 114.103 and 118.8, in the event of a declared state of local emergency after a natural disaster, the BOCC may enact a temporary suspension of the requirement for a development permit for the major pruning or removal of native vegetation where imminent danger to life or safety exists, or to prevent further property damage caused by the natural disaster. Pursuant to the approved temporary suspension, a property owner may prune or remove native hazardous vegetation to the minimum extent necessary without a development permit. The property owner shall document the pruning, all removal with photographs taken before and after the necessary action. Clearing of habitat beyond hazardous vegetation is not authorized without a development permit and is subject to Code Compliance.”

Ms. Schemper asked for staff questions or comments. Mr. Jay Berenzweig asked if there was any clarification for areas within a conservation easement. Mr. Roberts responded that it was not specifically identified. Within hazardous vegetation where it specifies such failure may cause property damage or personal injury, areas within vacant lands or a conservation easement would not constitute potential damage to the property or life safety. Mr. Williams asked about the portion regarding the before and after documentation, noting that the requirement it is not in 163.045, and the County would be preempted by the State Statute which does not require such photographic documentation; and, he was not sure how it would be enforced. Ms. Cheryl Cioffari noted that 163.045 states a local government may not require notice application approval, permit fee or mitigation for the pruning, trimming or removal of a tree on a residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property. Mr. Williams reiterated that that was not documenting the condition of the tree. Ms. Schemper thought the specific tree would need to be documented somehow. Mr. Williams added that this had already been to court once and he would advise care in terms of requiring more than what the statute requires. The statute requires hiring an arborist. Mr. Roberts stated that the reference to the documentation is specific to the BOCC enacted temporary suspension, not to just the general removal. Ms. Schemper and Mr. Williams agreed that was a different issue.

Mr. Roberts added that a community meeting had been held on October 24, 2019, in Marathon, and no public attended. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

5. PAMELA STREET, KEY LARGO, MILE MARKER 104.5 (SENDER SITE), CORNER OF MERIDIAN AVENUE AND LYCALOMA AVENUE, KEY LARGO, MILE MARKER 94.7 (RECEIVER SITE): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE TRANSFER OF ONE (1) TRANSFERRABLE DEVELOPMENT RIGHT (TDR) FROM THE SENDER SITE TO THE RECEIVER SITE. THE SENDER SITE IS LOT 6, BLOCK 8, LARGO CITY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4 AT PAGE 142, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00509850-000000. THE RECEIVER SITE IS LEGALLY DESCRIBED AS LOT 1, BLOCK 9, SECTION 3, BAY HAVEN, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2 AT PAGE 41 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00517650-000000. (FILE NO. 2019-134)

Mr. Jay Berenzweig, Principal Planner, presented the staff report. This is a request for a transfer of one TDR from Pamela Street at approximately mile marker 104.5 to the corner of Meridian and Lycaloma Avenues at mile marker 94.7, in the Bay Haven Subdivision. The applicant is Blaine Lounsbury on behalf of the Hutsons who are the property owners for the sender and receiver sites. The receiver site is located in the SR District. There was a beneficial use determination back in 2016 where the BOCC directed staff to propose amendments within the SR Land Use District that could potentially allow a TDR to be accepted based off of the max net density restrictions. Subsequently, the 2017 Comp Plan and Land Development Code had been amended for a max net density within SR. The receiver site does fit that designation, meets all applicable code requirements, and staff recommends approval.

Ms. Schemper asked for staff questions or comments. There were none. Ms. Schemper asked for questions or comments from the applicant. There was none. Ms. Schemper then asked for public comment. There was none. Public comment was closed. Ms. Schemper then adjourned the meeting.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 1:42 p.m.