

PLANNING COMMISSION

June 8, 2011

Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, June 8, 2011**, beginning at 10:17 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**

Denise Werling, Chairman	Absent
Randy Wall, Vice Chairman	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
William Wiatt	Present

**STAFF**

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Bob Shillinger, Chief Assistant County Attorney	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Joe Haberman, Planning and Development Review Manager	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Mitch Harvey, Comprehensive Planning Manager	Present
Rey Ortiz, Planner	Present
Barbara Bauman, Planner	Present
Tiffany Stankiewicz, Development Administrator	Present
Gail Creech, Planning Commission Coordinator	Present
Kim Kiraly, Staff Assistant	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.

## **CHANGES TO THE AGENDA**

Ms. Creech reported that Item Number 4 has been advertised to be heard on June 22, 2011 and will not be heard today.

## **APPROVAL OF MINUTES**

**Motion: Commissioner Lustberg made a motion to approve the minutes from the April 27, 2011 meeting. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

## **MEETING**

### **Continued Item:**

**1. Key Largo Ocean Resort (KLOR), 94825 Overseas Highway (US 1), Key Largo, Mile Marker 94.8:** A request for approval of a major deviation to the site plan and major conditional use permit approved by Planning Commission Resolution #P35-07. The subject parcel is legally described as portions of Sections 13 and 14, Township 62 South, Range 38 East on Key Largo, being part Tract 10 and part Tract 11 of Southcliff Estates (PB2-45), Monroe County, Florida, having real estate numbers 00483390.000000, 00483400.000000, 00088680.000100 and 00088670.000100.

(10:18 a.m.) Kent Harrison Robbins, Esq. was present on behalf of the applicant. Mr. Robbins requested a continuance. The first reason for the continuance was based on the fact that there is a short board present, and the applicant has an understanding that as a practice the Commission has always granted a continuance when there are less than five Commissioners present. Mr. Wolfe agreed that the Commission typically grants a continuance based on that, and requested Mr. Robbins to state the other reasons so everyone is aware of what the applicant's concerns are. Mr. Robbins listed the second reason as being that there is a new member of the Commission who did not have an opportunity to hear the evidence of the previous meeting. The third reason was listed as being Mr. Orestes Lopez-Recio, who is the registered architect for the applicant, began investigating the riparian rights issue at the request of the Planning Commission, and during the course of that investigation Mr. Lopez-Recio's mother passed away and Mr. Lopez-Recio was unable to complete the work the applicant was planning to provide the Commission concerning these issues and other issues.

Mr. Robbins stated that in the last few days Mr. Lopez-Recio has found out that there are significant issues concerning title, and it appears that the 20 feet of shoreline setback is not owned by Key Largo Ocean Resort, but is owned by the Improvement Trust Fund. A full and complete updated survey reflecting the proper legal description is necessary. Mr. Robbins also stated that the notice itself is problematic because one of the two folios in the application is indisputably not owned by Key Largo Ocean Resort. Mr. Robbins submitted photographs of the public beach and the shoreline under consideration. Mr. Robbins requested the Commission reset this matter to the July 13, 2011 Planning Commission meeting.

Mr. Wolfe concurred that it is a longstanding practice of the Commission to agree to a continuance when there is not a full board because the applicant does not have the ability to have all five members hear the matter.

(10:30 a.m.) Gonzalo Dorta, Esq. was present in opposition of the requested continuance. Mr. Dorta first addressed the fact that the association is being represented, and secondly, that back in April Mr. Robbins agreed to go forward with only four Commissioners present. The proceeding in April was canceled due to the Commission suggesting the applicant make changes to the site plan. No changes have been made to the proposed site plan. Mr. Dorta also opposes the continuance because the testimony has already been presented through staff to the Commission and no additional testimony needs to be taken. Mr. Dorta claimed the issue is whether or not approving the proposed site plan constitutes a taking. Mr. Dorta again stated that the continuance should be denied and the matter should go forward today.

Mr. Wolfe explained again that it is the longstanding practice to continue a matter at the request of an applicant if there is not a full board, and then voiced his concern of deviating from that practice. Mr. Wolfe also informed Mr. Dorta that there were a significant number of other items which were discussed as part of the continuance in which the Commission asked the applicant to provide more information.

Vice Chair Wall asked for a reading of the directions given to the applicant at the last meeting. Mr. Shillinger summarized the items requested by the Commission as: One, KLOR agreed to look at addressing the issue of extending the lot lines from the proposed location to the waterline; two, KLOR agreed to look at extending Mr. Calil's lot lines to the water provided that the use of the section right on the water was going to be limited; three, the Planning Commission suggested the guidelines include the prohibition of rooftop balconies; four, Mr. Haberman requested better written narratives on items as opposed to pictorial references in the site plan; five, the Commission requested changing the term "design guidelines" to "design requirements" to make it clear these were not suggestive or optional; six, there was a need to survey the actual mean high water line; and seven, there was a requirement that the 35-foot height of buildings be measured from the immediately adjacent street, not from US-1.

**Motion: Commissioner Lustberg made a motion to continue the matter to the July 13, 2011 Planning Commission meeting. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

#### **New Items:**

**2.A public hearing to consider and finalize the ranking of applications in the Dwelling Unit Allocation System for the January 13, 2011, through April 12, 2011, ROGO quarter (3<sup>rd</sup> Quarter Year 19). Building permits will be allocated for all unincorporated Monroe County.**

(10:41 a.m.) Tiffany Stankiewicz made a correction to Page 6, Line 14 of the staff report to indicate staff is holding allocations in abeyance for applicants ranked 2, 3, 5, 8 and 9. Ms. Stankiewicz presented the staff report and recommended approval of the market rate Lower Keys

applicants ranked 1 through 5, 7 through 8 and 11 through 14. Staff is holding allocations in abeyance for applicants ranked 6, 9 and 10 since the properties do not have tier designations at this time. Big Pine/No Name Key applicants ranked 1 through 2 are recommended for allocation based on mitigation available from Monroe County. Upper Keys applicants ranked 1, 4, 6 through 7 and 10 through 14 are recommended for allocations. Staff is holding allocations in abeyance for applicants ranked 2, 3, 5, 8 and 9 since the properties do not have tier designations at this time.

Vice Chair Wall asked for public comment. There was none.

**Motion: Commissioner Hale made a motion to approve staff's recommendations. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**3.Roni Hammer and Patrick Harkins (DBA Snooks Bayside), 99470 Overseas Highway, Key Largo, Mile Marker 99:** A request for approval of a 5COP (beer, wine and liquor, on premise and package) alcoholic beverage special use permit. The subject property is legally described as Section 32, Township 61 South, Range 39 East, West 200; Tract 18 & West 200' Tract 19, Revised Plat of Sunset Cove, (PB 2-20), Key Largo, Monroe County, Florida, having real estate number 00504170.000000.

(10:46 a.m.) Barbara Bauman presented the staff report. Staff recommended approval for the 5COP license with conditions, which conditions were then outlined. Commissioner Wiatt asked if any objections from surrounding property owners found to be adversely affected have been made. Ms. Bauman reported that none have been received. Ms. Bauman explained to Vice Chair Wall that the conditions having to be met before the County signs the alcoholic beverage license is a protection for the County. Ms. Bauman stated that the applicants do not want to invest the money to expand until they know they can run the business they are planning to have on the property. The difference between a 5COP and a 6COP license was discussed. Vice Chair clarified that there does not have to be a restaurant in order to serve alcohol with a 5COP license.

Richard Hopkins of Bluewater Engineering was present on behalf of the applicant and was sworn in. Mr. Hopkins explained to the Commission the difficulty of getting financing to rebuild this restaurant. The bank has agreed to finance the liquor license, but the rest of the work has to be paid for out-of-pocket. The changes in the footprint of the property were discussed. Mr. Hopkins informed the Commission that the applicant is doing the minimum amount possible so that they can get open, start generating funds before starting additional construction, and further stated that there is no plan to have a package store on the property, but that is the license that was available.

Vice Chair Wall asked for public comment. There was none.

**Motion: Commissioner Wiatt made a motion to approve the request. Commissioner Hale seconded the motion.** Mr. Haberman explained to Vice Chair Wall that there are very good safeguards in place by the conditions in the report having to be met. Mr. Haberman further explained that if the applicant went back to the exact same footprint of the original building, it

would have to be a complete replica built in compliance with the code, which would be difficult to do since the original building was quite old, and it still would have to be reviewed by a planner in the building permit process. Vice Chair added that because the original building was more than 50 percent destroyed in the fire, the new building would have to be built to meet flood codes, which by itself triggers a review. **There was no opposition to the motion. The motion passed unanimously.**

### **GROWTH MANAGEMENT COMMENTS**

Mr. Harvey reported that on June 20, 2011 the Board of County Commissioners will be holding a transmittal hearing to review the transient unit moratorium extension policy amendment and the Goal 107 sub-area policy. Then Keith & Schnars will be giving a presentation in front of the Board of County Commissioners on the technical document and the element-by-element review. Mr. Harvey informed the Commission of the changes that occurred during the past legislative session. Mr. Schwab added that once the significant impacts on planning in the State of Florida have been evaluated by staff, there may be a presentation to summarize those changes so the Commission better understands how they might affect Monroe County. Mr. Harvey informed the Commission that effective July 1, 2011 there will no longer be a Department of Community Affairs, but there will be a Department of Economic Opportunity with a Division of Community Planning. Because Monroe County is an Area of Critical State Concern, Monroe County will fall under a statewide review process and the process will pretty much remain the same.

### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 11:12 a.m.