

PLANNING COMMISSION  
**September 28, 2011**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, September 28, 2011**, beginning at 10:13 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	Present
Randy Wall, Vice Chairman	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
William Wiatt	Present

**STAFF**

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Joe Haberman, Planning and Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Tiffany Stankiewicz, Development Administrator	Present
Gail Creech, Planning Commission Coordinator	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**

Staff requested to hear Item Number 1 last. Item 2 was requested to be continued to the November 9<sup>th</sup>, 2011 meeting.

**New Items:**

**2.Roy's Trailer Park, 6500 Maloney Avenue, Stock Island, Mile Marker 5:** A request for approval of a development agreement between Roy's Trailer Park, Inc. and Monroe County. The development agreement would allow the property owner to transfer market-rate Rate of Growth Ordinance (ROGO) exemptions associated with 108 existing, lawfully established dwelling units to another receiver site or sites in exchange for maintaining an equal or greater number of deed-restricted affordable dwelling units on the subject property or sender site. The development agreement is required as part of an affordable housing incentive program as set forth in Section 130-161.1 of the Monroe County Code. The subject property is legally described as Lots 4-11 and 40-47, Square 46, Maloney Sub (PB1-55), Stock Island, Monroe County, Florida, having real estate number 00126090.000000.

**Motion: Commissioner Wiatt made a motion to continue Item 2 to the November 9, 2011 Planning Commission meeting. Vice Chair Wall seconded the motion. There was no opposition. The motion passed unanimously.**

**3.Northstar Resort Enterprises Corp. Property, 99060 Overseas Highway (US 1), Key Largo, Mile Marker 99:** A request for approval of a development agreement between Northstar Resort Enterprises Corp. and Monroe County. The development agreement would allow the property owner to construct and operate a campground for 110 recreational vehicles until the completion of a 138 unit resort hotel with accessory uses and structures approved by Planning Commission Resolution #P02-07. No structures will be higher than 35 feet. The subject property is legally described as a portion of lots 4, 8, 9, 11 and 12 in Section 32, Township 61 South, Range 39 East (PB1-68) and Block 3, Lot 3, El Dorado Heights (PB1-203), Key Largo, Monroe County, Florida, having real estate number 00088020.000000.

(10:18 a.m.) Joe Haberman presented the staff report. Mr. Haberman reported that the main purpose of the development agreement is to create a new approval for a campground for the immediate future, while maintaining the approval for a resort hotel that will be phased in. There has been a long history with this site, and the owners now have the ROGO exemptions and TDRs they need. The owners will have to amend their conditional use, which will bring the project back before the Planning Commission, and the site plan and phasing plans will be included in that for approval. This development agreement gives the owner a ten-year time frame that, to a degree, locks the code in place so they can have some good faith moving forward. Staff recommended approval.

Mr. Haberman clarified for Commissioner Lustberg that at each phase staff will make sure that the density and all other code provisions are met, but that will be done through the conditional use review and it will require a specific phasing plan. Mr. Wolfe reminded the Commission that the process for approval of a development agreement requires two public hearings, the final one being before the Board of County Commissioners (BOCC). The Planning Commission does not have to approve this. The Commission is free to give comments to the BOCC, but there is no formal recommendation required on this.

Joel Reed, planner, was present on behalf of the applicant and was sworn in by Mr. Wolfe. Mr. Reed submitted a handout of his presentation. Mr. Reed explained the history of the project and the amount of approvals that have been gathered on this site to date. Under a prior agreement on this site, P02-07, there was an agreement to build 15 affordable housing units, which are currently under construction right now at Mile Marker 106. It is very important to the owner to not lose any existing approvals. Since commercial financing has been affected greatly by the economy, there is not a known date when financing will be finalized and secured for this project. The site has been cleared except for a restaurant structure on site. The owner would like to develop an RV park until financing can be secured for the hotel. A lot of the infrastructure for the hotel could be used as well for the RV park concept. Market studies show demands for RV parks in the Upper Keys. A slide was shown of what is approved on the site right now for the 138-unit resort hotel. All the same buffers and setback requirements established during P02-07 have been maintained. The RV park would be Phase 1 of the project. Phase 2 would include three hotel structures, with nine rooms per structure. Phase 3 would be implementation of P02-07, which would include the RVs being eliminated and the rest of the hotel units and amenities being built. Mr. Reed explained to Vice Chair Wall that from the traffic study included in the initial report the RV use is considered to be a less intense use from a traffic standpoint than the resort hotel.

Chair Werling asked for public comment. There was none.

Mr. Wolfe again reminded the Commission that a vote is not required, but any suggestions or comments can be passed on to staff and the developer to help in the process. Commissioner Lustberg asked about guarantees that the RVs will be occupied by people and not left as storage or rented out to third parties. Mr. Haberman replied that the conditional use will state that the only type of RV that is allowed in the OC district are road-ready and will be subject to the 180-day rule.

Jim Saunders, representing the owner of the project, was sworn in by Mr. Wolfe. Mr. Saunders clarified that all of the RV sites will have their own electrical and sewer hookups. It is a transient park. The only storage on site is for boat trailer parking. Mr. Saunders added that this development agreement is not going to increase any of the intensity or density on the site because the hotel is the maximum density allowed. Chair Werling remembered that the County was discouraging new RV parks. Mr. Haberman answered that there is nothing in the code or comprehensive plan that discourages or prohibits RV parks. Chairman Wall added that there is a moratorium on new transient units, but this applicant does not require any new transient units.

Commissioner Wiatt asked if under Phase 2, the combination of an RV park and a hotel, the property would be divided into two separate areas? Mr. Reed clarified that there is no intention to have the property divided, but the phasing line is just to demonstrate the phases in the plans. Commissioner Wiatt then asked about the lack of parking from the hotel standpoint. Mr. Haberman explained that this will be coming back as a conditional use application where more details of how each phase works will be provided. Mr. Reed pointed out the lobby area on the plans to Commissioner Wiatt, and then explained how the parking will be phased in.

Ms. Grimsley announced the second public hearing for this development agreement will be held on November 16, 2011 at the BOCC meeting at the Murray Nelson Building in Key Largo at 3 p.m.

**Continued Item:**

**1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING EXISTING MONROE COUNTY CODE SECTION 138-19, RATE OF GROWTH ORDINANCE (ROGO), SEC. 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, SEC. 138-26, EVALUATION PROCEDURES FOR RESIDENTIAL DWELLING UNIT ALLOCATION, SEC. 138-28, EVALUATION CRITERIA, SEC. 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, SEC. 138-52, APPLICATION PROCEDURES FOR NROGO, SEC. 138-55, EVALUATION CRITERIA (NROGO); ESTABLISHING NEW MONROE COUNTY CODE SEC. 138-29, ROGO SITE PLAN APPROVAL PROCESS AND SEC. 138-56, NROGO SITE PLAN APPROVAL PROCESS; RENUMBERING EXISTING MONROE COUNTY CODE SEC. 138-56, EMPLOYEE HOUSING FAIR SHARE IMPACT FEE TO SEC. 138-57, ELIMINATING SEC. 110-142, COMPLIANCE REQUIREMENTS FOR BUILDING PERMIT APPLICATIONS REQUIRING A ROGO OR NROGO ALLOCATION AWARD OR SUBMITTED UNDER PRIVATIZED PLAN REVIEW, AND SEC. 110-143, DEADLINES FOR SUBMISSION OF BUILDING PERMIT APPLICATIONS TO BE ENTERED INTO THE RESIDENTIAL AND NONRESIDENTIAL PERMIT ALLOCATION SYSTEMS; TO ELIMINATE THE REQUIREMENT THAT A BUILDING PERMIT BE “APPROVED” PRIOR TO ENTERING ROGO OR NROGO AND REPLACE THAT REQUIREMENT WITH A REQUIREMENT THAT APPLICANTS SEEKING ROGO OR NROGO ALLOCATIONS OBTAIN A SITE PLAN APPROVAL PRIOR TO ENTERING ROGO OR NROGO; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(10:47 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that ROGO, which is currently a two-part process, is being made into a three-part process. A revision process has been added. Language regarding wastewater has yet to be determined and added.

Vice Chair Wall pointed out that the language on Page 7, Lines 32 and 33, seem to indicate that a points-neutral revision is not allowed. Mr. Haberman clarified that changes can be made that are not just point-neutral, but that also would increase points. Mr. Haberman will clear up the language. Vice Chair Wall then pointed out that the word “increasing” on Page 19 at Line 43 and on Page 32, Line 40 should say “decreasing.” Mr. Haberman agreed that it is confusing and will revise the language. Vice Chair Wall then commented that it should be within a person’s right for a single-family residence to be able to do their own site plan. Mr. Haberman stated that an architect can supply a site plan, but he will discuss it with the Growth Management Director.

Commissioner Lustberg questioned the reasoning of the time limit in Paragraph G(2) on Page 23. Mr. Haberman explained that there is still an option to extend time frames if there is some kind

of good cause, but if no action is taken, the ROGO allocation can be given to somebody who will use it. Commissioner Lustberg stated that she felt there was an incomplete sentence under the definition of ROGO site plan on Page 5. Mr. Haberman will add language to correct that.

Ms. Grimsley brought up that the time requirement to review and process ROGO applications on Page 6, Line 1 is insufficient. Vice Chair Wall suggested making the time consistent with the time given for a ROGO site plan review. Ms. Grimsley pointed out the language on Page 16, Line 44, that the application shall be received by the Planning and Environmental Resources Department at least 30 days prior to the beginning of a ROGO allocation period. Since the review of the site plan bears no relationship to any particular quarter, Ms. Grimsley recommended deleting that language. Vice Chair Wall believes applicants should have an expectation that their application will be reviewed in a timely manner. Mr. Haberman clarified that in the general section of the code, 15 working days is given to determine if any approval application for development approval is complete, and then another ten working days is given to determine if it is compliant. Ms. Grimsley does not believe 25 days is sufficient.

Vice Chair Wall would like to see a date included for the review of the site plan and a date for the review of the application so that the applicant knows that within 60 days they will be in the system. Ms. Stankiewicz clarified that the time frame on Page 6 has to do with the ROGO application and only on rare occasions does someone want to submit an application who has not received all of the required approvals. Ms. Stankiewicz explained to the Commission what is involved when reviewing a ROGO application. Ms. Stankiewicz stated that 30 or 45 days would be an appropriate time frame to accomplish this. Possible ROGO and NROGO time requirements were discussed.

Ms. Grimsley reported that Christine Hurley, Director of Growth Management, recommended 60 days for the review. Mr. Schwab stated that what is complicating this is the work load in the department. Vice Chair Wall suggested compromising at 15 days for a review for completeness and 45 days for compliance. Ms. Grimsley stated that staff will take that recommendation under advisement and suggested running a real life scenario on what it would take to complete the process.

Vice Chair Wall asked about the status of allowing electronic submittals to allow different departments to have overlapping review periods. Mr. Schwab answered that requires new technology that is not budgeted for this year, but the County is working with the contractors figuring out how to expedite and refine all of these processes, including the planning review. Mr. Schwab would like to evaluate the situation a little bit more and get more input from Ms. Hurley. Chair Werling stated that although she would like the process to be a little more expedited from an occupational viewpoint, she also does not want to see anything rushed through with errors because of a time requirement.

Mr. Schwab proposed running a model to see if 45 days is reasonable. Mr. Schwab emphasized that staff is looking to do the right thing and make it definitive for the public and get it out as fast as possible without creating problems by making decisions by a judgment call and not researching issues. Vice Chair Wall stated that this ordinance will save the applicants a lot of money for wasted sets of plans and is a terrific idea.

Ms. Grimsley suggested changing the ten days for compliance for the ROGO allocation application to 30 days on Page 6, Line 1. Another change suggested by Ms. Grimsley was on Page 15, Line 21, striking Lines 21 through 24, to say “The following provisions apply to applications received prior to October 29<sup>th</sup>, 2007 into ROGO,” since that was the effective date of the tier ordinance for ROGO. On Page 16, Line 18, Ms. Grimsley feels that all of Paragraph 4 is unnecessary because that has all been done. Ms. Grimsley then suggested adding, on Line 44 of Page 6, “(4), After 180 days of mailing of notification of the award of allocation.” Mr. Schwab asked if the Commission would like to hear the determination that is made within the department on the 45 or 60-day issue. Vice Chair Wall stated he trusts staff to make that determination.

**Motion: Vice Chair Wall made a motion to recommend approval to the BOCC with the changes discussed and made today. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

#### **GROWTH MANAGEMENT COMMENTS**

Mr. Harvey reported that staff is meeting today by teleconference with Keith & Schnars to review the draft EAR, which will be submitted to the Commission for review prior to the special meeting being held on November 2, 2011. Mr. Haberman reported that the BOCC approved the parking amendment, but required a slightly increased standard by adding a requirement of three parking spaces for all units of three or more bedrooms.

#### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 11:44 a.m.