

PLANNING COMMISSION
December 20, 2023

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Wednesday, December 20, 2023**, beginning at 10:05 a.m.

CALL TO ORDER by Chair Scarpelli

PLEDGE OF ALLEGIANCE

ROLL CALL by Ilze Aguila

Ms. Christina Gardner, Ex-Officio Member, NASKW, requested to attend meeting via zoom.

Motion: Commissioner Thomas made a motion to allow the Zoom attendance. Commissioner Neugent seconded the motion. There was no opposition, though Commissioner Demes did not vote. The motion passed.

PLANNING COMMISSION MEMBERS

Joe Scarpelli, Chair	Present
Ron Demes, Vice Chair	Present
George Neugent, Commissioner	Present
David Ritz, Commissioner	Present
Rosemary Thomas, Commissioner	Present
Douglas Pryor, Ex-Officio Member (MCSD)	Absent
Christina Gardner, Ex-Officio Member (NASKW)	Absent

STAFF

Emily Schemper, Senior Director of Planning and Environmental Resources
Mike Roberts, Assistant Director of Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Devin Tolpin, Principal Planner
Liz Lustberg, Senior Planner
Peter Morris, Assistant County Attorney
John Wolfe, Planning Commission Counsel
Mayte Machado, Sr. Coordinator, Planning Commission
Ilze Aguila, Sr. Administrator, Planning & Environmental Resources

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by Mr. John Wolfe.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Ilze Aguila confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff was sworn in by Mr. John Wolfe.

CHANGES TO THE AGENDA

Item Number 4 is rescheduled to the January 24, 2024 meeting, and will be re-noticed and re-advertised accordingly.

APPROVAL OF MINUTES

Commissioner Demes noted an error in the attendance roster for the November 15, 2023 meeting minutes that needed to be corrected to reflect that Commissioner Ritz was absent and Commissioner Thomas was present.

Motion: Commissioner Demes made a motion to approve the November 15, 2023 meeting minutes with stated corrections. Commissioner Neugent seconded the motion. There was no opposition. The motion passed unanimously.

DISCLOSURE OF EX PARTE COMMUNICATIONS

None.

MEETING

AGENDA ITEMS

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY TIER OVERLAY DISTRICT MAP FROM TIER I TO TIER III, AS REQUESTED BY PAUL LAROCHELLE ON BEHALF OF PROPERTY DEVELOPMENT AND ACQUISITION, LLC, FOR PROPERTY LOCATED AT 5304 3RD AVENUE, APPROXIMATE MILE MARKER 5, LOT 11, BLOCK 53, STOCK ISLAND, PLAT BOOK 1, PAGE 55, HAVING PARCEL ID NUMBER 00126700-000000; 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 TIER OVERLAY DISTRICT MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2023-192)

(10:04 a.m.) Mr. Mike Roberts, Assistant Director, Environmental Resources, presented the staff report. This is an application for a tier map amendment for a parcel adjacent to a large wetland at the end of Third Avenue on Stock Island. It is currently mapped as Tier I, and the application is to amend that to Tier III. Mr. Roberts presented an aerial of the current filled site conditions. The Department has issued permits for clearing of exotic vegetation, the installation of a rip-rap wall along the west property line and for fill. Some habitat maps in the past indicated this was part of the wetland prior to the removal of exotic vegetation, which was not the case. The parcel was only exotic vegetation with no wetlands on site. The evaluation for the tier criteria states if a parcel outside of Big Pine and No Name Keys does not meet the criteria for Tier I, it is automatically Tier III. Mr. Roberts then presented the tier criteria to indicating the parcel did not meet any of the criteria. Staff is recommending the tier map amendment application be approved.

Chair Scarpelli asked if there were any questions for Mr. Roberts. There were none. Chair Scarpelli then asked for public comment. There was none. Public comment was closed. Chair Scarpelli asked if the applicant wished to speak, and he did not.

Motion: Commissioner Neugent made a motion to approve. Commissioner Ritz seconded the motion. There was no opposition. Motion passed unanimously.

Ms. Emily Schemper, Senior Director of Planning and Environmental Resources requested a brief pause for technical issues.

Items 2 and 3 were read together.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP DESIGNATION FROM RESIDENTIAL MEDIUM (RM) TO COMMERCIAL (COMM), FOR PROPERTIES LOCATED AT 106309, 106319, 106329, AND 106339 OVERSEAS HIGHWAY, KEY LARGO, FL, APPROXIMATE MILE MARKER 106, HAVING PARCEL IDENTIFICATION NUMBERS 00538470-000000, 00538460-000000, 00538450-000000, AND 00538440-000000 AS PROPOSED BY ISLAND CONSTRUCTION MANAGEMENT, INC. ON BEHALF OF DEL SOL POINT, 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 FUTURE LAND USE MAP DESIGNATION (FLUM) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2023-086)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO COMMERCIAL 1 (C1), FOR PROPERTIES LOCATED AT 106309, 106319, 106329, AND 106339 OVERSEAS HIGHWAY, KEY LARGO, FL, APPROXIMATE MILE MARKER 106, HAVING PARCEL IDENTIFICATION NUMBERS 00538470-000000, 00538460-000000, 00538450-000000, AND 00538440-000000 AS PROPOSED BY ISLAND CONSTRUCTION MANAGEMENT, INC. ON BEHALF OF DEL SOL POINT, 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 2023-087)

(10:13 a.m.) Ms. Devin Tolpin, Principal Planner, presented the staff report. A private applicant has requested to amend the land use district and future land use map of these four platted lots in Key Largo from Residential Medium and Improved Subdivision to Commercial and Commercial 1. These properties were in a B1 light business district prior to September 15, 1986. In 1986, the properties were given their current designations. With the adoption of the County's Comprehensive Plan and Future Land Use Map in 1997, the properties were given the designation of Residential Medium. Lot 17 of the four lots is currently developed with a 425 square foot structure permitted to serve as an office. There are no approved uses for Lots 14, 15 and 16, nor is there documentation of the lots or properties being

aggregated for the purpose of development. The applicant states the reason for the proposed amendments is that these properties should have been designated non-residential. They are adjacent to U.S. 1, next to commercial uses, and in a commercial corridor. A community meeting was held on September 6 and these items were presented to the Development Review Committee on September 26, where the Chair of the DRC did recommend approval of these amendments.

Ms. Tolpin then presented the purpose of the proposed zoning and FLUM districts. These are primarily commercial or non-residential zoning districts in the FLUM category in contrast to the current categories that is primarily residential. The C1 zoning has essentially the same permitted and conditional uses and intensity of the adjacent and more familiar Suburban Commercial district, however there is no residential density allocated for the proposed zoning district. Ms. Tolpin then presented a table with the net changes in development potential if the amendments were approved, which would result in a decrease in the allocated market rate density and an increase in the non-residential intensity of about 3,961 square feet to 10,564 square feet, depending on the use proposed and eventually approved on the property. Ms. Tolpin then presented a slide showing the properties with the surrounding areas. To the east and south is a residential subdivision. To the north and west is the Suburban Commercial zoning district. The total amount of new non-residential floor area that could be constructed on either of the properties would be dependent on the size of the property to be developed and the actual use proposed. Ms. Tolpin then presented a list of the permitted and conditional uses, noting they are essentially the same as the adjacent Suburban Commercial zoning district with the same intensity.

Staff has reviewed the proposed amendments for consistency with the Comprehensive Plan, the Land Development Code and the Key Largo Livable CommuniKeys Plan and has found they are consistent. Staff has also reviewed the capacities of existing facilities and services and determined there to be sufficient capacity to support these proposed amendments. A final review for concurrency of the amendments with existing facilities and services, including the roadway, will be done at the time of an application for development approval for a specific use on the property. Staff is recommending approval.

Chair Scarpelli asked if the anticipated intensity was known for the proposed development. Ms. Tolpin responded that her understanding is the proposed use will likely be some sort of commercial boat retailer and she is unsure of the existing intensity at the moment. There is an existing 425 square foot building. It would likely be of medium intensity based on a traffic statement, but that would be required to be submitted at the time of an application. Chair Scarpelli asked if the intensity is determined by the traffic statement, and Ms. Tolpin confirmed that to be correct. The definition of intensity is trips per square foot of floor area. Chair Scarpelli then asked for public comment.

Ms. Jonelle Copp was attending for a friend, Luis Perez, whose house is located next door to these properties and had written a letter requesting that it be read at the meeting. The boat business is already on the property and has been for a few months. It was not clear whether the letter had been received. Ms. Copp had sent the email for Mr. Perez with photos of the existing boat business, and she was allowed to read the letter: He is in opposition to this change. "Yes, the lots are adjacent to a large residential area and while three of the lots are noted as vacant on the application and were vacant when Del Sol Point purchased the property, they are not vacant now. There is a new boat brokerage business, Big Thunder Key Largo, already on the property. It came in a few months ago. This has already created traffic issues in our area. The current zoning is three vacant lots, is residential medium and already provides a buffer from residential to commercial. Contrary to the claim made in the application, changing them to commercial will eliminate that buffer, not make it better. Further, the traffic study submitted was for a proposed Key Largo nursery, not the boat dealership that is currently occupying the property or an even higher density business that changing zoning to commercial could allow. As noted in the application, the area is indeed on a convergence point of 905 and U.S. Highway 1, with entrances from the residential

area behind on both sides of the property and one from across the street. This is frequently already backed up and dangerous due to this five-way convergence point. Adding traffic from a business right in the center of the area with its expected 822 daily trips as noted in the traffic study will not make that better but much worse. Even now when a vehicle with a boat and trailer tries to enter or exit the business on the property it creates a traffic mess. People going 45 to 50 miles an hour switching lanes to either go onto the Stretch or onto Card Sound Road now have to deal with slow-moving vehicles with a boat swinging out into and out of the property. Then add existing residents trying to get in and off the property onto the highway and it's an accident waiting to happen. Further, changing it from the formal zoning to commercial will allow even larger businesses with more traffic in the future on this already dangerous intersection. Lastly, having another high-traffic business hauling vehicles with boats right onto this critical convergence point in the road will complicate hurricane evacuation. An accident at this particular junction in our highway would block access to both U.S. Highway 1 and 905 Card Sound Road, effectively blocking all avenues of escape off the island. This is probably why these three lots, the four lots south of these lots, and the three lots further north of these lots which are all on U.S. Highway 1 are all zoned residential to begin with. Changing the zoning to commercial on these three lots will set a precedent to change the zoning on the other seven lots as well and this will create even a larger problem. I respectfully request that you reconsider this request and deny this application. Thank you, Luis Perez.” He owns 1 North End Road. There was no further public comment. Public comment was closed. Chair Scarpelli then asked if the applicant wished to speak.

Mr. Don Horton, agent for the applicant, stated he was present mainly to answer any questions. He thanked staff for their assistance and recommendation for approval; and, stated that Mr. Ty Harris, attorney for the applicant, was also present. Commissioner Ritz stated that he had spoken to Mr. Horton a couple of times on this issue, which he wanted to disclose, and that it would not affect his decision. There were no questions for Mr. Horton.

Chair Scarpelli commented that it seems the three lots north of this property are already zoned commercial so it's not seven that would be changing in the future. He believes the C1 zoning district is a proper designation for these. Commissioner Ritz agreed as it's at the very beginning of Key Largo on U.S. 1. Chair Scarpelli added that with C1, it eliminates potential residential development which would increase trips even more. Commissioner Demes commented that he understands it can be busy, though when he drove up there he did not see any issues, but understands that when the Keys back up, there's nothing anyone can do about anything. Chair Scarpelli added that along with the traffic reports that would be submitted at the time of application, the Commission would also be looking at ingress, egress and access ways. Ms. Tolpin added that if the proposed zoning amendments are approved, the applicant will be required to submit an application for approval for the specific development which would include a site plan that is in compliance with the current codes. Commissioner Ritz asked about the email referencing the 800 trips per day count and where that had come from. Ms. Tolpin responded that it may be a traffic study that was originally submitted with these applications based on a different development proposal. That study did include a very high traffic count and was for a garden center or nursery. That study was not reviewed thoroughly by the County's transportation consultants because there is not a specific development being proposed at this time. Ms. Schemper added that when a zoning or land use map amendment is approved, it could open up the possibility for a proposed development that would generate trips like that, so it would be reviewed for whether there was capacity for those trips. In this case, it does not appear that that is what is being proposed at this time, but it is a consideration for approving a zoning amendment which could open it up to a different use in five years. Ms. Tolpin stated that Segment 23 has an available capacity, based on the 2021 U.S. 1 Arterial Travel Time and Delay Study of 11,481 trips. Ms. Schemper added that the proposed use in that referenced traffic study had been for a 13,000 square foot nursery garden center which was 886 trips, but then listed the existing land use as recreational vehicle sales which is the likely the closest thing they could find to boat sales.

Of 13,000 square feet, which would include the outdoor area, would be only 64 trips. Chair Scarpelli also noted they are only allowed 10,000 max square feet with the new zoning. Ms. Schemper stated that 64 trips would probably be more than what is happening with the existing and proposed use.

Commissioner Demes commented that he is very sensitive to right-of-ways and he would caution the developers that this zoning stops at the property boundary and should not encroach into that right-of-way in the alleyway. Mr. Horton stated that the applicant would only be approved to use their property.

Motion: Commissioner Demes made a motion to approve Item 2. Commissioner Ritz seconded the motion. There was no opposition. Motion passed unanimously.

Motion: Commissioner Demes made a motion to approve Item 3. Commissioner Neugent seconded the motion. There was no opposition. Motion passed unanimously.

Item 4 had been rescheduled to the January 24, 2024 Planning Commission Meeting.

Prior to Item 5 being read into the record, Ms. Schemper interjected that it had come to her attention that there was a development agreement that was approved in July of 2014 for this site, meaning it is still in effect until July of 2024. The proposal, which is consistent with today's code, is not consistent with that development agreement. Ms. Schemper recommended continuing Item 5 to the January 24, 2024 meeting to allow the applicant to rectify this inconsistency.

Motion: Commissioner Demes made a motion to continue Item 5. Commissioner Ritz seconded the motion. There was no opposition. Motion passed unanimously.

BOARD DISCUSSION

Regarding review of the 2024 Planning Commission calendar, Commissioner Ritz stated that he will be out during the week of April 24th and asked if the meeting could be held the week before on April 17th; and, he also possibly has a conflict for May 29, though he could attend either the 28th or the 30th. He is not sure about the May date but will know by the next meeting. Commissioner Demes suggested approving based on what is known and revisit the single month later. Mr. Peter Morris, Assistant County Attorney, thought that would be the best course of action to provide some predictability. Chair Scarpelli asked if the May meeting should have been set for the 22nd instead of the 29th which would actually be the fourth Wednesday in May. Ms. Schemper thought there would be no problem with that. Chair Scarpelli wanted a motion to move the May meeting to the 22nd, and leave the April meeting scheduled as is.

Motion: Commissioner Demes made a motion to approve calendar as is with the one change to May 22, 2024, as presented. Commissioner Thomas seconded the motion. There was no opposition. Motion passed unanimously.

GROWTH MANAGEMENT COMMENTS

None.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:40 a.m.