

PLANNING COMMISSION
July 23, 2024

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Tuesday, July 23, 2024**, beginning at 10:00 a.m.

CALL TO ORDER by Chair Scarpelli

PLEDGE OF ALLEGIANCE

ROLL CALL by Ilze Aguila

PLANNING COMMISSION MEMBERS

Joe Scarpelli, Chair	Present
Ron Demes, Vice Chair	Present
George Neugent, Commissioner	Present
Commissioner Anderson	Absent
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
Michael Roberts, Assistant Director, Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Devin Tolpin, Planning and Development Review Manager
Liz Lustberg, Senior Planner
Peter Morris, Assistant County Attorney
Dirk Smits, Planning Commission Counsel
Jessica McKinney, Sr. Planning Commission Coordinator
Ilze Aguila, Sr. Administrator, Operations, Planning and Environmental Resources

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by Mr. Dirk Smits.

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. Dirk Smits.

CHANGES TO THE AGENDA

Item 2 is continued to the August 28, 2024 meeting.

APPROVAL OF MINUTES

Motion: Commissioner Neugent made a motion to approve the May 21, 2024 meeting minutes. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.

DISCLOSURE OF EX PARTE COMMUNICATIONS

None.

MEETING

AGENDA ITEMS

1. BLUE CAMP FL, LLC ON BEHALF OF SUN LAZY LAKES, LLC, 311 JOHNSON ROAD, SUGARLOAF KEY, MILE MARKER 20: A PUBLIC HEARING CONCERNING A REQUEST FOR A 2COP ALCOHOLIC BEVERAGE USE PERMIT, WHICH WOULD ALLOW FOR THE SALE OF BEER AND WINE BY THE DRINK (CONSUMPTION ON PREMISES) AND IN SEALED CONTAINERS FOR PACKAGE SALES WITHIN A PORTION OF THE COMMON AREA OF THE RV PARK. THE SUBJECT PROPERTY IS DESCRIBED AS A PARCEL OF LAND IN SECTION 31, TOWNSHIP 66 SOUTH, RANGE 28 EAST, SUGARLOAF KEY, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00118321-000000. (FILE 2024-075)

(10:03 a.m.) Ms. Liz Lustberg, Senior Planner, presented the staff report for the 2COP beer and wine package sales and consumption on premises. Ms. Lustberg presented an aerial of the property with the common area being highlighted showing the portion of that common area where the alcohol beverage use permit is being sought, outlined in red, and more specifically delineated on the site plan provided in the application. The food truck area had previously been approved by permit. Ms. Lustberg then presented the criteria to be considered which had all been met, but pointed out that the URM zoning does not list alcoholic beverage use permits as one of the zoning areas in which this is allowed. However, campgrounds, regardless of zoning, are allowed to have alcoholic beverage use permits, and the campground designation for this area is very well established and not in question. Staff recommends approval with conditions, three of which are specific to this property. The Lazy Lakes area is an RV park with some mobile home sites. The approved food truck is accessory to the park serving the people who are staying at that park only, and is not a restaurant use open to the public. The conditions of that limitation are accessory to the park, sales only to the residents of the park, and proposed to also apply to beer and wine sales from that food truck. Alcoholic sales are accessory to the park and limited to park guests only. Alcoholic sales to the public are prohibited, and are only approved for the area of service located within the common area of the RV Park as outlined in red on the application submitted. Any expansion of the food truck area or any additional use would require permit approval. There is no approval in this permit for anything beyond what has been established.

Commissioner Thomas asked with other people coming in not allowed to buy food or drink there, if there was a gate or attendant present or how people would get in and out of this place. Ms. Lustberg stated the last time she was at the property there was a gate, but no requirement that there be a gate. The property is not directly on U.S. 1. Based on the location and setup of the property, it seems reasonable, but there is no guarantee in the conditions of the permit

approval or this alcoholic beverage approval requiring any physical barriers to be in place. People coming in and out would depend on how the property is managed, and there are no conditions on the management of the property.

Chair Scarpelli noted that the same restrictions had been put on the food truck to even sell food, so it's not a restaurant. Ms. Lustberg agreed, reiterating that this is accessory to the RV Park, similar to what is approved for hotels, which can have a restaurant/bar that is not open to the public. Commissioner Demes added that he had stopped by this morning and the property doesn't look anything like it once did years ago, but that it is quite remote, and one street over is where the big KOA camping complex is located. He noticed there seems to be a road that goes out with a string of small houses, but it looks separate from this campground. This area is very remote.

Ms. Schemper interjected that this had been done for hotels before and if a problem arises, that's when they are brought back in under the conditions. Though it's not on the food truck permit, the alcoholic beverage permit conditions permit could be revised to add for overnight guests rather than day guests if the Commission is concerned. Leaving it as is would be consistent for the other hotel restaurants. On the campground website, if visitors come in, they have to check in, get a visitor pass and possibly pay a visitor fee. Commissioner Neugent believed there would be a certain level of security regarding who could and could not be there, and Chair Scarpelli agreed. Chair Scarpelli then asked for public comment.

Mr. Richard McChesney, representing the applicant, thanked staff for their work and indicated the applicant agrees with staff recommendations and conditions proposed. The RV Park is being run in a very corporate way and there are on-site attendants, this is a gated community, and there are security people there. This is a very remote location and he is confident this will be controlled. If it ever becomes an issue and this Commission wants to put further restrictions in place, they would be happy to entertain that. There was no further public comment. Public comment was closed.

Motion: Commissioner Demes made a motion to approve with conditions as stated. Commissioner Thomas seconded the motion. There was no opposition. Motion passed unanimously.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY TIER OVERLAY DISTRICT MAP FROM TIER I TO TIER III, FOR VACANT PROPERTY LOCATED AT NORTH OCEAN DRIVE, KEY LARGO, DESCRIBED AS A PARCEL OF LAND IN SECTION 29, TOWNSHIP 60 SOUTH, RANGE 40 EAST, ISLAND OF KEY LARGO, MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00083200-000000, AS PROPOSED BY DAVID DEHAAS GROSSECK ON BEHALF OF DONNA J. WILSON, BRIAN C. WILSON, SHELLEY W. AVIRETT AND RICHARD T. WILSON; 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 2024-014)

CONTINUED TO AUGUST 28, 2024

3. A PUBLIC MEETING TO DISCUSS AND OBTAIN RECOMMENDATIONS ON A PROPOSED UPDATE TO THE TAVERNIER HISTORIC DISTRICT PRESERVATION GUIDELINES APPROVED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS PURSUANT TO ORDINANCE NO. 019-2005 THAT IS BEING PREPARED BY ARCHAEOLOGICAL & HISTORICAL CONSERVANCY, INC., WHICH ENTERED A CONTRACT FOR THE UPDATE WITH MONROE COUNTY ON SEPTEMBER 14, 2023, PURSUANT TO A SMALL MATCHING GRANT FROM THE STATE OF FLORIDA, DEPARTMENT OF STATE, DIVISION OF HISTORICAL RESOURCES (GRANT NO. 24.H.SM.100.003).

(10:16 a.m.) Diane Sylvia, having served as Preservation Planner for 26 years, presented the staff report via Zoom. The objections on this grant application were to make the Monroe County Historical Preservation Program more user friendly, provide an avenue for the community to better protect their properties from wind and flood as to climate change, and to create a more comprehensive and educational document that incorporates the land development code. These objectives have been met. These guidelines were based on Secretary of the Interior Standards for Rehabilitation. These guidelines, like the standards, are not rules or laws. Each property, new or old, is unique with its own history or circumstances and should be reviewed in those terms. The certificate of approval matrix and narrative within this document help make the review of most staff approvals very clear. Others that are not should be discussed with the historical preservation planner and referred to the historical preservation commission. The Florida Division of Historical Resources has approved the revised guidelines as meeting Section 106 guidelines, and are in concert with certified local government requirements.

The Monroe County BOCC accepted the small matching grant from the State of Florida, Department of State Division of Historical Resources for the project design guidelines of the Tavernier Historic District and publicly owned historic structures in unincorporated Monroe County. As Monroe County has achieved certified local government status, no matching funds were required. The BOCC entered into a contract with the Archeological and Historical Conservancy for the professional services required to update the existing Tavernier Historic District Preservation Guidelines that were dated August 17, 2005. The Historical Preservation Commission held regularly scheduled, duly noticed public meetings on December 4, 2023, January 8, 2024, May 6, 2024 and June 3, 2024, to obtain recommendations on the proposed update of the Tavernier Historic District Preservation Guidelines as it was being prepared by the Archeological and Historical Conservancy. At the June 3 meeting, the Monroe County Historic Preservation Commission, having considered the full record before it, including public comment, recommended approval to the Monroe County Planning Commission and BOCC of the update to the guidelines to include the requested edits. The existing guidelines are nearly 19 years old. The current update includes provisions needed to follow FEMA regulations and to allow for wind mitigation measures promoting resilience on maintaining the historic character of the community. The drastically updated guidelines have been reviewed by the Historic Preservation Commission, the Monroe County Planning and Environmental Resources Department staff, Building Department staff, and the Florida Department of State Division of Historical Resources.

Their edits have been incorporated into this document. The design guideline update is integrated with Chapter 135 of the Land Development Code Historic and Cultural Resources and includes the recently adopted certificate of appropriateness approval matrix. It is a more comprehensive document that discusses the history of preservation, historic Tavernier, architectural styles, appropriate repairs, replacement and additions to contributing and noncontributing structures, new construction, demolition by neglect, archeological resources, ADA requirements, adapting buildings to the environment, and the financial benefits of historic preservation, along with appendices that include a glossary of interior standards, guidelines for commission members, and policies and procedures for the Historic Preservation Commission that were written by Peter Morris.

A summary of the changes within the update is an expanded historic background that discusses the preservation movement in America and Monroe County and the history of Tavernier. It provides more guidance for property owners, contractors, et cetera, on using the guidelines. It suggests step-by-step things to consider when using the guidelines and viewing archival photos to make educated guesses when restoring and rehabilitating historic structures. It recommends a few additions and revisions to the certificate of approval matrix. It recommends that pools and pool decks not be visible from the street for contributing and noncontributing structures to require only a regular certificate of appropriateness as the Historic Preservation Commission will not object to an appropriately located pool or deck. Pools and pool decks visible from the street for both contributing and noncontributing structures should require a special certificate of appropriateness. In addition, new construction would definitely require a special certificate of appropriateness, and also additions to contributing and noncontributing buildings should require a special certificate of appropriateness, and those two items should definitely be added to the matrix or placed in the narrative specifying that.

For rehabilitating buildings on exterior finishes, greater detail is provided on the use, repair and treatment of exterior finishes such as masonry, stone and wood. It provides more flexibility for window replacement. The HPC will review window replacement or, if change of type is warranted on contributing structures, impact windows are a replacement option if the new unit replicates the old in configuration details, design materials and color. The guidelines emphasize the importance of window protection for shutters and storm panels. Building base treatment, when discussing porches and the open base for a crawlspace with structures, specifies where lattice screening is used it should be wood instead of vinyl. For fences, it specifies that front yard fences should be made of wood and no higher than four feet so the view of the property is not obscured. Side and rear yard fences may be six foot high of metal and wood. Mechanical equipment should be installed so that it's not visible from the street and if it's not possible to do that, it should be screened from view. More detail is provided on store fronts and signage. A whole section was added on ADA requirements and compliance. Also, there's greater detail provided for accessory structures, additions, and new construction. Consideration should be given to masking scale and placement of materials for contributing and noncontributing structures. Accessory structures have been added to this guideline update.

There's also been a new section added on demolition by neglect and the importance of property maintenance, and it references Land Development Code Section 135-8. A new section was added on archeological resources and how to proceed if archeological artifacts or features are

encountered during ground disturbing activity. This is definitely a possibility in Tavernier. There is a cemetery actually at Sunrise Drive, but there is always a possibility of finding archeological artifacts or features. There's a new section added that discusses FEMA, flood insurance and floodplain management and provides guidance for elevating existing structures. There's a new section added that discusses elements as they relate to energy conservation and efficiency under sustainability. There is also a section added on preservation and the financial benefits describing the ad valorem tax exemption for historic buildings as noted in Land Development Code Chapter 135, Article II, federal and state tax breaks for historic income producing properties, and tax benefits for conveying conservation easements. It provides a detailed glossary of terms, a bibliography, and additional sources of information. Newly added were guidelines for Historic Preservation Commission members, and the appendix which provides the commission rules and procedures. At the June 3, 2024 meeting, the Monroe County Historic Preservation Commission recommended approval to the Planning Commission and BOCC of the update to the guidelines. These edits were incorporated into this draft for the Planning Commission's review.

Ms. Schemper stated that the Planning Department staff did review the updated guidelines. There was some back-and-forth between staff and the consultant requesting some changes and updates. Some of that was done, some was not. The Building Department did review and gave a list of recommended changes or considerations as well. Not all of those were necessarily incorporated. In the Planning Department staff report, some excerpts were included from the existing guidelines. Staff uses these guidelines according to the code, and they are adopted into the code by reference, to review development proposals in the historic district overlay. There are a number of items reviewed by staff, and then a number of items that get put up to the actual Historic Preservation Commission for their review. There are actually more items reviewed by staff now per the previous amendment that tried to keep things at a staff level than there used to be. Staff's opinion is that the current format of these guidelines is actually more helpful in staff's review than these existing guidelines. Staff is not recommending approval of this in its current format. Due to grant and the grant deadline, this needed to be moved forward to the Planning Commission and then the BOCC next month, but staff requests that it not be adopted, or at least not be adopted as the official review guidelines, rather more as a reference document for staff. This reads more as an informative document rather than a guiding document to review development proposals. The Planning Commission makes a recommendation to the BOCC who will see this item next month. Not that this should be about money, but the grant requires the BOCC to review it. It does not necessarily require them to approve or adopt it.

Mr. Peter Morris, Assistant County Attorney, added that he was counsel to the HPC for about ten years and in his experience, the community in Tavernier spoke with one voice with respect to transitioning the review and approval process from overwhelmingly requiring quasi-judicial public hearings for things like in-kind replacements of doors or window frames to allowing a broader scope of applications to be reviewed by the Planning Department staff and applying their individual expertise rather than subjecting such types of work to the public hearing requirements, and the community has been very satisfied with that. Riffing off of what Ms. Schemper had just indicated, in his review of these proposed new guidelines, it strikes as creating some "administrability" concerns from a materially legal perspective because while it does have a swath of new defined terms, there still are a pretty significant number of undefined terms that

will be susceptible to metamorphosis according to enterprising plaintiffs' attorneys who are going to have their own creative interpretations of undefined terms and will likely lead to sort of Mexican standoffs as to what does this really mean. As an attorney, he believes members of the community and the construction industry prefer predictability and stability. While it's a very intellectually informative document, he shares Ms. Schemper's and the Department's concerns from the County Attorney's Office's perspective.

Commissioner Demes stated that he was unfamiliar with this area being an historic district, so he had gone up there a couple of weeks ago and drove every single road in that historic district. It was eye opening. His takeaway is that this community is somewhere between conservatively eclectic to wildly diverse. He sees the ultra modern to the old Keys bungalow with four or five barbecue pits outside, which was one of his favorites. Having dealt with HARC in Key West and other historic structures eligible for listing with the federal government, anytime you have something like this it instantly equates to more money to live. He sees some of the houses that are on the less expensive older side, and he's thinking, wow, the thought of somebody trying to recreate or rebuild a door, the labor cost for that is unbelievable just to deal with the historic nature of doing some of what's required. Realizing there will be an ultra modern upper end house next to a very old house with a lot of local character, we get into the contributing and noncontributing. And then, words that he thinks are a lot of generalities, he believes where this would be headed is extremely objective with the shoulds and the shalls. Commissioner Demes thanked Mr. Morris and Ms. Schemper for explaining this transition of who is going to approve what because it seems wildly subjective from say, this year and these people, to three years from now and other people, what "compatible" means. He does not believe the direction is there to easily manage it and understand it, and especially on both ends of the spectrum, contributing and noncontributing, it could cause some pain for people with the unknowns and no predictability for the future what that will mean as a repetitive understanding of compatible architecture or actions to be in compliance.

Chair Scarpelli asked Ms. Sylvia what she thought of the guidelines and this current state of this report put out by the consultants. Ms. Sylvia thought it was very well done and that it was to try to move the Monroe County preservation program into what is commonplace now. For example, on July 31, the National Alliance of Preservation Commission is having their national meeting, and that will be represented by preservation commissions from around the whole country. A good deal of the sessions are dealing with climate adaptation, adapting historic buildings to the floodplain, a roundtable on resilience, substitute materials for sustainability, guide to local, state and federal tax credits, and historic resources in the ADA. This was supposed to be a document where people could get all the information they might need in one place, including for the Commissioners that are actually serving on the Historic Preservation Board. Chair Scarpelli asked how big the current board is. Ms. Sylvia responded that it's five members. Chair Scarpelli then asked Ms. Schemper if, right now, the Planning staff does the historic preservation reviews. Ms. Schemper stated that that was correct for the items that could be reviewed without going to the HPC. Chair Scarpelli confirmed there's no HARC department, which from his own experiences designing within the oldest HARC district in the State of Florida, there's a department for that in the City of Key West. Here, it's not as much because it's not as old, and it's a much smaller community to deal with. He can see where there's going to be legal challenges there. When HARC is reviewing an application within the City of Key West Historic

District, it is very subjective, completely subjective to the Director of HARC and to the Board. It is completely opinion based on the loose words and guidelines that are provided. That's why they're called guidelines and not laws. For Monroe County to try and incorporate that into the Land Development Code, it will take it to another level. This is all very informative and is great, and the consultant provided some really good information, but now we've got to figure out how you make that law, and how do you make that subjective to the Planning Department. First, let's define what needs to be a hard-line law that goes into the Land Development Code and what doesn't, and we need to set that bar. Ms. Tolpin responded that with the adoption of the HPS approval matrix a couple of years ago, more work within the historic district was shifted to be reviewed only at a staff level, and they are being reviewed for consistency with the guidelines. What staff is reviewing has to be very objective because it's the Planning staff, who are not trained historic planners, that need examples of or specific names of what types of windows are acceptable, what types of doors are acceptable, what is not acceptable, because there is always going to be lots of iterations and variations. There is a list of work that does go before the HPC that is going to have much more maybe subjective interpretation made by an appointed board.

Chair Scarpelli stated that his two favorite terms at a HARC meeting are mass and scale. That's always the thing that comes up at every HARC meeting. In the City of Key West, you used to be able to do the ultra modern as seen on Simonton. That used to be able to occur, but now it's totally not allowed. You're also not allowed to mimic other historic structures. It's very bad. This would need to be taken to the next level to further define those items if possible so that staff can incorporate those more, if that's possible, just to give staff a little more meat to write Land Development Code. Ms. Sylvia responded that guidelines are always going to be not clearly black and white, as noted. The old guidelines also state, for example, after the description of doors, it just says for noncontributing buildings must be compatible with the district. Second underneath that it's repetitive, new buildings must be compatible with the district. Unfortunately, with this kind of thing, there is a lot of subjectivity and judgment involved. She is only a phone call or email away for anyone in the Planning Department that has any questions at all. Chair Scarpelli added that his fear is in going too descriptive and saying this particular door and window is what you're allowed to use, as manufacturing changes constantly. And, to Commissioner Demes' point, a solid wood door is eight to \$10,000 just for the door. You can't just say, this is the brand of door you've got to buy because that's what's allowed. The other side of that is if you're buying in an historic district, hopefully you knew you were buying in an historic district or you've known all this time you've lived in the historic district, and to anyone that knows anything, that's always going to cost more money. He does not want to jump the gun and thinks another stab should be taken at this before approving it to see what else can be done to help the Planning staff to navigate terminology with more meat to it. There were no further questions or comments from the Commissioners. Chair Scarpelli then asked for public comment. There was none. Public comment was closed.

Chair Scarpelli asked Ms. Sylvia if she had contacted Anita in Key West, seeing as staff had recommended non-approval and, based upon staff's reasoning, is there anything else that can be done to help staff to figure this out. Ms. Sylvia responded that if something was not clear, they could call her on the phone to discuss it or by email. Previously, that is how this worked, before this incarnation. Also, she is very close friends with Anita. Ms. Sylvia believes it's a very good, informative document. If the Planning staff wants to stay with the old guidelines, that's fine.

She believes this is a good, educational and helpful document, understanding if staff is not trained in historic preservation they may not be able to accomplish some of the things that would be staff approvable.

Mr. Morris interjected that to his knowledge, the professional staff of the department have not received, nor has he, any complaints from the residents of the Tavernier area that the current operative edition of the guidelines are creating “administrability” concerns one way or the other. Typically, people are not shy about voicing their disdain if something is not working, and that carries some weight with him. Chair Scarpelli noted that this referred to 150 parcels or so, and asked if staff’s position could be that Ms. Sylvia reviews these. Ms. Schemper responded that that would require a separate review procedure prior to building permit, so the code would need to be amended to require that. Mr. Morris added that it would also exact unanticipated costs both in the transition to such a framework, and the way that framework would probably play out would be overall more costly and time consuming for a resident in Tavernier to perform that kind of permit work that falls within the scope of the operative guidelines. That functions, essentially, in the loose sense, as a tax on the ordinary resident who is trying to get pretty middle-of-the-bell-curve scope of work accomplished.

Ms. Sylvia added that if staff wants to keep operating under the old guidelines, that’s fine, but they may want to take some of this report as an amendment so that people have an actual ability to have impact windows, as that’s one of the biggest requests they have, and things like elevated buildings as there have been eleven structures in unincorporated Monroe County this year, and it’s a Section 106 requirement that they’re recorded as either historic contributing or noncontributing in order for the grant money to flow for folks to mitigate flood. Some of these things eventually are going to have to be addressed because of climate change. Mr. Morris added that that is a good offering, and he would recommend that this document could be prophylactic-ally cannibalized downstream in time for the parts that would be worthwhile incorporating into the guidelines. But, given the imminence of the grant deadlines and the need to get this item before the Board, a decision has to be made on adopting them wholesale or writ large to supersede the existing guidelines, and he would join in the Department’s recommendation not to adopt these guidelines and to leave the existing guidelines in place. Certainly, the Department professional staff and the attorneys can look at these and see which ones might be worthwhile to be incorporated into the existing guidelines.

Motion: Commissioner Demes made a motion, consistent with the Planning Department’s recommendation, to not approve. Commissioner Neugent seconded the motion. There was no opposition. Motion passed unanimously.

BOARD DISCUSSION

None.

GROWTH MANAGEMENT COMMENTS

None.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:49 a.m.