

PLANNING COMMISSION  
**March 25, 2015**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, March 25, 2015**, beginning at 10:00 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**

William Wiatt, Chair	Present
Beth Ramsay-Vickrey	Present
Elizabeth Lustberg	Present
Ron Miller	Present
Denise Werling	Present

**STAFF**

Townsley Schwab, Sr. Director of Planning and Environmental Resources	Present
Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
Pete Morris, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Rey Ortiz, Planning & Biological Plans Examiner Supervisor	Present
Matt Coyle, Senior Planner	Present
Gail Creech, Planning Commission Coordinator	Present

**COUNTY RESOLUTION 131-91 APPELLANT TO PROVIDE RECORD FOR APPEAL**

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

**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

Gail Creech confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

County staff members were sworn in by Mr. Wolfe.

**CHANGES TO THE AGENDA**

Ms. Creech stated the applicant of Item 1 requested a continuance and the matter will be re-advertised. Agenda Item 4 has asked to be heard first. Commissioner Miller objected to continuing Item 1. The Commissioners agreed to hear Item 4 first. Ms. Santamaria explained that staff met with the applicant and owner of the property of Item 1. There were concerns by residents of Harbor Shores, from where the applicant was proposing to transfer market rate units

to the site. The applicant withdrew that application on March 20 and will resubmit their new application containing a new location. Ann Aktabowski, secretary-treasurer and director of the Harbor Shores Condominium Association in Key West, stated Harbor Shores submitted a petition to the Commissioners and planners stating their objections to this transfer and did not receive an official message back stating that the matter had been withdrawn. Ms. Santamaria assured Ms. Aktabowski that Harbor Shores is no longer part of this amendment and that this has been recorded both on the County's video service as well as the meeting minutes.

### **APPROVAL OF MINUTES**

**Motion: Commissioner Lustberg made a motion to approve the February 25, 2015, meeting minutes. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.**

### **MEETING**

#### **New Items:**

**4.33 Calle Uno, Rockland Key, Mile Marker 9:** A request for approval of a variance of twelve (12) feet to the twenty-five (25) foot required front yard setback along the Calle Uno right-of-way, which is adjacent to the eastern property line in order to construct a carport and relocate the existing stairs. The subject property is legally described as Block 1, North ½ of Lot 13 and Lots 14 & 15, Rockland Village Subdivision, Rockland Key, Plat Book 4, Page 33, having Real Estate Number 00148790.000000.

(File 2015-021)

(10:11 a.m.) Mr. Ortiz presented the staff report. Mr. Ortiz reported that the applicant is requesting an approval of a variance of 12 feet from the required 25-foot front yard setback resulting in a front yard setback of 13 feet. Granting this variance would allow the construction of a 160-square-foot carport and reorientation of an existing stairway. Mr. Ortiz described the environment in which the structure is located. Photographs were shown of the property. Mr. Ortiz recommended approval of this variance with conditions. Those conditions were then outlined. Mr. Ortiz clarified for Mr. Wolfe that staff is recommending approval because staff has concluded that the applicant has demonstrated that he met all of the standards for a variance.

Daniel Toppino, the applicant, was sworn in by Mr. Wolfe. Mr. Toppino advised the Commissioners that the picture being shown as his property is actually his next-door neighbor's property. Mr. Toppino explained the variance is being requested to move the staircase which blocks him from driving under the house. Mr. Toppino has developed a handicap that requires these changes to his property.

Chari Werling asked for public comment. There was none. Public comment was closed.

**Motion: Commissioner Ramsay-Vickrey made a motion to approve. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP TO EXPAND THE BOUNDARIES OF THE ROCKLAND KEY COMMERCIAL RETAIL CENTER OVERLAY DISTRICT, AS DESCRIBED IN SECTION 130-131 OF THE MONROE COUNTY CODE, FOR ONE ADDITIONAL PROPERTY DESCRIBED AS A PARCEL OF LAND IN A PART OF GOVERNMENT LOTS 6 AND 7, SECTION 21, TOWNSHIP 67 SOUTH, RANGE 26 EAST, ROCKLAND KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00122080.000302; AS PROPOSED BY ROCKLAND INVESTMENT CORPORATION, INC.; 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 2014-181)

(10:17 a.m.) Mr. Coyle presented the staff report. Mr. Coyle reported that the request today is for a small change to the boundaries. The area that would be included by this amendment is approximately 4,000 square feet, about a tenth of an acre. In the code there are seven factors that can be used to justify a change in the map. The applicant has asserted that during the first go-round there were data errors resulting in this small piece of property being inadvertently left out of the overlay district at that time. Mr. Coyle noted that by adding this area the intensity of the property is not being increased. Mr. Coyle recommended approval of the proposed amendment to the land use district map.

Commissioner Wiatt asked why a draft traffic study methodology was attached to this item. Mr. Coyle replied that is part of the applicant's ongoing discussions for their future application for a development agreement and should not have been included in this packet. Ms. Santamaria confirmed that the traffic report is not a factor of this hearing in any way. Mr. Williams pointed out that even though the applicant asserted there was a scrivener's error, this was an error between the applicant and the person who provided the information to them. Mr. Coyle clarified for Commissioner Miller that staff is basing the justification for the amendment on the data errors factor, which is what the applicant has asserted.

Owen Trepanier of Trepanier & Associates, present on behalf of the applicant, was sworn in by Mr. Wolfe. Mr. Trepanier thanked Mr. Coyle for identifying the error. Mr. Trepanier explained that the applicant's surveyor made a mistake and did not include this strip of land in the overall survey that was used for the original overlay district. This does not add any additional development rights, but in fact eliminates rights overall in the county because all of the rights associated with this piece of property will go away when it becomes incorporated within the overlay district.

Judy Martinez, resident of Key West, was sworn in by Mr. Wolfe. Ms. Martinez asked the Commissioners to approve this amendment because financial investment and real estate spurs competition. Ms. Martinez is seriously considering putting in a tanning salon in this establishment. Mr. Wolfe commented that this hearing is not about development of the parcel in any way, but only about approving an addition to the overlay district.

Deb Curlee, resident of Cudjoe Key, was sworn in by Mr. Wolfe. Ms. Curlee asked if there would be more discussion on the traffic issues concerning this item. Commissioner Wiatt replied he wishes to discuss it towards the end of the meeting.

**Motion: Commissioner Miller made a motion for approval. Commissioner Wiatt seconded the motion. The roll was called with the following results: Commissioner Ramsay-Vickrey, Yes; Commissioner Wiatt, Yes; Commissioner Lustberg, No; Commissioner Miller, Yes; and Chair Werling, Yes. The motion passed four to one.**

**3.The Wharf Restaurant, 25163 Overseas Highway, Summerland Key, mile marker 25:** A public hearing concerning a request for a Variance of 25 feet to the required 25-foot front yard non-shoreline setback, which is adjacent to the Overseas Highway right-of-way and a variance of 5 feet from the required 5 foot side yard setback along the western property line. Approval would result in a front yard and side yard setback of 0 feet. The applicant has also requested a Variance to the off-street parking requirements in order to reduce the required amount of off-street parking from 42 spaces to 40 spaces, a reduction of 4.8 percent. The requested variance is required to increase the amount of off-street parking on the property by 12 spaces and increase the amount of restaurant seating. The subject property is legally described as Lots 1, 2, 3, 4, 5 and 6, Summerland Yacht Harbor (Plat Book 2, Page 142), Summerland Key, Monroe County, Florida, having real estate number 00194560.000000.  
(File 2015-018)

(10:31 a.m.) Mr. Coyle presented the staff report. A photograph was shown and a description was given of the subject property. Mr. Coyle reported that the request is to reduce the setback from 25 feet to zero in the front yard, five feet to zero on the western side yards, and to reduce the required amount of off-street parking from 42 to 40 spaces. The areas being reduced to zero are going to be parking spaces and there will be one bike rack in the front yard setback as well. The purpose of this is to construct 13 additional off-street parking spaces, install the bike rack and increase restaurant seating by 44 seats. Mr. Coyle explained the property owner also leases adjacent land from FDOT for off-street parking. Today the property has 27 parking spaces and 106 seats at the restaurant, indoor and outdoor. The applicant is proposing to go from 106 seats to 150 seats at the restaurant and to install 13 new parking spaces, which covers 39 new seats, and then for the additional five seats the applicant is asking to reduce the parking requirement by two spaces. More photographs were shown of the property. Mr. Coyle stated staff has recently processed a minor deviation on the property that would allow a tiki in the shoreline setback. A layout of the proposed parking was shown. Mr. Coyle stated that the applicant met all the required standards for a variance to be granted and recommended approval with conditions. Those conditions were then outlined.

Commissioner Ramsay-Vickrey voiced concern regarding the quick turn off the highway required to park in the parking spots to the right of the turnoff. Commissioner Ramsay-Vickrey then reminded the Commissioners to consider the commercial fishing districts that no longer support fishing at all. Mr. Coyle replied that of those eight parking spaces, five are existing and have been approved in the past. Also, when this restaurant was originally approved this Special

Fishing District 13 allowed commercial retail that is supportive of commercial fishing. This restaurant sells locally-caught seafood on the property.

Commissioner Wiatt questioned if the seating numbers would decrease if this establishment lost its FDOT lease used for some of their parking. Mr. Williams explained that would cause a nonconforming situation as soon as that happened. Mr. Coyle pointed out that everything being proposed today would occur on their existing property that they actually own. Commissioner Miller asked if there is a certain amount off pervious area that has to be maintained. Mr. Coyle replied that between the eight parking spaces being part of a gravel parking lot and the applicant taking out a few concrete pads and some other impervious areas on the site, the applicant will meet their open space requirement. Ms. Santamaria explained for Chair Werling that the seating in the shoreline setback was a special approval as long as they perform water quality monitoring. Mr. Coyle added that there is signage on the property regarding the prohibition of littering in this area.

Commissioner Miller feels the applicant's hardship is self-inflicted by expanding. Ms. Santamaria clarified for Commissioner Ramsay-Vickrey that there is existing outdoor seating, but the owner wants to expand it, which would require the water monitoring to continue.

James Figuerado, the applicant, and Tom Timmons of Timmons Engineering were sworn in by Mr. Wolfe. Mr. Figuerado explained that the additional seating will be both inside and outside. Mr. Figuerado emphasized that the State has approved this additional seating already. The tiki will reduce the direct heat and will protect the clientele from rain. There are ten years left on the FDOT parking lease. The variance is needed because the owner wants another handicap parking space. Mr. Timmons explained fuel tanks and concrete pads on the property will be removed.

Chair Werling asked for public comment. There was none. Public comment was closed.

Ms. Santamaria explained that tiki huts do not need permits until they have electric or water. Mr. Williams noted that this tiki hut is anticipated to have electric and water, so it will get permitted by the County. Mr. Figuerado pointed out that since his ownership the number of commercial fishing boats has doubled. Ms. Santamaria added that the applicant also owns the property across the canal and that is where the commercial fishing takes place. Commissioner Wiatt agrees with Commissioner Miller that the hardship has been brought upon themselves. Different options of compromise were discussed. Mr. Figuerado stated if the variance was granted and the parking was short two places, at least the parking on the applicant's property has been increased. The applicant agreed to 144 seats. Commissioner Lustberg noted that having more seats can actually reduce the need for parking just because people get in and get out as opposed to waiting on the property.

**Motion: Commissioner Wiatt made a motion to approve the setback variance and deny the parking variance. Commissioner Lustberg seconded the motion. The roll was called with the following results: Commissioner Ramsay-Vickrey, Yes; Commissioner Wiatt, Yes; Commissioner Lustberg, Yes; Commissioner Miller, Yes; and Chair Werling, Yes. The motion passed unanimously.**

**5.17 Cypress Avenue, Key Haven, approximately mile marker 5:** A public hearing concerning a request for a variance of four (4) feet from the required five (5) foot side yard non-shoreline setback along the northeastern property line in order to construct a pool. The subject parcel is legally described as Lot 4, Block 3, Key Haven – 8<sup>th</sup> Addition (Plat Book 5, Page 61), Key Haven, Monroe County, Florida, having real estate number 00138800.000000. (File 2015-001)

(11:08 a.m.) Mr. Coyle presented the staff report. Mr. Coyle reported that this is a request for a variance of four feet from the required five-foot side yard setback. The purpose of this variance is so that the property owner can construct an approximately 96-square-foot swimming pool. The resulting setback would be one foot along that property line where the pool is proposed. Photographs were shown of the property. Mr. Coyle stated that the proposed location is the only place on the property that the pool could fit with the way it has been developed already. Staff believes all the requirements in order to grant the variance have been met. Mr. Coyle recommended approval with conditions. Those conditions were outline.

Heather Sunderman of Sunderman Pools, present on behalf of the applicant, was sworn in by Mr. Wolfe. Ms. Sunderman stated there is really no other room on the property for a pool. The pool is only eight feet wide by 12 feet long. No neighbor has objected to this and a thick concrete wall exists between the applicant and their neighbors.

Chair Werling asked for public comment. There was none. Public comment was closed.

Mr. Coyle explained to Commissioner Wiatt that this pool appears to be the smallest pool in this area. A few of the variances granted in this same neighborhood are within five feet of the property line, but Mr. Coyle is unsure whether there are any others within one foot of the property line. Commissioner Miller asked about a formula used in determining the location of a swimming pool. Mr. Coyle replied that there is nothing in the Land Development Code about that, but there may be a building code related to that. The applicant will require a building permit for this pool.

**Motion: Commissioner Wiatt made a motion to approve the variance. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.**

**6.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** TO DEFER THE APPROVAL OF APPLICATIONS FOR THE TRANSFER OF DEVELOPMENT RIGHTS TO OFFSHORE ISLANDS, TRANSFER OF ROGO EXEMPTIONS TO OFFSHORE ISLANDS, TIER AMENDMENTS FOR OFFSHORE ISLANDS; MAP AMENDMENTS FOR OFFSHORE ISLANDS TO INCREASE POTENTIAL DENSITY OR INTENSITY AND TEXT AMENDMENTS FOR OFFSHORE ISLANDS TO INCREASE DEVELOPMENT POTENTIAL (DENSITY/INTENSITY), COMMENCING JANUARY 21, 2015, UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AMENDMENT PROCESS IS COMPLETED REGARDING OFFSHORE ISLANDS AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN

AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.  
(File 2015-032)

(11:18 a.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this stems from the comp plan update for 2030. Through that process both the Planning Commission and the BOCC added policies to the comp plan that would discourage development on offshore islands. The BOCC asked that those amendments be removed from the overall comp plan and those processed as a separate amendment, but were concerned that people would submit applications while the separate amendment was being processed. A resolution was adopted in January to defer the approval of those applications and requested that this ordinance be processed so applications would not be approved in the interim.

Chair Werling asked for public comment. There was none. Public comment was closed.

**Motion: Commissioner Wiatt made a motion to approve. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

### **BOARD DISCUSSION**

Chair Werling announced that this is Mr. Schwab's last meeting and thanked Mr. Schwab for all of his hard work. Chair Werling then congratulated Ms. Santamaria on her new position of Senior Director of Planning.

Commissioner Wiatt then asked for an explanation of the difference between "evaluated" and "considered" with respect to the proposed traffic study included in Item 2. Ms. Santamaria apologized that the premature study was included. Ms. Santamaria explained that part of the concerns when reviewing the development agreement was the amount of traffic it could generate. Staff wanted to ensure that Big Pine will be evaluated in the traffic generation to see if it will cause any impacts to that segment. Commissioner Wiatt commented that the intersection on Big Pine is already a concern and asked that it be evaluated at the same standard as the other intersections. Commissioner Wiatt then commented that the 50 miles to the northeast of the proposed site might not actually take into account everyone that would use that property.

### **GROWTH MANAGEMENT COMMENTS**

Ms. Santamaria informed the Commissioners that the process for both the height amendments and the offshore island amendments have begun. They were before the Development Review Committee (DRC) yesterday. It will be brought back to the DRC two or three more times to ensure staff has a full representation and all the comments have been addressed. Mr. Williams asked the Commissioners to inform Ms. Creech as soon as possible regarding their availability for a special- set meeting in July.

### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 11:24 a.m.