

PLANNING COMMISSION  
**May 26, 2010**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, May 26, 2010**, beginning at 10:05 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL** by Debby Tedesco

**PLANNING COMMISSION MEMBERS**

Randy Wall, Chairman	Present
Denise Werling	Present
Jeb Hale	Present
James Cameron	Present
Elizabeth Lustberg	Present

**STAFF**

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mitch Harvey, Comprehensive Plan Manager	Present
Joe Haberman, Principal Planner	Present
Debby Tedesco, Planning Commission Coordinator	Present
Christine Hurley, Director, Growth Management	Present
Michael Roberts, Senior Administrator, Environmental Resources	Present
Rich Jones, Senior Administrator, Marine Resources	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**

Debby Tedesco confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

All staff intending to speak were sworn in by John Wolfe.

Members of the public intending to speak were sworn in by John Wolfe.

## CHANGES TO THE AGENDA

A request was submitted to continue Item Number 1 to the June 23, 2010 meeting. **Motion: Commissioner Cameron made a motion to continue Item Number 1 to the June 23, 2010 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

## MEETING

### NEW ITEMS:

(10:12 a.m.) John Wolfe informed the Commissioners that Item 2 and Item 3 would be heard together and that no vote will be taken at this meeting, as these matters will be continued to the June 9, 2010 meeting.

**2.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS CREATING GOAL 107, OBJECTIVE 107.1, AND POLICY 107.1.1 OF THE MONROE COUNTY 2010 COMPREHENSIVE PLAN TO ESTABLISH A SUB AREA POLICY FOR PROPERTY LEGALLY DESCRIBED AS WISTERIA ISLAND & ADJACENT BAY BOTTOM (OR385-897-898),** HAVING REAL ESTATE NUMBER 000123950-000000; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISION; PROVIDING FOR THE TRANSMITTAL TO THE SECRETARY OF STATE AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

**3.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO AMEND THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM UNDESIGNATED TO MIXED USE COMMERCIAL (MC) FOR PROPERTY LEGALLY DESCRIBED AS WISTERIA ISLAND & ADJACENT BAY BOTTOM (OR385-897-898),** HAVING REAL ESTATE NUMBER 000123950-000000; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONCSISTENT PROVISIONS; PROVIDING FOR THE TRANSMITTAL TO THE SECRETARY OF STATE AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mitch Harvey presented the staff report on both Item 2 and Item 3. Mr. Harvey explained the land swap with the State necessary to create a mooring field. The staff report continued.

Christine Hurley explained the three-step process the applicants would have to go through in order to get the additional units proposed. Mr. Harvey provided the history of why Sunset Key is part of the City of Key West and Wisteria Island is not. The staff report continued.

(10:38 a.m.) Owen Trepanier, Planner, was present representing the owner, FEB Corporation. Mr. Trepanier introduced Roger Bernstein and Jordan Bernstein with FEB Corporation, and Tom

McMurrian, representing the Walsh family. A seven-minute video about Wisteria Island was shown.

(10:47 a.m.) Roger Bernstein described the Pilot Mooring Field Program and the benefits it provides to the environment, and compared the proposed mooring field to the mooring field at Boot Key.

(10:50 a.m.) Owen Trepanier presented the process through which FEB Corporation has gone to receive a FLUM designation. Mr. Trepanier explained that the applicant is looking to model the island after mixed use zoning so they would have the three uses of transient, residential and commercial. A sub-area policy is now being established to limit the density and intensity allowed under mixed use zoning. Mr. Trepanier stated that the proposed development density/intensity calculations are less than what is permitted under MU zoning. Mr. Trepanier also described the process the applicants would have to go through to achieve additional units. The differences of the terms used to describe units by the County compared to the City of Key West were discussed.

(11:08 a.m.) Phil Frank, Environmental Consultant, was present on behalf of the applicant and described Wisteria Island in context with the land development regulations and the County code. Dr. Frank described the three main habitats on the island as disturbed wetlands, disturbed salt marsh buttonwood and disturbed mangrove. Dr. Frank stated that he has not seen any federally endangered species on the island, and that water quality around the island is of concern. Dr. Frank said that all the development proposed in the sub-area policies will comply completely with the LDRs.

(11:14 a.m.) Roger Bernstein told the Commissioners that a water taxi service will run between Wisteria Island and Sunset Key. Mr. Bernstein stated the three main benefits under the Pilot Mooring Program as environmental benefits, safety benefits and economic benefits to the community. Mr. Bernstein explained to Commissioner Cameron that the number of boats moored in the area presently is in the sixties and that the applicant has proposed to the State a free designated anchorage area, making the area safer than it is now. Commissioner Cameron asked for and received a short background on why Wisteria Island is with the County and not the City of Key West. Mr. Bernstein corrected himself by clarifying that the water taxi service would be to the Westin marina in Key West. Mr. Bernstein pointed out that the County benefits from having Wisteria Island within their jurisdiction, as it gives the County enforcement authority over the submerged lands and the owners would pay the County a management fee on the leased land acquired through the land swap with the State.

(11:26 a.m.) Rich Jones explained how and why the Pilot Mooring Program came into existence. Mr. Jones stated that the idea behind it is to be able to regulate both liveaboard and non-liveaboard vessels. Commissioner Lustberg asked if the purpose of the program could be achieved without the Wisteria Island project and Mr. Jones agreed that it could.

(11:31 a.m.) Mr. Bernstein informed the Commissioners that even though Dr. Frank has not noted any significant changes on Wisteria Island, other than Hurricane Wilma damage, since the

last environmental survey prepared over three years ago, the owners are committed to having an updated environmental survey prepared.

(11:34 a.m.) Mr. Harvey reminded the Commissioners that issues relating to lease agreements and the land swap are outside of the purview of the current meeting.

A 15-minute recess was held.

Chairman Wall asked for public comment.

(11:52 a.m.) Deb Curlee spoke on behalf of Last Stand. Ms. Curlee urged the Commissioners to reject the sub-area policy and FLUM designation requested by the applicants because of the negative environmental impacts to wildlife inhabiting the island and nearby waters. Ms. Curlee stated the proposed development would also stress the already overcrowded Old Town neighborhood.

Susan Grimsley informed the public that anybody speaking on behalf of a group must be registered as a lobbyist with the County, which Ms. Curlee stated she was.

(11:55 a.m.) Sloan Bashinsky suggested the Commissioners wait to make a decision until Key West has their DRC meeting and decides what they are going to do, as Key West will be providing the services to Wisteria Island.

(11:59 a.m.) Sue Ann Kitcher spoke about the history of the island and the volunteer efforts to clean up the island. Ms. Kitcher stated that she did not want to give up her rights to the bay bottom that would be involved in the land swap with the State.

(12:02 p.m.) Albert Sullivan asked for clarification on the meaning of Florida Administrative Code 18-21 Section 4 regarding submerged utilities. John Wolfe answered that would be a development consideration to be addressed at a later point in time. Ms. Grimsley clarified that the applicant has a long process to go through, and acquiring a FLUM designation is the beginning of this process.

(12:05 p.m.) Arnaud Girard also gave a history of Wisteria Island and Sunset Key and asked the Commissioners to vote against the applicant's request.

(12:08 p.m.) Christine Russell spoke about the possible problems associated with the proposed mooring field and the possible increase in hurricane evacuation rates. Ms. Russell stated that the citizens of Key West do not want the negative impact on their infrastructure and services, and then referred the Commissioners to Comprehensive Plan Goal 101. Ms. Russell asked the Commissioners to hold the applicants to two units.

(12:12 p.m.) Ron Miller asked the Commissioners to consider the ability of the native plants and habitat to grow on this island if managed. Mr. Miller suggested the development on this island be concentrated in certain areas so as to maintain more open space.

(12:16 p.m.) Barry Barroso spoke about the positive effects the development would have on the island.

(12:18 p.m.) Naja Girard stated that the County would be able to get regulatory powers over the non-liveaboards through the Pilot Mooring Program without the mooring field being developed and asked the Commissioners to carefully consider the issue when the applicants ask Wisteria Island not be designated as an offshore island.

(12:20 p.m.) Andrea Quigley stated that she sees no evidence of Wisteria Island being a spoil island and sees a lot of native hardwood canopies that support endangered species on the island.

(12:21 p.m.) Christine Russell asked for proof that Wisteria Island is not in the Coastal Barrier Resource Systems, as she believes that it is. Mr. Harvey stated that the CBRS maps conform with the National Wildlife Management Areas, and Wisteria Island is outside of the Wildlife Management Area.

(12:23 p.m.) Roger Bernstein clarified that there will be no fuel dispensing or boat repair on the island. Mr. Bernstein then clarified the tax assessment associated with the FEMA list. The regulatory authority over non-liveaboards was again discussed, and Mr. Jones suggested that the FWC Pilot Program information be provided to the Commissioners prior to the next meeting.

(12:31 p.m.) Owen Trepanier pointed out to the Commissioners that at this point the applicant needs to show that the infrastructure has the ability to exist at the time development takes place. Mr. Trepanier then informed the Commissioners that the sewer plant on Fleming Key has the capacity to service Wisteria Island and that FKAA has the ability to handle growth 24 years into the future. The transfer of ROGO units and the terms “offshore island” and “spoil island” in the comprehensive plan were discussed.

(12:39 p.m.) Mike Roberts provided clarification on the land development regulations versus the comprehensive plan in terms of the offshore island designation.

(12:43 p.m.) Mr. Harvey explained that Goal 107 and the associated objective and policies would be an amendment to the present comprehensive plan, and then explained that Goal 107 puts a mechanism in place to deal with individual parcels that may have unusual characteristics that would lend itself to an overlay approach, but where this mechanism might be used in the future is unknown. The difference between a sub-area policy and a district overlay was described. Mr. Roberts said he would research what the comprehensive plan says regarding a spoil island as opposed to offshore islands that are also spoil islands and rookeries and provide that information at the next meeting. Other offshore islands within the County were discussed. Ms. Grimsley explained when a sub-area policy would apply and when an overlay in the land development code would apply. The process through which the applicant would proceed for a major or minor conditional use was discussed.

(12:59 p.m.) Mitch Harvey reviewed the reasons why giving this property a FLUM designation of mixed use commercial was appropriate. Ms. Hurley went into more history of the process the applicants have been through and explained that the sub-area policy was recommended as a way

to further limit the maximum density and intensity and tying it to the public benefit of the mooring field. Ms. Hurley stated that staff only supports the upland development if the mooring field is constructed, completed and in use to help water quality and other issues found to be problematic on the island.

(1:11 p.m.) Mr. Harvey pointed out the differences between what the applicant was requesting and what staff is recommending. Mr. Harvey explained that if the applicant was not able to proceed with the land swap and get permitted the full 110 mooring balls, that they won't get the upland development. Mr. Harvey then described the differences between the 1.6 acres of open space requested by the applicant and the two acres of open space recommended by staff. Ms. Hurley stated public access to the island is required. Mr. Trepanier discussed the proposed land swap in more detail.

(1:30 p.m.) Ron Martin said the public should not be begrudged two acres of open space on Wisteria Island.

(1:34 p.m.) **Motion: Commissioner Cameron made a motion to continue both Item 2 and Item 3 until the June 9, 2010 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

**4. AN ORDINANCE OF THE MONROE COUNTY COMMISSIONERS AMENDING POLICY 101.2.6 OF THE MONROE COUNTY 2010 COMPREHENSIVE PLAN REGARDING THE MORATORIUM FOR TRANSIENT UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; DIRECTING THE PLANNING DIRECTOR TO FORWARD A COPY TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR FILING WITH THE SECRETARY OF STATE; PROVIDING FOR THE INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.**

(1:35 p.m.) Mitch Harvey presented staff report and recommended the moratorium be extended until December 31, 2011

Chairman Wall asked for public comment. There was none.

**Motion: Commissioner Cameron made a motion for approval. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

**5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-23, MORATORIUM ON NEW TRANSIENT UNITS, TO REVISE THE DATE IN WHICH THE MORATORIUM SHALL EXPIRE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISION; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

(1:38 p.m.) Joe Haberman presented the staff report and recommended amending the LDC to state the expiration date as December 31, 2011.

Chairman Wall asked for public comment. There was none.

**Motion: Commissioner Cameron made a motion for approval. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

### **GROWTH MANAGEMENT COMMENTS**

(1:40 p.m.) Mitch Harvey gave an update on the comprehensive plan. Mr. Harvey announced that half of the updated draft technical document was anticipated to be received on June 1, 2010, and the second half was to be submitted from the Keith & Schnars team on August 1, 2010.

### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 1:42 p.m.