

PLANNING COMMISSION
November 3, 2010
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, November 3, 2010**, 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

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
Gail Creech, Planning Commission Coordinator	Present

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Ron Demes, Business Manager, Naval Air Station, Key West	Present
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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 intending to speak were sworn in by John Wolfe.

MINUTES FOR APPROVAL

Townsley Schwab requested a deferral of the approval of minutes.

MEETING

New Items:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO AMEND THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM UNDESIGNATED TO RESIDENTIAL CONSERVATION (RC) FOR PROPERTY DESCRIBED AS WISTERIA ISLAND & ADJACENT BAY BOTTOM, HAVING REAL ESTATE NUMBER 00123950-000000; 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.

(10:06 a.m.) Mitch Harvey presented the staff report, including a description of Wisteria Island and the background on the process through the different governing bodies which this item has moved. Mr. Harvey then described what is allowed under the Future Land Use Map (FLUM) designation residential conservation (RC). Mr. Harvey recommended approval of the staff report. Mr. Harvey described the two zoning districts that correspond to the RC designation. The zoning, and the differences therein, of other islands in the County were discussed.

Commission Cameron asked if Mr. Harvey felt this was good planning. Mr. Harvey answered that he did, and that until the owner can demonstrate that the island can be served by the facilities and services that support the density and intensity that they are asking for, the County is in no position to support a change more than from undesignated to RC.

Mr. Harvey detailed the process through which Wisteria Island has proceeded. Mr. Harvey stated that he felt the challenges the applicant faces in showing their ability to provide services to support the increased density/intensity for RC is similar to those challenges they faced with the undesignated FLUM.

(10:29 a.m.) Nicholas Mulick, Esq. was present on behalf of the owner of Wisteria Island. Mr. Mulick stated he felt that nothing has changed in regard to this island since the first recommendation made by County staff and that Wisteria Island is a unique island and is being handled in a unique manner, including the fact that a local government dictated the outcome of a County decision. Mr. Mulick clarified that the City of Key West stated they did not have enough information in a short amount of time to approve or disapprove the original application, nor did Key West oppose a FLUM designation for this island.

Mr. Mulick pointed out that Wisteria Island has no environmental value except for a little over an acre of disturbed wetlands. Mr. Mulick encouraged the Commissioners to not let a zoning by default result in a FLUM by default, but to consider and direct staff to design an appropriate FLUM for Wisteria Island. Mr. Mulick further stated that the County is trying to meet political expediency at the cost of good planning.

Mr. Mulick reminded the Commissioners that the planning process should be carried out by those with the expertise to do so, not by neighbors dictating what happens to neighbors'

properties. Mr. Mulick also insisted that the capacity exists to service the island, but that the issue is how that service would be made available. Mr. Mulick complimented County staff on their hard work and said he felt that staff was being forced into the current recommendation.

(10:58 a.m.) Mr. Harvey responded that the additional planning fact that availability of necessary facilities and services must be secured by the property owners prior to the consideration of any increases in density and intensity was not previously presented, and that this is what was looked at as opposed to whether or not the County was trying to preserve an environmentally pristine area.

(11:02 a.m.) Phil Frank, Environmental Consultant, was present on behalf of the owner. Mr. Frank stated that the island is manmade, the upland portions are disturbed with exotics and the wetlands are disturbed wetlands. Mr. Frank discussed the species present on the island and pointed out that developing Wisteria Island is not inconsistent with the environmental mission in the Keys. Mr. Frank also pointed out that there is no definition in the comprehensive plan for “offshore island,” and then read into the record a definition drafted by himself.

Mr. Frank concluded by saying that if Wisteria Island is designated RC the island would thereby fit a Tier I designation in the tier overlay system, which Tier I properties are properties that the County would want to acquire for conservation. As this island has no ecological value, Mr. Frank feels that money would be better spent on intact natural communities.

(11:12 a.m.) Owen Trepanier, Planner, was present on behalf of the owner. Mr. Trepanier stated that facilities need to be available at the time a development order or building permit is issued, not at the time of a FLUM designation, and insisted that facilities are available. Mr. Trepanier discussed the inconsistent zoning and FLUM designations of a number of offshore islands within the County. Mr. Trepanier then discussed the characteristics used in evaluating a piece of property in the FLUM process, then read into the record the purpose of “residential conservation.” Mr. Trepanier agreed that the Wisteria Island issue has become a political issue rather than a planning issue and felt that staff could draft a FLUM category that fits Wisteria Island.

(11:25 a.m.) Roger Bernstein from FEB Corp., owner of Wisteria Island, was present. Mr. Bernstein said that Wisteria Island should not be rushed into an inappropriate FLUM, as there is no development application pending.

Townsley Schwab stated that the County would be willing to work with the owner while moving this issue forward promptly, as directed by the Board of County Commissioners. Mr. Schwab reminded the Commissioners that the FLUM is the broad initial step before the more detailed process in zoning and specific development. Mr. Harvey then read into the record Policy 101.4.1.

Chairman Wall asked for public comment.

(11:36 a.m.) Cliff Hartman stated that even though the island is manmade, given time it could become an island that should be conserved. Mr. Hartman then spoke about the importance of the habitat on the island for the different species living there.

(11:40 a.m.) Arnaud Girard spoke about the importance of Wisteria Island to the citizens of Key West, and said that RC is the appropriate FLUM designation. Commissioner Cameron questioned Key West citizens' refusal to annex Wisteria Island and bring it under their own jurisdiction. Commissioner Lustberg clarified that Key West's zoning rules are less restrictive than the County's and the citizens opposed annexation as a way to prevent development on the island.

(11:47 a.m.) Christine Russell expanded on the aforementioned referendum. Ms. Russell then discussed Key West's inability to fill their marina spaces without having additional mooring fields given them by Wisteria Island, as well as the negative impact on facilities and services that development of the island would bring to Key West.

(11:54 a.m.) Deb Curlee appeared on behalf of Last Stand. Ms. Curlee urged the Commissioners to support staff's recommendation of an RC designation.

(11:56 a.m.) Christine Russell expanded further on the referendum to annex properties that would impact Key West.

(11:59 a.m.) Mr. Mulick reminded the Commissioners that what was before them is the proper FLUM designation of Wisteria Island, not approval of a particular type of development. Mr. Mulick stated that an RC designation for Wisteria Island does not serve the purpose of an RC designation as outlined in the comprehensive plan, which is what should be used by the Planning Commission in arriving at good planning decisions. Mr. Mulick further discussed the purpose of an RC designation.

(12:14 p.m.) Mr. Schwab framed the Planning Commission's choices as: One, approval and move it forward to the BOCC; two, denial and move it forward to the BOCC; or, three, recommend denial and direct staff to develop a new appropriate FLUM category. The effects of a continuance of this matter and the application fees were discussed.

Ron Demes concurred with staff's recommendation, but stated that the Navy will work with the County, the City of Key West, and the owner for compatible development.

Commissioner Hale stated that the RC designation did not seem to fit a spoil island, and felt that facilities and infrastructure availability would be an issue with the City of Key West. Commissioner Cameron agreed that RC was not a good fit, and reminded the Commissioners that availability of facilities becomes an issue at the point of zoning. Application fees were further discussed.

Commissioner Werling said that the initial process that the owners went through was inappropriate, and that there are underlying reasons that there should be limited density on offshore islands.

(12:32 p.m.) Motion: Commissioner Cameron made a motion to deny approval and recommended the owners make application for a comprehensive plan amendment for an appropriate FLUM. Commissioner Hale seconded the motion. A poll was conducted with the following results: Commissioner Hale, Yes; Commissioner Cameron, Yes; Commissioner Lustberg, No; Commissioner Werling, No; and Chairman Wall, No. The motion failed.

Motion: Commissioner Werling made a motion to approve the staff report with all findings included therein. Commissioner Lustberg seconded the motion. A poll was conducted with the following results: Commissioner Hale, No; Commissioner Cameron, No; Commissioner Lustberg, Yes; Commissioner Werling, Yes; and Chairman Wall, Yes. The motion passed.

A ten-minute recess was held.

2. PRESENTATION BY MIKE ROBERTS REGARDING THE NOVEMBER 16, 2010 PLANNING COMMISSION TIER REVIEW PUBLIC MEETING & PUBLIC HEARING.

(12:52 p.m.) Mike Roberts, Senior Administrator, Environmental Resources, submitted to the Planning Commission the backup information of the tier designations, as well as the maps of the affected parcels. Mr. Roberts explained that where the recommendation of the Tier Designation Review Committee, TDRC, varies from staff's recommendation, it is primarily because of one of two issues: Either there are wetlands on the site, which are outside of the tier designation criteria, or the property was incorrectly mapped and the information was not available to staff or the TDRC when the recommendations were made.

Mr. Roberts presented a history from the original adoption of the tier overlay district in 2006 to present. Policy 105.2.1, the criteria used to create tiers, was explained. Mr. Roberts pointed out that even though the term "environmentally sensitive" is used throughout the land development code and the comprehensive plan, that term is not defined in same.

Mr. Roberts explained the way to apply the tier overlay district. The only revisions made to parcels' tier designations were based on: Challenges made as a result of the administrative hearing; a request for re-evaluation by the BOCC, staff or property owners; or parcels competing in ROGO.

Mr. Roberts went through and explained certain maps as examples of the application of the tier overlay system. The general outcome of the TDRC's review and recommendations was summarized.

Mr. Roberts explained the process and purpose of the November 16, 2010 public hearing. Mr. Roberts then discussed the ground-truthing involved in the TDRC's recommendations and identified the members of the TDRC.

BOARD DISCUSSION

(1:56 p.m.) Townsley Schwab reminded the Commissioners that the November 16, 2010 meeting was scheduled for 9:00 a.m. as opposed to 10:00 a.m.

GROWTH MANAGEMENT

(1:56 p.m.) Mitch Harvey gave an update on the comprehensive plan process.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 1:57 p.m.