

PLANNING COMMISSION
November 9, 2011
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, November 9, 2011**, beginning at 10:18 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

Denise Werling, Chairman	Present
Randy Wall, Vice Chairman	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
William Wiatt	Present

STAFF

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Administrator, Environmental Resources	Present
Joe Haberman, Planning and Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Steven Biel, Senior Planner	Present
Rey Ortiz, Planner	Present
Gail Creech, Planning Commission Coordinator	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

Gail Creech confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

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

CHANGES TO THE AGENDA

There were no changes to the agenda.

APPROVAL OF MINUTES

Vice Chair Wall requested to postpone the approval of the minutes. Commissioner Lustberg requested to receive the minutes sooner so she would be more comfortable in approving them.

MEETING

Continued Items:

1. Roy's Trailer Park, 6500 Maloney Avenue, Stock Island, Mile Marker 5: A request for approval of a development agreement between Roy's Trailer Park, Inc. and Monroe County. The development agreement would allow the property owner to transfer market-rate Rate of Growth Ordinance (ROGO) exemptions associated with 108 existing, lawfully established dwelling units to another receiver site or sites in exchange for maintaining an equal or greater number of deed-restricted affordable dwelling units on the subject property or sender site. The development agreement is required as part of an affordable housing incentive program as set forth in Section 130-161.1 of the Monroe County Code. The subject property is legally described as Lots 4-11 and 40-47, Square 46, Maloney Sub (PB1-55), Stock Island, Monroe County, Florida, having real estate number 00126090.000000.

(10:22 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that the applicant is seeking to take advantage of one of the affordable housing incentive programs in the code commonly known as the mobile home protection or transfer ordinance. Staff has done the analysis and determined that the applicant has the rights to 108 lawfully established mobile homes. The way the agreement is set up right now is during the first five years they would look to transfer 54 market rates off and then deed-restrict 54 of the mobile homes on site as affordable. If that is successful, then during the next five years of the development agreement they would transfer 54 more market rate allocations to other sites and then deed-restrict the remaining 54 as affordable. A minor conditional use permit would be done on each receiver site to determine if it is eligible. The options on deed-restricting are: One, Putting deed restrictions across the whole property; two, sectoring them out; or, three, individually assigning numbers to each of the units.

Mr. Haberman explained for Vice Chair Wall that the replacement of the 108 existing mobile homes would have to be code-compliant to FDOT standards and the Florida Building Code, and would only have to elevate to 36 inches.

Owen Trepanier, Planner, was present on behalf of the applicant and was sworn in by Mr. Wolfe. Mr. Trepanier thanked staff for their work on this project. Mr. Trepanier described Roy's Trailer Park as being located in the middle of Stock Island. Roy's adult population is approximately five years younger than the average population countywide and there is a much higher percentage of single mothers and a much larger percentage of school-age children living at Roy's. The majority of travel time to work for people that live in Roy's Trailer Park is under 20 minutes. What the applicant is proposing to do is transfer off market rate units, and this would be deed-restricted until 2110 at the minimum. This is a way to protect housing for the working class. The applicant is not proposing to do it all at once, but is asking the Board of County

Commissioners (BOCC) to reserve 54 affordable ROGO units for Roy's for a period of five years, and if they are not used in five years, they would go back to the County's pool. The applicant would be entitled to request units in the future, but would not have that initial five-year reservation anymore. Rather than deed-restricting units on a one-by-one basis, the applicant would deed-restrict the lots of record. So whatever units are on a lot of record, all of those units would become affordable at the same time, even if only a single unit was transferred off. All of those units would become affordable, become deed-restricted, and would have to meet all of the requirements of the development agreement and will stay that way for 99 or 100 years.

Mr. Trepanier further explained that the ordinance states the applicant has to target the low, medium, middle and moderate income categories as closely as possible, but it is not an exact number. The ordinance is set up to avoid evicting a resident from the park. For the units that are owner-occupied, a mechanism in the agreement has been laid out so that the person's mortgage payment on the trailer and any park fees collectively cannot exceed the payment threshold for whatever income category that unit is qualified under. The applicant believes through their knowledge of the park that just about everybody in the park qualifies. If someone lives in a unit that does not qualify for any of the categories, then that unit cannot be included in the program. The applicant would have to leave that block alone and proceed with another block until such time as that lease expires, the person moves or negotiations are made with them.

Some minor formatting changes have been made to the agreement by the applicant. The deed restriction process for the lots of record was submitted by the applicant, but it has not been submitted to the Commissioners yet. Mr. Trepanier offered to come back in front of the Commission next month with the reformatting and modifications. Mr. Schwab stated that he feels more comfortable with the Commission having the documents in front of them when deciding this issue because of the complexity of the development. Mr. Wolfe explained to the Commission that staff wanted this to proceed and is requesting feedback from the Commission on the development as a whole and then is seeking a motion to continue it to the next meeting. Public can be heard today and at the second hearing.

Chair Werling asked for public comment. There was none.

Commissioner Lustberg asked if a tenant were to purchase a new trailer or refinance their trailer such that they are at the maximum of their affordable limits, would Roy's be allowed to charge then any rent? Michael Browning, an owner of Roy's Trailer Park, was sworn in by Mr. Wolfe, and then responded by explaining that he believes everybody in the park meets the criteria, but if such an anomaly occurred, under the lease the owners have the right to change the use of the park and could literally move somebody out of the park, though that is not something they want or look to do.

The code challenges of moving an older mobile home from one site to another was discussed. Mr. Haberman explained that because this parcel is considered all one site, the 50/50 rule might apply, allowing it if it does not impact more than 50 percent of its value. Mr. Browning believes that scenario is unlikely because newer and nicer mobile homes would be available on the property. Commissioner Lustberg then pointed out that if somebody has paid off their mobile home, the lot rent in theory could be at the maximum of the affordable limits. Mr. Browning

described how the park owners have worked with the tenants to assure them the owners will not sell the land. The tenants have agreed to pay a higher rent for that assurance. Mr. Browning further explained that park owners entered into an agreement with the residents limiting the rent, plus Florida has a law by statute that you can raise rents once a year and there has to be a rational basis for it. Mr. Browning added that there are very few homes in the park that have a mortgage at all.

Commissioner Lustberg then questioned whether the transferred NROGO should also be included in the redeveloped housing units transferred to receiver sites. Mr. Haberman stated that could be put in there, but it is such a small amount the owners might not be interested in transferring it off because it is less than 500 square feet and you have to do it in hundred square foot increments. Mr. Trepanier clarified it is not the owners' intention to transfer that off, but wanted to identify it just in case this park ever went fully transferable in the future.

Commissioner Lustberg asked what would happen if everything goes according to plan, but the current owners want to sell and nobody steps forward to take on the role of owners, to which Mr. Browning stated there will always be a work force and a demand for affordable housing and does not think that is a scenario that could happen. Mr. Wolfe also did not see this as an issue because this would remain a valuable asset.

Commissioner Wiatt believes this is kind of trying to predict the future with not a lot of background and does not want to do something that promotes the more unfavorable, unequal mobile home parks versus the more favorable mobile home parks. Commissioner Lustberg suggested changing the development agreement to include a minimum that people must pay towards rent. Mr. Browning explained that the applicant through this development agreement is seeking assurance that the units are there, they are available and, if the right formula is found, this project can proceed.

Mr. Trepanier assured Commissioner Lustberg that the conditions listed in the staff report are fine with the applicant, as well as the questions posed in Ms. Grimsley's e-mail. Vice Chair Wall commented that he is reassured that there are no residents from the park present to contest this. Mr. Browning added that residents ask whether they should come to the Planning Commission meetings to support this, and stated the residents plan on going to the BOCC meeting when this is heard.

Commissioner Lustberg confirmed her understanding that the affordable units can be deed-restricted prior to meeting hurricane standards, but before the market rate ROGO units can be transferred off it has to be brought up to those standards. Mr. Haberman clarified that it says the hurricane standards, not all building code standards, and will confirm this through the building official. Mr. Trepanier explained how the units have to comply with the requirements of State law for habitability standards and hurricane protection, but are required to meet the County Fire Marshal's requirements for life safety so as to avoid residents no longer being entitled to be in their unit because it does not meet code.

Mr. Trepanier explained to Commissioner Lustberg that the portion of this development agreement that spoke about the current owners getting right of first refusal if something happens

and the County takes over the park was removed because the owners have no intention of selling the property at all. Commissioner Lustberg asked if some citation or reference to the current protections on the rents should be put in Section 6A of the development agreement. Mr. Trepanier answered that State law must be followed no matter what agreement is entered into. Mr. Wolfe commented that the County would not want to be in the middle of an agreement between owners and tenants.

Motion: Vice Chair Wall made a motion to continue this matter to the December 1, 2011 meeting. 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 REGULATIONS PERTAINING TO SIGNAGE IN MONROE COUNTY CODE CHAPTER 142, SIGNS; 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 CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(11:20 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that this report is very similar to the last one, but it has been reformatted and sections have been added in. Nothing contextually has changed. Staff was hoping to have one more hearing to get public comment, particularly regarding the A-frame sign issue. Staff is recommending that the matter be continued to the December meeting, but wants to have discussion on the matter today. Staff recommends at this point removing A-frame signs as a permitted type of sign and allowing the people that get their permits before the sunset date to keep them as nonconforming signs, but staff will continue to listen to the community on this matter.

Mr. Haberman explained that the sign permit is for the context on the sign. Mr. Haberman described the discrepancy with Florida Department of Transportation (FDOT) about the Buzzard's Roost sign and explained that is part of the reason why language was included that people need to get their FDOT permit or other documentation that they do not need a permit before the County will issue a permit. Mr. Haberman listed the options for dealing with the A-frame signs as allowing the people that have them to continue, allow them permanently with the permit and remove the sunset date, treat them like banners and allow them to stay without requiring a permit, or not allowing them at all. Mr. Schwab stated that the majority of the community is in favor of allowing A-frame signs to be put up, and then discussed the unique factors in the Keys that make them so difficult to see, including right-of-ways and vegetation.

Commissioner Wiatt voiced his concern with allowing the signs with no regulations associated with them. Mr. Haberman assured Commissioner Wiatt that criteria have been put in place so they would be able to be regulated. Commissioner Lustberg added that she would prefer to get rid of the A-frame signs completely, but does like the proposal discussed at the last meeting that would promote signage for various businesses bunched together in a way that that sign could be used and seen at a driving rate of speed. Mr. Schwab explained this has been a difficult task for a long time and continues to be so.

Chair Werling asked for public comment.

Dan Leslie, Key West resident, expressed a debt of gratitude to Mr. Schwab and his staff and this Commission for making a serious effort to resolve this issue. Mr. Leslie then read a letter written by Kathy Beier of Big Pine Key to the Commission. Ms. Beier urged the Commission to continue to work with both the DOT and the BOCC to find a way to continue to allow the use of A-frame signage on U.S.1 or a workable alternative which supports the local small businesses. Mr. Leslie asked the Commission to at least allow the continuation of A-frame as they are now. Mr. Leslie spoke of the importance of these A-frame signs to local businesses.

Chair Werling asked for further public comment. There was none.

Motion: Commissioner Lustberg made a motion to continue this matter to the December 1, 2011 Planning Commission meeting. Vice Chair Wall seconded the motion. There was no opposition. The motion passed unanimously.

3.Guardian Angel Management, 11 Snapper Avenue, Key Largo, Mile Marker 103.4: A request for approval of a variance of 6.45 feet from the required ten (10) foot side yard setback along the western property line in order to convert a carport into enclosed living area. The subject parcel is legally described as Block 12, Lot 8, Largo Sound Park (PB3-1111), Key Largo, Monroe County, Florida, having real estate number 00472710.000000.

(11:56 a.m.) Mr. Biel presented the staff report. Mr. Biel reported that the applicant is requesting a variance of 6.45 feet from the required ten-foot side yard setback along the western property line. The granting of this variance would allow the property owner to convert a lawfully nonconforming unenclosed carport into enclosed floor area which will serve as a bedroom addition to the existing single-family residence. Details of the site were given. The residence was not constructed to specifications as noted on the building permit. However, it did receive a certificate of occupancy. Staff could find no building permit authorizing the enclosure of the carport. Therefore, the improvement is unlawful. Based on aerial photography it appears that the community character would not be substantially altered if this variance is granted. Aerial photography does show that there are numerous buildings built in the setbacks. Staff recommended approval for the variance. Two conditions were cited. How the elimination of the carport affects parking for the site was discussed.

Gay Marie Smith was present on behalf of the applicant and was sworn in by Mr. Wolfe. Ms. Smith thanked staff for the job they have done on this application. Ms. Smith noted that right now the carport is enclosed and the occupants are parking on the street like everyone else in the neighborhood. Ms. Smith then mentioned that the sidewall was permitted, so all that was done later was the front enclosure. The footprint is not changing in any way whatsoever. The new owners have cleaned the property up and want to make it a little bit nicer to be able to rent to someone that works in the Keys.

Vice Chair Wall clarified through Ms. Smith that the parking is on the front yard setback, not on the street or the right-of-way. Mr. Biel assured Chair Werling that all the criteria necessary to grant a variance have been met.

Chair Werling asked for public comment. There was none.

Motion: Vice Chair Wall made a motion to approve the request. Commissioner Hale seconded the motion. Chair Werling requested a roll call, and then stated that she did not feel the criteria was being met for approving a variance. Chair Werling does not believe there is a compelling rationalization for this and does not see a two-bedroom house as a hardship. Commissioner Lustberg added that she defines a hardship as an inability to have whatever it is that is desired. **Roll was called with the following results: Commissioner Hale, Yes; Vice Chair Wall, Yes; Commissioner Lustberg, Yes; Commissioner Wiatt, Yes; and Chair Werling, No.**

BOARD DISCUSSION

There was no Board Discussion.

GROWTH MANAGEMENT COMMENTS

Mr. Schwab verified that on November 16, 2011 at 5 p.m. in Key Largo the first presentation of the EAR will be made to the BOCC.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 12:09 p.m.