

Key West Planning Board Meeting Agenda
September 16, 2010 – 6:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street



Item 1

August 19, 2010 Meeting Minutes

Minutes of the Key West Planning Board
August 19, 2010 **DRAFT**

Chairman Richard Klitenick called the Key West Planning Board Meeting of August 19, 2010 to order at 6:05 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ITEM 1. ROLL CALL

Present were: Chairman Richard Klitenick; Members, Jim Gilleran, Gregory Oropeza, Michael Browning, Sam Holland, Jr. and Lisa Tennyson.

Excused Absence: Vice Chairman, Tim Root.

Also in attendance were: Planning Director, Amy Kimball-Murley; Chief Assistant City Attorney, Larry Erskine; Assistant City Attorney, Ron Ramsingh; Alan Averette, KW Fire Department; and Planning Department staff, Enid Torregrosa, Brendon Cunningham, Carlene Cowart, Ashley Monnier, Nicole Malo and Patrick Wright.

ITEM 2. APPROVAL OF AGENDA

Mrs. Kimball-Murley informed members that Item 4b1 will be postponed to the September 16, 2010 meeting.

A motion to approve the amended agenda was made by Mr. Browning and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 3. APPROVAL OF MINUTES

a. July 14, 2010 – Transient Units Ordinance Workshop

A motion to approve the July 14, 2010 Transient Units Ordinance Workshop Meeting minutes was made by Mr. Browning and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

b. July 15, 2010

A motion to approve the July 15, 2010 Planning Board Meeting minutes was made by Mr. Gilleran and seconded by Mr. Holland.

Motion carried by unanimous voice vote; Mr. Klitenick was not present at the July 15, 2010 meeting and abstained from voting.

SO ORDERED.

ITEM 4. ITEMS FOR PUBLIC HEARING

a. OLD BUSINESS

Minutes of the Key West Planning Board
August 19, 2010

DRAFT

- 1. An Amendment to Chapter 110 of the Key West Code of Ordinances entitled “Resource Protection” to provide for the consist regulation of palm weavers as street performers / art vendors as contained in Chapter 6 of the Key West Code of Ordinances entitled “Amusements and Entertainment”.**

Mrs. Kimball-Murley stated that when this item was heard at the July Planning Board meeting, members had questions regarding the proposed amendment.

Assistant City Attorney, Ron Ramsingh, informed members that changes to the amendment reflect questions and comments from the last meeting. The change to the amendment includes the prohibition from removing any palm fronds within 45 degrees of the center of the tree trunk.

Mr. Browning stated that the change clarifies the concerns he had.

Mr. Ramsingh stated that there was a question regarding enforceability of this ordinance regarding city property. Mr. Ramsingh informed members that there is currently an ordinance prohibiting removal of fronds from city owned palm trees. He added that this amendment takes it a step further by prohibiting the trimming of palm fronds located on private property.

A motion to approve the an Amendment to Chapter 10 of the Key West Code of Ordinances entitled “Resource Protection” to provide for the consist regulation of palm weavers as street performers / art vendors as contained in Chapter 6 of the Key West Code of Ordinances entitled “Amusements and Entertainment” was made by Ms. Tennyson and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

b. NEW BUSINESS

- 1. Minor Modification to a Major Development Plan – 1341 McCarthy Lane (formerly known as Duck Avenue), a leasehold portion of property within the Poinciana Plaza Special Needs Section (RE# 00064740-000000) – A request for minor modification for the Poinciana Royale project to accommodate the relocation of a fire lane in the MDR-1 zoning district per Section 108-91 (C.)(2.)(a.) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

This item has been postponed to time certain for the September 16, 2010 Planning Board meeting.

- 2. Modification of an Approved Variance - 1831 Harris Avenue (RE# 00049510-000000) - A request to modify a condition associated with a variance approved via Planning Board Resolution 2010-002 for property located at 1831 Harris Avenue.**

Mrs. Amy Kimball-Murley gave members an overview of the applicant’s request to modify Planning Board Resolution 2010-002. She stated that the original variance approval had a condition that required that a lawful unit determination for a questionable unit on the site be submitted within 30 days. She then stated that the applicant missed the deadline, but has since

Minutes of the Key West Planning Board
August 19, 2010

DRAFT

then submitted a lawful unit determination request to the department. The applicant is requesting that the 30 day timeline be removed from the original approval. The Planning Department recommends the request for modification of Planning Board Resolution 2010-002 be approved.

Mr. Klitenick clarified that he recalls that the intent was to have the lawful unit determination filed within a reasonable amount of time.

Peter Riesman appeared for the applicant's attorney, Manual Garcia. Mr. Riesman stated that there was some confusion on the 30 day timeline and that Mr. Garcia missed the deadline by eleven days.

A motion to approve the Modification to an approved variance was made by Mr. Browning and seconded by Ms. Tennyson.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 3. Variances - 530 Grinnell Street (RE# 00007600-000000) - An application for variances for a non-conforming historic structure for impervious surface and building coverage and for side yards, front yard and rear yard setback requirements, for a renovation project and for an air conditioning unit in the Historic High Density Residential (HHDR) zoning district for property located at 530 Grinnell Street, per Sections 122-630 (4)a. and b., 122-630 (6) a., b., and c., Section 122-28 (b) and per Section 122-1184, of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley informed members that this project triggers the 66% rule which requires that the repair or reconstruction of the structure exceeding 66% of its existing value requires nonconforming aspects of that structure to receive a variance. In addition to existing nonconformities, an additional sideyard setback variance is requested to address an air conditioning unit.

Ms. Malo gave members an overview of the applicant's request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be denied; however, if the Planning Board chooses to approve the variance application, the Planning Department recommends the following condition:

- That the air conditioning compressor unit is baffled in compliance with code Section 122-1184.

Mr. Browning asked staff if there is any reason why the 66% limitation should still be in the code and if not, what would need to be done to amend that limitation. Mrs. Kimball-Murley stated that it is a multi-step process and she hopes to provide an ordinance to address this issue.

The applicant's representative, Guillermo Orozco, gave members an overview of the proposed project stating that the air conditioning unit is quieter model. He then stated that they have a letter of support from the neighbor that would be most affected by the project.

Minutes of the Key West Planning Board
August 19, 2010

DRAFT

Mr. Klitenick asked staff if using the higher efficiency unit qualifies as sound baffling or is staff requesting the construction of a sound barrier. Ms. Kimball-Murley stated that the intent is to make the applicant more mindful of existing requirements in the code for baffling, rather than to require additional baffling. The Building Department determines if the construction meets the code.

A motion to approve the variances request was made by Mr. Gilleran and seconded by Mr. Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 4. Conditional Use - 810 Duval Street (RE# 00016940-000000) - An application for conditional use for a bar and lounge with indoor and outdoor consumption area in the Historic Residential Commercial Core - Duval Street Oceanside (HRCC-3) zoning district, for property located at 810 Duval Street, per Section 122-748 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley gave members an overview of the conditional use request. She stated that the adjacent use includes store front retail and there are four residential units that are accessed through the adjacent parcel. She then informed members that the applicant is proposing 503 square feet of indoor and 108 square feet of outdoor consumption area for a total of 611 square feet of consumption area. No outdoor speakers are proposed and the applicant is proposing to limit hours of operation from Monday through Saturday from 10am to 1am, and on Sunday from 12pm to 1am. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for conditional use be approved with the following conditions:

- The use is approved for the sale of beer and wine only;
- There will be no outdoor music on the premises and amplified music will be regulated by the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances. There will be no live music at the site unless approved under a special event permit per Section 6-86 of the City Code;
- The consumption area is limited to 611 square feet total; 503 square feet indoors, and 108 square feet outdoors;
- The parking variance request must be approved by the Planning Board;
- Hours of operation are limited from 10am till 1am Monday through Saturday, and Sunday from 12pm until 1am except for the week of Fantasy Fest, Goombay Festival, and New Years Eve, during which hours of operation will comport with Code Section 18-27;
- Solid waste shall be stored inside the establishment and shall be removed for outdoor storage only during daylight hours;
- The approved ADA portable lift shall be kept in operating order and shall be available upon request.

The applicant’s legal representative, Ginny Stones with Stones and Cardenas, gave members an overview of her client’s request. She stated that there are numerous letters of support and one letter of objection. The objection is from a neighbor who owns residential units at the rear of the adjacent property. She informed members that the letter of objection was written before the application and conditions had been ironed out. The applicant has addressed the

Minutes of the Key West Planning Board
August 19, 2010

DRAFT

neighbor's concerns regarding kitchen noise and odor by the fact that this establishment will not have food service.

Mr. Klitenick asked Mrs. Stones if the opposing neighbor, Mr. Beaver, withdrew his objection. Mrs. Stones stated that Mr. Beaver was notified of this meeting as well as the neighborhood meeting. She then stated that Mr. Beaver was concerned that a different owner might present a different set of conditions. She advised him that all conditions approved by the Planning Board stay with the property.

Mr. Klitenick stated that this application meets the spirit and intent of the law and commended the applicant for doing a good job easing the concerns of the neighbors.

A motion to approve the Conditional Use request to include Planning Department recommended conditions one through seven was made by Mr. Oropeza and seconded by Mr. Browning.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 5. Variance- 810 Duval Street (RE# 00016940-000000) - A variance request for one parking space for new commercial floor area, in the Historic Residential Commercial Core - Duval Street Oceanside (HRCC-3) zoning district, for property located at 810 Duval Street, per Section 108-572(9) and Section 108-573(c)1 and 2 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley gave members an overview of the variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for the variance be denied. However, if the Planning Board grants approval of the parking variance the Planning Department recommends the approval be granted with a condition for the project as follows:

- The variance is contingent upon conditional use approval, including associated conditions.

Mr. Browning asked about the relationship between the variance and the conditional use. Mr. Erskine informed members that if the applicant meets the conditional use conditions, then they cannot do that which is granted through the variance.

Mr. Gilleran asked Mrs. Kimball-Murley if there was any discussion regarding meeting parking requirements by securing a parking spot on an adjacent parcel since there are two commercial lots adjacent to this property. Mrs. Kimball-Murley stated that it was not discussed as part of this application; however, that would be a possibility if there was not a parking space associated with the existing square footage that already exists on those lots. She then stated that there is a way to do a deed restriction or easement and address parking requirements on another parcel that is within 300 feet or so of the applicant's property. Mrs. Stones stated that it was not discussed because of the deed restriction requirements that would then tie up the Ortega's property if that were the prescribed location.

A motion to approve the variance request was made by Mr. Browning and seconded by Ms. Tennyson.

Minutes of the Key West Planning Board
August 19, 2010

DRAFT

Motion was carried by unanimous voice vote.

SO ORDERED.

- 6. Conditional Use - 1500 Reynolds Street (RE# 00037160-000100) - A conditional use for a proposed wireless telecommunications facility consisting of nine antennas and associated equipment as a private utility within the Historic Commercial Tourist (HCT) zoning district per Section 122-898(8) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley informed members that this is the third of the three wireless applications the department received last year. She stated that this one is distinctly different than the others they have reviewed, in part because it does not involve a tower; instead it calls for nine antennas and a covered equipment shelter. She informed members that the proposed location is on the roof of the non-historic addition to the Casa Marina hotel. There are currently nine antennas and a covered equipment shelter located on the roof. The applicant is requesting the same type of development on the other end of the structure.

Mrs. Kimball-Murley then stated that the first portal of this application was to obtain HARC approval. The initial application provided for the antennas to be located on top of the proposed structure and the antennas were a higher as a result. That particular design was not approved by HARC and subsequent appeal was not successful. The city then had a productive dialog with the applicant on what would make this project more acceptable from a compatibility standpoint. She then stated that the project before the board was approved by HARC.

Mrs. Kimball-Murley then gave members an overview of staff findings. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for conditional use be approved with the following conditions:

- The applicant must receive a height variance from the Board of Adjustment;
- The site plan package, including general notes, is fully incorporated into this approval and constitutes a condition of approval;
- The applicant will comply with all applicable laws and regulations as a condition of approval, including federal requirements pertaining to air traffic safety, wireless communication facilities, and Section 106 consultation as required in the National Environmental Protection Act.

Mr. Klitenick stated that he was on the Planning Board when this item was approved in 2002. He then asked in reference to the wind load requirement, how the antennas did with the storms since the approval was granted. The applicant, Alfredo Amoedo, stated that he is unaware since they were not involved with the project during that time; however, at that time the antennas were always built in the requirement for the three second gust which is based on the Florida code for that particular area.

AT&T representative, Michael Yanz, gave members an overview of the average of dropped calls in that area. Mr. Yanz then referenced the 'mark the spot' feature referenced by Mr. Klitenick, stating that that feature provides supporting documentation on areas where there is no coverage.

Minutes of the Key West Planning Board
August 19, 2010

DRAFT

Mrs. Kimball-Murley clarified for members that the existing antennas would remain in place and are subject to a separate conditional use and variance approval. Mr. Amoedo stated that the site that exists belongs to another carrier and not AT&T.

Ms. Tennyson asked the applicant for clarification why nine antennas are needed and had they considered using other alternative technology. Mr. Yanz stated that a cellular facility is divided into sectors. These would be three different sectors that point in three different directions in order to cover a surrounding area. Doing this divides the traffic among three different servers to improve the capacity of the site. He added that the plan is to meet the current and future needs to avoid seeking future variances. Mr. Yanz then stated that as for alternate technologies, another option would be using a satellite; however, they would require large antennas and have high power consumption and even though it is portable, it would be a large unit. He then added that a satellite covering a large geographic area could only serve a couple of hundred users.

Ms. Tennyson then asked Mr. Yanz how many towers they would need to meet the current need. Mr. Yanz stated that within that area, those nine antennas would meet their needs.

Mr. Klitenick requested that if this request moves forward with an approval, he would like to see a condition that the proper verification forms be filed to the satisfaction of the City Attorney. Mr. Erskine agreed with Mr. Klitenick and noticed the same deficiencies; however, in fairness to the applicant, they believed there were going to have the documentation in hand to bring to the meeting but to no fault of their own were unable to do it. Mrs. Kimball-Murley suggested that the resolution not be executed until the proper verification forms are in hand.

A motion to approve the conditional use request to include Planning Department recommended conditions as well as having the applicant supply the applicable verification and authorization forms to the satisfaction of the City Attorney was made by Mr. Browning and seconded by Mr. Gilleran.

Motion was carried by 5-1 vote (opposed by Ms. Tennyson).

SO ORDERED.

ITEM 5. PLANNER'S REPORT

Mrs. Kimball-Murley gave members an update on the Conditions Ordinance. She stated that she has made additional modifications to the ordinance since additional comments were received from the City Attorney. At this point we have not received clearance to place it on the city commission agenda. Mrs. Kimball-Murley informed members that those comments mostly pertained to how procedurally we would process applications and issue permits within the building department as well as how language would reflect on applications that came in on a prorated basis.

Mrs. Kimball-Murley then informed members that starting next month the Planning Board will be utilizing the Legistar online system. Members will receive a paper copy of the agenda packet and also be able to view it online while at the dias. She then stated that starting in October, members will no longer be receiving paper copies.

Lastly, Mrs. Kimball-Murley informed members that verification and authorization forms are all now reviewed by Mr. Erskine. She then thanked Mr. Erskine for all of the assistance he has provided planning staff.

Minutes of the Key West Planning Board
August 19, 2010 **DRAFT**

ITEM 6. ADJOURNMENT

A motion to adjourn was made by Mr. Browning and seconded by Ms. Tennyson.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 7:30 pm.

**Submitted by,
Carlene Cowart
Development Review Administrator
Planning Department**