

Minutes of the Key West Planning Board

October 20, 2011

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Chairman Richard Klitenick called the Key West Planning Board Meeting of October 20, 2011 to order at 6:00 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ROLL CALL

Present were: Chairman Richard Klitenick, Vice-Chairman Tim Root, Michael Browning, Jim Gilleran, Sam Holland, Jr., Gregory Oropeza, Lisa Tennyson and ex-officio member Ron Demes.

Also in attendance were: Planning Director, Donald Craig; Chief Assistant City Attorney, Larry Erskine; Planning Department staff: Brendon Cunningham, Carlene Cowart, Ashley Monnier and Nicole Malo.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Craig informed members that an issue has arisen regarding the noticing of surrounding property owners in regards to proposed changes to the PS zoning district. Legal staff and the Planning Director do not believe that the notice to surrounding property owners is required. However, in an abundance of caution, surrounding property owners will be noticed and therefore this requires the item to be postponed to the November 17th meeting.

Mr. Oropeza and Ms. Tennyson recused themselves from voting the postponement due to a conflict of interest.

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

Motion carried by unanimous voice vote.

SO ORDERED.

APPROVAL OF MINUTES

1 September 15, 2011 – Meeting Minutes

A motion to approve the September 15, 2011 meeting minutes was made by Mr. Holland and seconded by Mr. Browning.

Motion carried by unanimous voice vote.

SO ORDERED.

RESOLUTIONS

Old Business

2 Special Exception Request - 917 1A Frances Street - (RE# 00021680-000000) - A request for a special exception to the prohibition of alcoholic beverage sales within 300 feet of a cemetery for property located within the HHDR zoning district, pursuant to Section 18-28 (b)(2) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Ms. Malo gave members a brief overview of the special exception to the prohibition of alcoholic beverage sales request. She informed members that the Gourmet Nibbles and Baskets, LLC., has recently relocated to a legally nonconforming business site adjacent to the corner of Truman and Frances Streets. The current business model is for the delivery of gift baskets and flower arrangements upon request. Sometimes the gift request includes a

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bottle of wine or champagne. Because the property is located within 300 feet of the Key West Cemetery the applicant has requested a Special Exception to Section 18-28 of the Code of Ordinances, so that bottles of wine and champagne may be sold as part of the gift basket delivery service. On site alcohol sales is not to take place on site. Based on the criteria established by the Comprehensive Plan and the City Code, the Planning Department recommends the request for Special Exception be approved with the following condition:

General Condition:

1. That approval of the Special Exception shall not allow the sale nor consumption of alcoholic beverages on site, nor the consumption of food on site.

Ms. Cowart informed members that 95 notices were sent to surrounding property owners, three notices were undelivered and one comment was received in favor of the project.

Mr. Holland disclosed that his business purchases baskets from the applicant. Mr. Erskine stated that it does not pose a conflict.

Mr. Craig clarified for members that the exception if approved, would follow the owner and not the property.

The following member of the public spoke on the matter:

- Patti Rodriguez, 906C Frances Street

Members reviewed the request.

A motion to approve the prohibition of alcoholic beverage sales request with the condition recommended by staff was made by Mr. Gilleran and seconded by Mr. Root.

Motion was carried by unanimous voice vote.

SO ORDERED.

New Business

3 Major Development Plan – 1000 Atlantic Boulevard, Higgs Beach Park - An application for a Major Development Plan for the redevelopment of Higgs Beach located in the Public Service and Semipublic Service (PS) zoning district pursuant to Section 108-91(B).(2).c. of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Mr. Klitenick stated that Ms. Tennyson has a legal conflict of interest since she is an employee of the County and therefore is recusing herself from this item. Ms. Tennyson left the dias during the discussion.

Mr. Klitenick disclosed that both he and Mr. Holland are associated with Friends of Higgs Beach. Mr. Erskine stated that there is no financial gain and therefore there is no need for recusal.

Ms. Malo gave members an overview of the major development plan. She informed members that the Beach Park is owned by the County. The Board of County Commissioners has been instrumental in reinvigorating the much needed improvements including hiring a Master Plan design team and mobilizing fund acquisition. Since the property falls within the city's jurisdictional boundaries, the City's approval is required. The Master Plan is supported by an Intergovernmental Agreement that establishes development phases. The project is anticipated to take approximately 10-15 years and will be completed upon the acquisition of funds from various sources.

Ms. Malo then stated that the proposed Master Plan is the product of over two years of coordination efforts. Because this project is so involved, the overview will focus on the elements of the proposed improvements

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highlighted in the planning staff analysis that have the greatest impact on the community including: connectivity and pedestrian design improvements; relocation of the playground and road; recreation and Green Elements; preservation of Historic Resources; and compliance with the City's Land Development Regulations. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for Major Development Plan be approved with the following conditions:

General Conditions:

1. City Commission approval of the Intergovernmental Agreement
2. Staff approval of a composting facility is required by the City's Planning and Engineering Departments. Operations maintenance of the composting center shall be provided by the County and will remain in its adjacent location as proposed on the site plans.
3. The recycling center shall be screened from view by a fence and vegetation approved by the City's Urban Forester.
4. The applicant is responsible for designing and submitting a Signage Plan that is compatible with Section 108-285 of the Code to the Planning Department for approval before implementation.
5. Construction on the site including the development of Nature Visitors Center is required to be consistent with Chapter 255.2575(2). Florida Statutes which requires compliance with an accepted third party environmental standard (see Attachment for the full language of the relevant section of the statute).
6. Lighting shall be designed to "Dark Sky" lighting standards and shall meet energy efficiency standards established by an accepted third party environmental standard consistent with F.S Chapter 255.2575(2).
7. Tree Commission approval is required for each phase of the removal/relocation and replacement of the Landscape Plan.
8. The wetland areas of the Whistling Duck Pond and the F.A.A Tower are required to be noted on the Landscape Plan. An upland/wetland jurisdictional line needs to be set for the area and work within the area requires environmental permitting and possible mitigation.
9. Revise design of scooter and bicycle parking areas to separate uses and add additional bollards or bicycle friendly parking areas throughout the park.

The applicant's architect, William Horn, gave members an overview of the site design. Barbara Mitchell with Mitchell Planning and Design, Inc. gave members an overview of the landscape design.

Mr. Root voiced his concerns regarding the removal of the covered pavilions from the master plan. Mr. Horn replied that their removal was made in response to vagrancy complaints raised by surrounding property owners. Mr. Klitenick added that he understands Mr. Root's concerns; however, the current plan is a result of many years of work.

There were no public comments.

Mr. Klitenick thanked Mayor Heather Carruthers, Carol Shreck, County and City Staff, Bill Horn and Friends of Higgs Beach Committee for the tremendous amount of work they have done to move this project forward.

Mr. Horn confirmed that he is in agreement with the conditions stated by Ms. Malo to include that the operations maintenance of the composting center shall be provided by the County.

A motion to approve the major development request to include Planning Department recommendations was made by Mr. Browning and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

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Ms. Tennyson returned to the dias.

- 4 PS Zoning District Ordinance - An ordinance of the City of Key West amending Chapter 122 of the Code of Ordinances entitled “Zoning” of Article IV by amending Sections 122-1016, 122-1017, 122-1018, and 122-1020 for the Public and Semi-public (PS) zoning district, of the City of Key West Land Development Regulations, providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.**

This item has been postponed to the November 17, 2011 meeting.

- 5 Zoning in Progress - A resolution of the City of Key West Planning Board recommending to the City Commission the invoking of Zoning in Progress for the property known as Peary Court (RE# 00006730-000000); directing Planning staff to consider appropriate amendments to the Future Land Use Element of the Comprehensive Plan and Land Development Regulations in response to the proposed sale of the military property to a non-governmental entity, and assigning an interim zoning designation to the property; providing for an effective date.**

Mr. Klitenick disclosed that he has a conflict on this matter. He has not been formally retained, but has provided some advice and attended a meeting on behalf of one of the groups that is putting forward a proposal on this project. Mr. Klitenick left the dias during the discussion.

Ms. Monnier gave members an overview of the zoning in progress (ZIP). She informed members that in April of this year, the City was put on notice that the United States Navy and its housing partner Southeast Housing, LLC would be selling the property commonly known as Peary Court and all of the structures on it to a private entity. Since that time, planning staff has been coordinating with the Navy and Southeast Housing, and officials from its subsidiary company, Balfour Beatty Communities to understand the unique characteristics of the military property; as the sale would require changes to the City’s Comprehensive Plan and Land Development Regulations. The Land Use Element in the City’s Comprehensive Plan currently recognizes the property as having a Military (M) Future Land Use Designation, which operates without any land use controls.

Ms. Monnier stated that at minimum, the process required to change the Future Land Use designation and supporting Land Development Regulations will take approximately 12 months from initiation. Consequently, City staff has proposed Zoning in Progress as an interim solution for the lack of regulatory land use controls governing the property as both a protection for the public, and to clearly identify for the seller and potential buyers the entitlements and development rights that run with the land in the event that the property is sold before the new land use designation is approved. Based on preliminary site analysis, a designation of Planned Redevelopment District (PRD) may be the most appropriate interim Future Land Use designation, as the existing site characteristics appear to be most consistent with the PRD district. However, there are aspects of the PRD regulations that would cause the site, as existing, to be inconsistent with some standards of the PRD zoning district. As an alternative, staff also reviewed the MDR district regulations, but identified similar issues. Staff has found that no one existing zoning designation is entirely appropriate as a final zoning designation, or Zoning in Progress designation. However, because of the temporary nature of Zoning in Progress as a regulatory tool, and the flexibility that the law allows in the application of interim designations to protect the public health, safety, and welfare, the PRD designation with some limitations on the types of development allowed in the interim is justified.

In summary, Ms. Monnier stated that the Planning Department recommends the invoking of Zoning in Progress to allow the PRD Land Use Designation and corresponding zoning designation to be used as an interim measure, should the property be sold by the U.S. Navy during the processing of the Future Land Use amendment change

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and Land Development Regulation change. Further, staff recommends incorporating into the Zoning in Progress the following limitations:

1. Only the following Comprehensive Plan and zoning designations shall be considered for adoption as the final Comprehensive Plan and Zoning designations: PRD, HPRD, MDR, HMDR, or a hybrid of one or more of these designations.
2. A prohibition on the acceptance of the following applications from the civilian owners of the property and units during the pendency of the Zoning in Progress: variances of any kind, conditional uses, special exceptions, development plans, or any other type of application which may extend, expand, enlarge, or increase in intensity any aspect of the site.

Should the Planning Board approve the recommendation of invoking the Zoning in Progress Doctrine, the City Commission will have the opportunity to consider the Planning Board's finding.

The applicant's attorney, David Horan, expressed his concern on why the process would take 12 months. Mr. Craig stated that Planning staff tried to find a way to expedite the process; however, changes in land use laws do not apply to the Florida Keys.

Mr. Craig informed members that it has not been disclosed yet on how this will affect the hurricane model.

The following member of the public spoke on the matter:

- Steve Docken, 121 Angela

A motion to recommend to the City Commission the invoking of Zoning in Progress for the property known as Peary Court was made by Mr. Gilleran and seconded by Mr. Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

PLANNER'S REPORT

- **Planning Department Structure and Staff**

Mr. Craig informed members that the Tree Commission, Tree Commission staff and FEMA, are now overseen the Planning Department.

- **Q&A – Items of interest from Planning Board Members**

Members discussed changing the December meeting to December 8th. Ms. Tennyson stated that she would be unable to attend.

ADJOURNMENT

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

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 7:30 pm.

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Respectfully submitted by,
Carlene Cowart
Development Review Administrator
Planning Department