

**Minutes of the Key West Planning Board
February 16, 2012**

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Vice-Chairman Tim Root called the Key West Planning Board Meeting of February 16, 2012 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 (arrived at 6:05 pm), Vice-Chairman Tim Root, Jim Gilleran, Gregory Oropeza, Lisa Tennyson and Michael Browning.

Excused absence: Sam Holland

Also in attendance were: Planning Director, Donald Craig; Chief Assistant City Attorney, Larry Erskine; Community Services Director, Greg Veliz; Planning Department staff: Brendon Cunningham, Carlene Smith, Nicole Malo and Paul Williams.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Craig informed members that the applicant is requesting Item 5, variance for 1107 Grinnell, be postponed to time certain (March 15, 2012 meeting).

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

Motion carried by unanimous voice vote.

SO ORDERED.

APPROVAL OF MINUTES

1 January 19, 2012 Meeting

A motion to approve the January 19, 2012 meeting minutes was made by Mr. Browning and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

(6:08pm)

A motion to reconsider the approval of the January 19, 2012 meeting was made by Vice-Chairman Root and seconded by Mr. Browning.

Motion carried by unanimous voice vote.

Mr. Klitenick requested that the January 19, 2012 meeting minutes reflect the following: that the hardship criterion was met for the variance request for 400 South Street and that there was public comment on the conditional use request for 501 Southard Street.

A motion to approve the amended January 19, 2012 meeting minutes was made by Mr. Browning and seconded by Mr. Oropeza.

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Motion carried by unanimous voice vote.

RESOLUTIONS

Old Business

- 2 Future Land Use Amendment - Consideration of an ordinance of the City of Key West, addressing the compatibility of lands adjacent to or closely proximate to military installations in the future land use element of the City of Key West Comprehensive Plan; revising Policy 1-3.9.1, and creating Policy 1-3.9.2, Policy 1-3.9.3, Policy 1-3.9.4, Policy 1-3.9.5, Policy 1-3.9.6, and Policy 1-3.9.7; providing for severability; providing for the repeal of inconsistent provisions; providing for transmittal to the State Land Planning Agency; providing for the filing with the Secretary of State and for an effective date; and providing for the inclusion in the City of Key West Comprehensive Plan.**

Mr. Craig gave members an overview of the future land use amendment. He informed members that during the 2011 Legislative Session, House Bill 7207 was signed into law, which made major changes to Chapter 163, Florida Statutes (F.S.). Two notable changes affecting the City of Key West Comprehensive Plan included Sections 163.3175, and 163.3177, F.S.; requiring local governments to address compatibility of development with military installations and requiring the exchange of information between local governments and military installations to be addressed in the Future Land Use element of the Comprehensive Plan. Mr. Craig also reviewed the State Coordinated Review Process with members. He then stated that the Planning Department recommends approval of the proposed amendment to the City's Future Land Use element of the Comprehensive Plan.

Mr. Demes stated that he has been working closely with staff and has no objections to the proposed amendment.

There were no public comments.

Members reviewed the request.

A motion to recommend to the City Commission the proposed ordinance for the Future Land Use Amendment was made by Mr. Browning and seconded by Chairman Klitenick.

Motion was carried by unanimous voice vote.

SO ORDERED.

New Business

- 3 Major Development Plan Amendment - 230 - 246 Front Street (RE# 00001630-000400) - An amendment to a Major Development Plan to remove a condition of approval to provide public access to a playground per City Commission Resolution 06-340.**

Mr. Cunningham gave members an overview of the Major Development Plan amendment request. He informed members that the Major Development Plan was approved in 2006 with four conditions. One of which was the existing playground me made available to the public. The playground equipment has since been removed; however, the park is still open to the public. The applicant would like to provide monies for equipment for a playground in a more appropriate location, perhaps Nelson English Park. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department

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recommends the request for a modification to a Conditional Use and Major Development Plan be approved with the following conditions:

Conditions to be completed prior to or in conjunction with the issuance of this proposed amendment:

1. The applicant shall mitigate the loss of public access to a park space by contributing a monetary sum for the express purpose of installing playground equipment at another appropriate location. The amount of the proposed mitigation, as described in the applicant's letter, is based on cost calculations for equipment over a 100 year period. That amount shall not be less than \$60,000. The applicant's letter identifies the loss of public access to the site and values that right at \$15,000. Therefore, the applicant shall provide this additional monetary amount in mitigation for the loss of public access.
2. If the Planning Board chooses to recommend denial of this amendment application, the Board will recommend that the applicant shall improve this area as a public park. The applicant shall then provide access from Whitehead Street via a gated stair. The City will be responsible for any further improvements beyond the addition of the access from Whitehead Street.

The applicant's attorney, Adele V. Stones with Stones and Cardenas, gave members an overview of the request. She informed members that the playground, in its current location, does not serve its intended purpose. The intention would be to provide monies for equipment for a playground in a more appropriate location.

Mr. Veliz informed members that the city is moving forward plans to create additional green space at the entrance to Truman Annex.

There were no public comments.

Members reviewed the request with the applicant and staff. Members voiced their discontent that the spirit and intent of the agreement was never honored and that the developer should be able to provide and maintain a playground that size. Members encouraged the applicant to work with staff in order to come up with alternatives on how the space would be utilized and maintained.

A motion to postpone the major development plan amendment request to time certain (April 19, 2012 meeting) in order for the applicant to meet with staff to work out a different solution to maintain the open space was made by Vice-Chairman Root and seconded for discussion by Mr. Browning.

Mr. Gilleran requested that in those discussions, that the agreement that was established in 2006 be maintained. He would also like staff to clarify why the city would assume maintenance costs for the park, since the responsibility to maintain the park was never the city's responsibility per the agreement met by both parties.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 4 **Conditional Use - 1128 & 1130 Duval Street (RE# 00027950-000000) - A Conditional Use application for a wine bar located in the HRCC-3 zoning district per Section 122-748 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the conditional use request. He informed members that the request is for a beer and wine bar in an existing clothing and accessory store. Previous commercial uses for this commercial space have included an art studio and gallery, retail sales and services. The applicant is proposing to use 1,075 square feet of that space as alcohol consumption area. Mr. Cunningham stated that the applicant has been in negotiations with neighbors.

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Mr. Craig stated that the applicant has worked with neighbors and proposed changes to staff conditions as well as added additional conditions. Mr. Craig reviewed the changes and additions proposed:

1. ADA bathroom access is provided and maintained
2. If the applicant proposes to provide prerecorded background music, the applicant will install and maintain a programmable distributive sound system to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinance, and shall include a computerized sound monitoring system with real time monitoring access to be provided to the City.
3. The approved size and location of the bar and consumption area shall be as shown on the revised floor plans dated February 16, 2012.
4. The hours of operation of the bar are limited to 10:00 am to 10:00 pm.
5. The use is approved for the sale of beer and wine only.
6. There will be no live amplified music on the premises.
7. There shall be no more than 1,075 square feet of consumption area, inclusive of the bar area allowed without further City approvals.
8. If there is to be amplified music, the applicant expressly agrees to provide the City’s agents with unfettered access to the computer-generated reports and full, real-time, web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with condition 2 herein. The playing of any music (amplified or otherwise) outside of the premises is not permitted without further City approvals.
9. The bar shall be operated as accessory to and in conjunction with the principal retail operation at 1130 Duval Street. At least seventy-five percent (60%) of the consumption area shown on the revised floor plan dated February 16, 2012, shall contain clothing racks, shelving, cases and/or other displays of non-alcohol related merchandise for retail sale. The bar shall not be open if the retail operation is closed.
10. Applicant is limited to a maximum of ten (10) seats. Additional seating of any kind is not permitted without further City approvals.
11. The bar use is limited to the interior of the property. The expansion or relocation of the consumption area outside of the building is not permitted without further City approvals.

The applicant, Jeremy Ashby, gave members an overview of the request. He stated that the primary commercial retail will remain and that the beer and wine bar will be an accessory to that use. They understand their neighbors’ concerns about it turning into a full bar in the future; therefore, they are in agreement with proposed conditions.

The following member of the public spoke on the matter:

- Susan Cardenas legal counsel for Mr. Wagner, 1207 Duval

Members reviewed the request with the applicant, staff and members of the public. Members voiced their concern on how proposed condition #9 would be monitored; lack of a professional drawing and the importance of safeguarding the HRCC3 district. Members are pleased that the applicant is working with neighbors; however, they agreed that there needs to be additional work on the conditions and that a professional site plan be provided.

A motion to postpone the conditional use request to time certain (March 15, 2012 Meeting) in order for the applicant to identify and resolve the conditions and provide professional site plans, was made by Mr. Browning and seconded by Vice-Chairman Root.

Motion was carried by unanimous voice vote.

SO ORDERED.

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Mr. Demes excused himself from the meeting.

- 5 Variance - 1107 Grinnell Street (RE# 00031760-000100) - A request for a rear yard setback and building coverage in the HMDR zoning district per Section 90-391, Section 122-600(4)a. and Section 122-600(6)c. of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

This item was postponed to the March 15, 2012 meeting.

- 6 Minor Development Plan - 313 Margaret Street (RE# 00002820-000000) and 907 James Street (RE# 00002830-000000) - A request for a Minor Development Plan for property located in the HRCC-2 zoning district per Section 108-91(A.)(b.) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Ms. Malo gave members an overview of the minor development plan request. She informed members that the applicant is proposing a Minor Development Plan for reconstruction of 3,425 square feet of commercial gross floor area, which requires and includes site improvements to lighting, stormwater, landscaping and the parking lot. The existing primary structure is proposed for an addition of 945 square feet using the floor area ratio established on the site from the demolition of the 930 square foot shed previously used as workshop and demolition of a 526 square foot interior mezzanine (see attached application). Because the floor area is being reduced and relocated within the property boundaries, no parking is required; however, the applicant is proposing seven (7) parking spaces on site, eleven (11) bicycle and two (2) scooter spaces as part of phase two. The second shed located adjacent to James Street is approximately 720 square feet and is proposed for improvement as part of phase two of the project. The shed is proposed to be used as a food preparation and storage facility for restaurants located off site. Retail, office and restaurant uses are all permitted uses in the HRCC-2 zoning district. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for Minor Development Plan be approved with the following conditions:

General conditions:

1. The applicant shall recycle all allowable materials.
2. The parking lot 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). All new lighting must be approved by HARC.
3. The project manager and landscape architect shall work with the Urban Forestry Manager on any tree or landscaping issues during construction thru Certificate of Occupancy.

Prior to Issuance of Certificate of Occupancy:

4. HARC approval is required for the redevelopment of the parking lot and rear shed structure.
5. HARC approved fencing is required around the refuse and recycling handling area within the parking lot.
6. All signage is approved by HARC.

The applicant's architect, Michael Ingram, gave members an overview of the request.

The following member of the public spoke on the matter:

- Dale Lockwood, 311 Margaret

Members reviewed the request with the applicant and staff. Members inquired if the applicant had to obtain an after-the-fact tree removal permit. Urban Forester, Paul Williams, informed members that the applicant complied and received proper permits for the tree removals. Members were in agreement that the uses are permitted as of right.

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Mr. Erskine requested that a condition be added that requires that a unity of title be filed prior to the issuance of the Certificate of Occupancy.

A motion to approve the minor development plan request to include the filing of the unity of title and the six conditions recommended by staff was made by Mr. Browning and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 7 Major Development Plan – Nelson English and Willie Ward Parks - 306 Catherine Street (RE# 00026460-000000), 304 Catherine Street (RE# 00026470-000000, 00026480-000000), 300 Louisa Street (RE# 00026500-000000), 307 Louisa Street (RE# 00026490-000000, 00026510-000000, 00026520-000000), 250 Amelia Street (RE# 00026610-000000, 00026610-000100) – A request for the redevelopment of Nelson English and Willie Ward Parks in the HHDR and HMDR zoning districts per Section 108-91(A.)2(c) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Erskine informed the members that the Board of County Commissioners sits as the Land Authority, who in turn owns two of the lots that are in question. Therefore, Mr. Erskine inclined that Ms. Tennyson has a technical and legal conflict of interest and cannot participate in this matter. Ms. Tennyson left the dias during the discussion.

Ms. Malo gave members an overview of the minor development plan request. She informed members that the proposed changes to the Nelson English and Willie Ward Parks improve safety, maintenance and recreational components of the community park. She stated that the plan will bring the site into compliance with city stormwater drainage requirements, ADA bathroom facilities and access, parking design and traffic safety standards. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for Major Development Plan be approved with the following conditions:

General Conditions:

1. The applicant shall be 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.
2. New 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). All new lighting must be approved by HARC.
3. Tree Commission approval is required for each phase of the removal/relocation and replacement of the Landscape Plan.
4. The restrooms shall be built to FEMA flood standards.

Prior to Building Permit Issuance:

5. In accordance with Resolution 92-168 the Monroe County Land Authority must issue an approval for development on parcels RE#00026460-000000 and RE#00026490-000000.

The following member of the public spoke on the matter:

- Patricia Eables, 313 Catherine

Members reviewed the request with staff and members of the public who spoke on the matter. Members expressed concerns regarding noise as addressed by Ms. Eables, and confirmed with staff that there would be adequate signage that addresses rules and regulations of the park. Members were then in agreement to reverse the directional traffic pattern; Catherine Street through the park shall be a one-way, entering at Thomas Street and exiting onto Catherine Street.

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A motion to approve the major development plan request to include Planning Department recommendations and reversing the directional traffic pattern on Catherine Street was made by Vice-Chairman Root and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

Ms. Tennyson returned to the dias.

PLANNER'S REPORT

Mr. Craig gave members an overview of the ongoing Hurricane Evacuation workshops and stated that the next workshop is scheduled for February 27th.

Vice-Chairman Root expressed concern on how some conditions are not being met by applicants. Chairman Klitenick suggested that Code Director, Jim Young give a presentation on how the Gilleran Ordinance is being enforced. Mr. Craig informed members that they are working closely with Code to address conditions that are not being met. In some cases, the Department will be bringing forward violations of conditions that are so egregious that they need to be dealt with by the Planning Board.

Ms. Malo informed members that Planning Staff will now be on site during final inspections prior to the issuance of the Certificate of Occupancy.

Chairman Klitenick congratulated Mr. Oropeza for perfect attendance for the 2011 Planning Board meetings.

ADJOURNMENT

A motion to adjourn was made by Vice-Chairman Root and seconded by Ms. Tennyson.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 8:35 pm.

**Respectfully submitted by,
Carlene Smith
Development Review Administrator
Planning Department**