

Minutes of the Key West Planning Board

June 29, 2011

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Chairman Richard Klitenick called the Key West Planning Board Special Meeting of June 29, 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, Gregory Oropeza, Sam Holland, Jr. and Lisa Tennyson

Excused Absence: Jim Gilleran and Michael Browning

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

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Klitenick requested that Item 4 – Variance Extension for 19 Hilton Haven be moved up on the agenda since Mr. Root would need to be excused after the item is heard.

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

Motion carried by unanimous voice vote.

SO ORDERED.

APPROVAL OF MINUTES

1 June 16, 2011 – Meeting Minutes

A motion to approve the June 16, 2011 meeting minutes was made by Mr. Holland and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

RESOLUTIONS

New Business

4 Variance Extension - 19 Hilton Haven Drive (RE# 00002180-000000) - A request for extension of approved variance for impervious surface regulations in the Medium Density Residential (MDR) zoning district per Planning Board Resolution 2009-022 of the City of Key West Planning Board.

Mr. Klitenick recused himself from the item due to a conflict. He then passed the gavel to Vice-Chairman Mr. Root and left the dias.

Mrs. Monnier gave members an overview of the variance extension request. She informed members that the applicant is requesting an extension to Planning Board Resolution 2009-022, which extended the original variance approval (Board of Adjustment Resolution 08-174) allowing 65.5% impervious surface coverage on

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the site. The applicant's request to extend the variance approval was received in a timely manner, as the existing expiration date (based on DCA determination) is on August 3, 2011. Based on the criteria established in the Comprehensive Plan and Land Development Regulations, the Planning Department recommends that Planning Board Resolution 2009-022 be approved for a period of 24 months.

The applicant's architect, Bill Horn, gave members an overview of the variance.

There were no public comments.

Board members reviewed the request with staff and confirmed that this is a second variance extension.

A motion to approve the variance extension for a period of 24 months was made by Ms. Tennyson and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

2 HARC Membership Ordinance – Approving an amendment to Chapter 90, sections 90-127, 90-128, and 90-135 entitled Administration, of the Code of Ordinances of the City of Key West to provide for modification of Historic Architectural Review Commission membership requirements; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Mrs. Torregrosa gave members an overview of the proposed HARC Membership Ordinance. She informed members that Commissioner Gibson has requested changes to the ordinance governing the membership of the Historic Architectural Review Commission (HARC) to modify the number and method of appointment and qualifications of the membership. The changes are generally intended to strengthen the relationship between HARC and the city commission and to provide for a more qualified board membership. Modifications to the ordinance fall into three main areas:

- HARC will consist of seven, not five (with two alternates) members. The mayor and each commissioner will appoint a member. The mayor will retain appointment responsibilities for the HARC architect, and the six commissioners will appoint members. Three of the members appointed by city commissioners shall be professionals in historic preservation related disciplines. Laymen members shall have demonstrated interest, competence or knowledge in historic preservation.
- Members can be residents, business owners or employees within the city and the area of their residency shall be limited to the lower keys, from Key West to Big Coppitt Key.
- The description of historic preservation-related disciplines has been updated to be consistent with the Florida Certified Local Government Guidelines (based on the Secretary of Interior's Historic Preservation Professional Qualification Standards).

The following members of the public spoke on the matter:

- Al Sullivan, 1614 Steven Avenue
- Victor Cushman, 726 Emma Street

Board members reviewed the request with staff and confirmed that this is a similar model that is used by the Planning Board.

A motion to recommend approval of the HARC Membership Ordinance to the City Commission was made by Ms. Tennyson and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 3 HARC Noticing Ordinance - Approving an amendment to Chapter 90, sections 90-133, 90-136, 90-138 and adding section 90-143 entitled Administration, and an amendment to Chapter 102, sections 102-217 and 102-251 entitled Historic Preservation, of the Code of Ordinances of the City of Key West to amend notice requirements for the Historic Architectural Review Commission public meetings; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.**

Mrs. Torregrosa gave members an overview of the proposed HARC Noticing Ordinance. She informed members that in response to concerns voiced by members of the public, and shared by staff, the Planning Department has prepared revisions to the noticing requirements for Historic Architectural Review Commission (HARC) items. Currently, noticing for most of the items that will be reviewed in a public meeting by HARC consists solely of a newspaper notice. Unless neighbors and concerned citizens read the notices diligently, they may not know when items are scheduled for hearing. Because HARC decisions carry such importance, and because HARC addresses massing and scale issues which are otherwise not readily addressed in development review criteria, the hearings are important to surrounding property owners and residents. The proposed revisions require any item appearing before HARC in a public meeting to be posted on site. The revisions also address other areas in the code to ensure consistency with the posting requirements.

The following member of the public spoke on the matter:

- Michael Ingram, 1001 Whitehead

Board members reviewed the request.

A motion to recommend approval of the HARC Noticing Ordinance to the City Commission was made by Ms. Tennyson and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 5 Special Exception request by Mr. Lynn Kephart, property owner for 512 Eaton Street (RE# 00006500-000000) - A request for a special exception to the prohibition of alcoholic beverage sales within 300 feet of two churches and funeral home for property located within the HNC-1 zoning district, pursuant to Section 18-28 (b)(2) of the Code of Ordinances of the City of Key West.**

Mrs. Monnier gave members an overview of the special exception to the prohibition of alcoholic beverage sales request. She informed members that a conditional use approval was granted for property located at 512 Eaton Street in 2007. The approval allowed the conversion of a former church/theatre into a restaurant with stage and screen entertainment and an accessory bar area. The approval was granted via Planning Board Resolution 2007-042, and included 3,075 square feet of consumption area. In November of 2009 the Planning Board granted Resolution 2009-043, allowing a one-year extension of the conditional use approval. The extension was approved with conditions that required that the applicant receive alcohol sales variance approval; that the sale of food and non-alcoholic beverages constitute 51% or more of the business; and that the sale of food occurs during the time in which service is provided to the public. The conditional use extension was extended on February 16, 2011; making the approval effective until December 11, 2012, in accordance with Senate Bill 360 and Senate Bill 1752 for government issued development orders. As such, the Planning Department has proceeded with the alcohol sales special exception based on the fact that the conditional use approval has been extended and is considered an active approval. When reviewing the extent of conflict for proposed alcohol sales, the Planning Department anticipates very little conflict to occur. This determination is based upon the

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general service times of the church, the City's restriction on hours of alcohol sales, as well as the conditioning included relevant to hours of operation in the conditional use approval, and based on staff review of the application for special exception. 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 conditions:

- The exception is granted exclusively to the applicant and property owner, Lynn Kephart.
- The exception is not transferable.
- The exception is only effective with the following uses, as specified in the application: patrons of the dinner theatre, as approved in Planning Board Resolution 2009-043, 2007-042, and extended in accordance with Senate Bill 360 and Senate Bill 1752 for government issued development orders.
- That the sale of alcohol is accessory to the restaurant use on the site, and is subject to the terms of the conditional use approval granted through Resolution 2007-042, as well as the conditional use extension granted by Planning Board Resolution 2009-043, and extended in accordance with Senate Bill 360 and Senate Bill 1752 for government issued development orders.
- Alcohol sales cannot occur between 4:00 a.m. and 12:00 p.m. on Sundays to preserve compatibility with the two churches that are located within 300 feet of 512 Eaton Street.

The applicant's attorney, Ginny Stones with Stones and Cardenas, gave members an overview of the request. She informed members that the applicant relied on a pre-existing alcohol license which lapsed while seeking the development approval. She then stated that nothing has changed from the 2007 proposal.

The following members of the public spoke on the matter:

- Father Larry Hooper, 401 Duval

Three public comments were received prior to the meeting:

- Father Larry Hooper, 401 Duval
- Mary Deasy (no address provided)
- Sandy Higgs (no address provided)

Mrs. Stones addressed the concerns of Father Hooper and stated that per the ordinance, the exception is not transferrable. She then agreed to midnight closing hours.

Board members reviewed the request with staff and applicant. Members are in agreement that adverse impacts are already being addressed and they concur with the recommended conditions.

Mr. Erskine gave an overview of the Conditional Approval Permit Ordinance (aka Gilleran Ordinance).

A motion to approve the special exception for alcohol sales was made by Mr. Holland to include Planning Department recommended conditions as well as a modification to condition #5 to incorporate seven days a week midnight cut off. Motion was seconded by Mr. Oropeza.

Mr. Erskine requested motion clarification. Mrs. Stones clarified that operation and alcohol sales would cease at midnight daily.

Mr. Holland amended his motion to include a sixth condition to state that operations cease at midnight. Motion was seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

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6 Conditional Use - 2786 North Roosevelt (RE# 00066150-000000) - A request for a conditional use approval for a ambulance service to be located in the General Commercial Zoning District per Section 122-418 (8) 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 subject property is located on North Roosevelt Boulevard. The structures on the site were originally developed for a shopping center and office uses. The applicant proposes to operate the ambulance service out of the rear portion of an existing commercial retail space and utilize existing parking. The proposed use does not include any exterior renovations or modifications. The interior space will be used for an office and training facility. Additionally, living accommodations for personnel will include sleeping, bathing and cooking facilities; these individuals are on duty 24 hours a day. 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 and his driver/operators shall assure that responders leaving the facility will not activate their sirens until exiting the perimeter of the shopping center site;
- There will be no testing of sirens on site that will result in sirens producing noise audible from beyond the premises occupied by the ambulance service;
- Parking of ambulances shall only be allowed to the rear of the premises occupied by the service.

The applicant's representative, Douglas Tisdale, gave members an overview of the conditional use request. Mr. Tisdale informed members that it is state law to activate sirens when lights are activated. However, usually at night there is minimal need to activate lights due to lighter traffic.

There were no public comments during the meeting.

One public comment was received prior to the meeting:

- Mark Molback (no address provided)

Board members reviewed the request with staff and applicant. The applicant is in agreement to activate lights at Flagler unless otherwise necessary.

A motion to approve the conditional use request to include Planning Department recommendations was made by Mr. Oropeza and seconded by Mr. Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

7 Variances - 711 Bakers Lane (RE# 00011880-000000) - A request for variances as required when renovation exceeds 66% of the assessed value per Section 122-28 (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Mr. Cunningham gave members an overview of the variances request. He informed members that the existing structure is in poor condition and the applicant proposes to renovate the structure. The applicant is requesting variances to existing impervious surface ratio and front and side-yard setback requirements since the cost of the proposed renovations exceeds 66% of the assessed value as proscribed in the code. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be denied. However, should the Planning Board choose to approve this request, staff recommends the following condition:

- That the applicant install and actively maintain the proposed swales shown on the plans for stormwater management purposes.

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The applicant's architect, Bert Bender with Bender and Associates, gave members an overview of the variances request.

There were no public comments during the meeting.

One public comment was received prior to the meeting:

- Mark Molback (no address provided)

Board members reviewed the request.

A motion to approve the variances request to include the recommendation made by the Planning Department was made by Mr. Holland and seconded by Ms. Tennyson.

Motion was carried by unanimous voice vote.

SO ORDERED.

8 Variances - 616 Virginia Street (RE# 00027560-000000) - A request for variances as required when renovation exceeds 66% of the assessed value per Section 122-28 (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Mr. Cunningham gave members an overview of the variances request. He informed members that the existing structure is in poor condition and the applicant proposes to renovate the structure. The plans for the renovation of the structure will exceed 66% of the current value. He then added that the historic portion of the structure is being compromised by a very large Spanish Lime tree. The piles supporting the structure are being undermined by the tree's root system. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be denied. However, should the Planning Board choose to approve this request, staff recommends the following condition:

- That the applicant install and actively maintain the proposed swales shown on the plans for stormwater management purposes.

The applicant's architect, Michael Ingram with mbi/k2m Architecture, gave members an overview of the variances request.

There were no public comments.

Board members reviewed the request with staff and applicant and confirmed that the Fire Department had no concerns regarding the slight increase in the side setback.

A motion to approve the variances request to include the recommendation made by the Planning Department was made by Mr. Oropeza and seconded by Mr. Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

PLANNER'S REPORT

Mr. Craig informed members that we received eleven responses to the Truman Waterfront RFQ.

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He then stated that he is in the process of drafting an administrative interpretation to clarify how to move ahead with variances in regards to contributing historic structures when dealing with the 66% rule.

Lastly, Mr. Craig stated that he will be discussing with members at a future meeting plans to make the conditional approval permit ordinance also known as the Gilleran Ordinance more structured.

ADJOURNMENT

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

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 7:50 pm.

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