

**Key West Planning Board Special Meeting Agenda**  
**July 30, 2009 – 6:00 p.m.**  
**City Commission Chamber**  
**Old City Hall, 510 Greene Street**



**Item 3.a.**

**Planning Board Meeting Minutes – July 16, 2009**

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1 Chairman Richard Klitenick called the Key West Planning Board Meeting of July 16, 2009 to order at 6:05  
2 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

3  
4 **ITEM 1. ROLL CALL**

5  
6 **Present were:** Chairman Richard Klitenick; Members, Barry Barroso, James Gilleran,  
7 Edward Gartenmayer and Gregory Oropeza.

8  
9 **Excused absences:** Tim Root and Michael Browning

10  
11 **Also in attendance were:** Planning Director, Amy Kimball-Murley; City Attorney, Shawn  
12 Smith; Alan Averette, Lt. Fire Inspector; HARC Planner, Enid Torregrosa; and Key West  
13 Planning Department staff, Rodney Corriveau, Brendon Cunningham, Ashley Monnier, Nicole  
14 Malo and Carlene Cowart.

15  
16 **ITEM 2. APPROVAL OF AGENDA**

17  
18 Mrs. Kimball-Murley stated that the applicants for Item 4a1 and 4b3 have requested that their  
19 items be postponed to time certain on July 30, 2009. The applicant for Item 4b2 has requested  
20 that their item be postponed to time certain on August 20, 2009.

21  
22 Mr. Klitenick disclosed that he is the attorney representing the client on Item 4b2; therefore,  
23 he recused himself and passed the gavel to Mr. Barroso. Mr. Klitenick left the dais during the  
24 discussion.

25  
26 **A motion to table Item 4b2 to time certain for an August Planning Board meeting was**  
27 **made by Mr. Gilleran and seconded by Mr. Gartenmayer.**

28  
29 **Motion carried by unanimous voice vote.**

30  
31 Mr. Klitenick returned to the dais.

32  
33 A motion to table Item 4a1 to time certain on July 30, 2009, was made by Mr. Gilleran. Mr.  
34 Gilleran withdrew his motion in order to hear discussion.

35  
36 The following members of the public spoke on the matter:

- 37
- 38 • Michael Halpern, 209 Duval Street
  - 39 • Commissioner Mark Rossi, 208 Duval Street
  - 40 • Owen Trepanier, 402 Appelrouth Lane

41  
42 Both Mr. Halpern and Commission Rossi requested that the item be tabled to time certain for  
43 the August Planning Board meeting to accommodate their travel schedules, based on the fact  
44 that the item has now been postponed twice.

45  
46 The applicant's representative, Mr Trepanier, stated that the reason for the request to postpone  
was due to a sound study being conducted. He then stated that he wanted to give the Planning

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1 staff ample time to review the results of the study. He has hired a sound expert who has made  
2 himself available to be present for the July 30, 2009 meeting.

3  
4 Mr. Klitenick stated that it is his personal philosophy not to force an applicant to present when  
5 they are not ready. However, he also stated that when there have been several requests to  
6 table and the public wants to appear, it is important to be able to accommodate them as well.

7  
8 Mr. Trepanier confirmed the noise study has been completed. Mr. Klitenick asked staff how  
9 much time they would need to review the study. Mrs. Kimball-Murley asked that staff have a  
10 few days to review the study and amend the staff report if needed. Most importantly she  
11 would like enough time to make the information available to the Board as well as to the  
12 members of the public.

13  
14 Mr. Barroso asked Mr. Trepanier if other than the availability of the sound expert, was there  
15 anything that would prevent him from having this item heard in August. Mr. Trepanier stated  
16 that there was not.

17  
18 Mrs. Kimball-Murley stated that she would coordinate with all the parties involved to  
19 determine a mutually acceptable August meeting date.

20  
21 **A motion to table Item 4a1 to time certain for an August Planning Board meeting was**  
22 **made by Mr. Barroso and seconded by Mr. Oropeza.**

23  
24 **Motion carried by unanimous voice vote.**

25  
26 **A motion to table Item 4b3 to time certain on July 30, 2009 was made by Mr. Oropeza**  
27 **and seconded by Mr. Barroso.**

28  
29 **Motion carried by unanimous voice vote.**

30  
31 **A motion to approve the agenda as amended was made by Mr. Barroso and seconded by**  
32 **Mr. Gartenmayer.**

33  
34 **Motion carried by unanimous voice vote.**

35  
36 **SO ORDERED.**

37  
38 **ITEM 3. APPROVAL OF MINUTES**

39  
40 **a. Planning Board Meeting Minutes – May 21, 2009**

41  
42 Mr. Klitenick asked that under Item 4a1, a notation be made stating that he left the dias  
43 during the discussion.

44  
45 A motion to approve the June 18, 2009, Planning Board Meeting minutes as amended was  
46 made by Mr. Barroso and seconded by Mr. Gartenmayer.

47

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1 Motion carried by unanimous voice vote.

2  
3 SO ORDERED.

4  
5 **ITEM 4. ITEMS FOR PUBLIC HEARING**

6  
7 **a. OLD BUSINESS**

- 8  
9 **1. Conditional Use – 4 & 6 Charles St., 213 & 217 Telegraph Lane (RE Numbers**  
10 **00001410-000000, 00001430-000000, and 00001440-000000) – An application for**  
11 **Conditional Use approval for a bar and lounge in the HRCC-1 zoning district per**  
12 **Section 122-688 (9) of the Land Development Regulations of the Code of**  
13 **Ordinances of the City of Key West, Florida**

14  
15 This item has been tabled until to time certain for an August Planning Board meeting  
16 at a date to be determined.

17  
18 **b. NEW BUSINESS**

- 19  
20 **1. Outdoor Display - 800-802 Caroline Street (RE # 00003220-000000) – An**  
21 **application for an Exception for an Outdoor Merchandise Display to allow the**  
22 **use of a mannequin to display clothing in the Historic Neighborhood Commercial**  
23 **(HNC-2) zoning district per Section 106-52 of the Land Development Regulations**  
24 **of the Code of Ordinances of the City of Key West, Florida.**

25  
26 Mrs. Kimball-Murley read into the record comments from the following:

- 27
  - Louie and Mary Cruz, 327 Peacon Lane
  - Barbara Pullen, 325 Peacon Lane
  - Allen Miller, Pepe's Café, 806 Caroline Street
  - Ron Heck and Robert Cobb, Harpoon Harry's, 832 Caroline Street

28  
29  
30  
31  
32 Mrs. Monnier gave an overview of the exception for outdoor display application.  
33 Based on the criteria by the City Code, the Planning Department recommends the  
34 request for exception for outdoor merchandise display be approved per the proposed  
35 plan with the following conditions:

- 36
  - The exception is limited to the front porch as shown on the site plan and will  
37 not be placed in the City right-of-way.
  - The exception will only be present during hours of operation.
  - The exception is specific to Jack Anderson and Liliane Anderson and granted  
40 for a term of 60 months.

41  
42 Mr. Klitenick asked staff if this request was a result of a code violation. Mrs.  
43 Kimball-Murley confirmed that this was due to the applicant being cited by Code  
44 Compliance.

45  
46 Mrs. Kimball-Murley clarified that the display was only for a mannequin.  
47

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1 The applicant, Jack Anderson, reviewed the request with members.

2  
3 Board members reviewed and discussed the request with the applicant and staff.

4  
5 **A motion to approve the exception for outdoor display with conditions**  
6 **recommended by staff was made by Mr. Gartenmayer and seconded by Mr.**  
7 **Gilleran with discussion.**

8  
9 Mr. Gilleran expressed his concern with approving conditional applications when there  
10 is no mechanism in place for monitoring or enforcing them.

11  
12 Mrs. Kimball-Murley stated that with this type of application, there is a section in the  
13 code which allows us to revoke the approval. She then stated that staff is still working  
14 on drafting an ordinance for conditional approvals and that such ordinance was  
15 complex.

16  
17 Mr. Barroso stated that he had spoken with Mr. Jim Young regarding these  
18 applications coming forward. He stated that these applications are site specific and  
19 need to be handled on a case by case basis.

20  
21 Mr. Klitenick agreed with Mr. Barroso and stated that the approval of the application  
22 is relying in part of the reputations of the Andersons and not a corporation.

23  
24 Mr. Smith clarified with Mr. Klitenick that he has adequately reviewed the criteria  
25 aside from the fact who the particular applicant is and would do it even if it was a  
26 corporation coming before the board. Mr. Klitenick said absolutely.

27  
28 **Mr. Klitenick restated the Motion made by Mr. Gartenmayer and seconded by**  
29 **Mr. Gilleran.**

30  
31 **Motion carried by unanimous voice vote.**

32  
33 **SO ORDERED.**

- 34  
35 **2. Amendment to a Transient Transfer for both units and licenses - from 915**  
36 **Windsor Lane (RE#00020090-000000) to 3591 South Roosevelt Boulevard**  
37 **(RE#000954350-000000) – An amendment to an approved Transient Transfer -**  
38 **from 915 Windsor Lane located in the Historic Medium Density Residential**  
39 **(HMDR) zoning district to 3591 South Roosevelt Boulevard located in the**  
40 **Commercial Tourist (CT) zoning district per Sections 122-1338 and 122-1339 of**  
41 **the Land Development Regulations of the Code of Ordinances of the City of Key**  
42 **West, Florida.**

43  
44 This item has been tabled to time certain for an August Planning Board meeting.

- 45  
46 **3. Change of a Nonconforming Use – 3100 Flagler Ave (RE 00069090-000000) – An**  
47 **Application for Change in Nonconforming Use in the Limited Commercial (CL)**

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1 zoning district per Section 122-32 (e) of the Land Development Regulations of the  
2 Code of Ordinances of the City of Key West, Florida.

3  
4 This item has been tabled until the July 30, 2009 Special Planning Board meeting.

- 5  
6 **4. Conditional Use - 527 Duval Street (RE# 00009650-000000) - An application to**  
7 **amend the Conditional Use approval granted in Resolution Number 2001-027 to**  
8 **permit the existing Walgreen's to sell packaged beer and wine in the Historic**  
9 **Residential Commercial Core (HRCC-1) zoning district per Section 122-688 (9) of**  
10 **the Land Development Regulations of the Code of Ordinances of the City of Key**  
11 **West, Florida.**

12  
13 Mrs. Kimball-Murley stated that 82 notices were mailed to property owners within  
14 300' radius; 1 was returned and no comments were received.

15  
16 Mrs. Kimball-Murley gave an overview of the conditional use application. This is an  
17 application to amend a conditional use for a previously approved conditional use  
18 which allowed the square footage associated with this Walgreen's to be constructed  
19 within the old Strand Theater on Duval Street. At the time of approval in 2001, there  
20 was a condition placed that prohibited the sales of alcoholic beverages as part of the  
21 conditional use. Based on the criteria by the City Code, the Planning Department  
22 recommends the request for conditional use be approved with the following  
23 conditions:

- 24
- The alcoholic beverages for sale shall be limited to beer and wine.
  - No alcohol sales shall take place before 8:00 a.m. or after 9:00 p.m.
  - No single beer or broken beer packages, no wine coolers or similar single servings sold.
  - No glass alcohol sold during City Commission approved events with street closings within 300 feet.
- 25  
26  
27  
28  
29  
30

31 Mr. Klitenick disclosed that his name appears on the deed since he was the attorney for  
32 the seller in the transaction when Walgreen's purchased the property.

33  
34 The applicant's attorney, David Paul Horan, reviewed the request with members. He  
35 also stated that he spoke with an attorney representing a client that stated they would  
36 withdraw their objection if the hours of sale were changed.

37  
38 Board members reviewed and discussed the request with the applicant and staff.

39  
40 Mr. Gilleran reviewed prior conditions and asked Mr. Trepanier if all the conditions  
41 were met on the prior approval. Mr. Trepanier stated that all previous approval  
42 conditions were met.

43  
44 Mr. Klitenick verified with staff that no public comments were received. Mrs.  
45 Kimball-Murley stated that she had a conversation earlier today from the same attorney  
46 that contacted Mr. Horan and that they were amenable to a limitation on the hours of  
47 operation consistent with the City code.

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1  
2 Mr. Barroso asked that the applicant's representative relay to their client the  
3 importance of a good neighbor policy. He is concerned that revising the conditional  
4 use approval will have an adverse affect on local business owners.  
5

6 A motion to approve the conditional use was made by Mr. Gartenmayer and seconded  
7 by Mr. Barroso with a friendly amendment to staff's recommendation that Walgreen's  
8 will abide by the City Code of Ordinance in reference to the hours alcohol can be sold.  
9

10 Motion carried by unanimous voice vote.

11 SO ORDERED.  
12  
13

14 **ITEM 5. BOARD MEMBER'S REPORT**

15  
16 **a. Sunshine Law Seminar Overview**

17  
18 Mr. Gilleran informed members that he attended a Sunshine Law Seminar given by  
19 Patricia Gleason. A handout of the information was made available to members and  
20 the public.  
21

22 Mr. Gilleran stressed the importance of reviewing the Sunshine Law on a yearly basis  
23 to inform members of any changes as well as an overview.  
24

25 Mr. Smith stated that Ms. Gleason is often referenced and is a great source of  
26 information on the Sunshine Law. He stated that the Legal Department on an ongoing  
27 basis is meeting with Members of all Boards in regards to the Sunshine Law.  
28

29 Mr. Klitenick agreed with the importance of reviewing the Sunshine Law, especially  
30 with the changes in communication technology.  
31

32 Mr. Smith informed members that all forms of communication are public record and  
33 must be retained.  
34

35 **ITEM 6. PLANNER'S REPORT**

36  
37 **a. BPAS Ordinance Status**

38  
39 Mrs. Kimball-Murley informed members that an order from the DCA will be  
40 published on Friday, July 17, 2009. The DCA had two issues with the BPAS  
41 Ordinance. Mrs. Kimball-Murley stated that she is working with the City Attorney  
42 and management on preparing a strategy on how to resolve the two issues.  
43

44 **b. Other Items**

45  
46 Mrs. Kimball-Murley gave members an update on the status of the conditional  
47 approval ordinance. Mrs. Kimball-Murley stated that there has been a collaborative

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1 effort with different departments on crafting this ordinance. Once the ordinance has  
2 been fully drafted, it will be reviewed by the City Attorney prior to it coming before  
3 the Board.  
4

5 Mrs. Kimball-Murley then stated that there has been an increase in applications over  
6 the past several months. She then stated that the Development Review Committee has  
7 been averaging 10 or more applications per meeting. Mrs. Kimball-Murley stated that  
8 she is hopeful that this is a sign of economic recovery.  
9

10 Mrs. Kimball-Murley then informed members that the Planning Department has been  
11 coordinating with other City departments in an effort to improve customer service and  
12 efficiency; especially when information is required from more than one department.  
13

14 Mrs. Kimball-Murley stated that the City just finished their first budget workshop.  
15 She then informed members that the HARC Planner position and an associated  
16 support position will be moving under the Planning Department at the beginning of the  
17 new fiscal year. Mrs. Kimball-Murley stated that the Planning Department is  
18 currently working with HARC on guideline changes. HARC averages 100-120  
19 approvals per month. Mrs. Kimball-Murley stated that Enid Torregrosa and Diane  
20 Nicklaus will be an asset to the department.  
21

22 Mr. Barroso noted that the Tree Commission did not appear to be coordinating at the  
23 same level as the other boards and asked Mrs. Kimball-Murley if the Tree  
24 Commission could be overseen by the Planning Department. Mrs. Kimball-Murley  
25 stated that the Landscape Coordinator has been stepping up to the plate, especially at  
26 the Development Review level even with her increased workload. Mrs. Kimball-  
27 Murley stressed the importance of requiring landscape architects or someone with  
28 similar experience to review plans in order to provide a better product.  
29

30 Lastly, Mrs. Kimball-Murley informed members of the long range tasks. She stated  
31 that staff has been working on obtaining background data and analysis to support the  
32 housing element changes to the comprehensive plan as well as working with the  
33 Community Redevelopment Committees to update and restate their plans. There will  
34 be an upcoming workshop for the Caroline Street Corridor. Mrs. Kimball-Murley also  
35 stated that the Department is also addressing our own hurricane evacuation needs and  
36 doing a transient survey.  
37

38 **ITEM 6. ADJOURNMENT**

39  
40 A motion to adjourn was made by Mr. Barroso and seconded by Mr. Gartenmayer.

41  
42 Motion was carried by unanimous voice vote.

43  
44 **SO ORDERED.**

45  
46 Meeting adjourned at 7:25 pm.  
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**Submitted by,**  
**Carlene Cowart**  
**Administrative Coordinator**  
**Planning Department**