Minutes of the Key West Planning Board
July 15, 2010
Approved August 19, 2010

Vice-Chairman Tim Root called the Key West Planning Board Meeting of July 15, 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: Vice-Chairman, Tim Root; Members, Jim Gilleran, Gregory Oropeza, Michael Browning, Sam Holland, Jr. , Lisa Tennyson and ex-officio member, Ron Demes.

Excused Absence: Richard Klitenick

Also in attendance were: Planning Director, Amy Kimball-Murley; Chief Assistant City Attorney, Larry Erskine; Alan Averette, KW Fire Department; Cynthia Domenech-Coogle, Urban Forestry Program Manager; and Planning Department staff, Brendon Cunningham, Carlene Cowart, Ashley Monnier, Nicole Malo and Patrick Wright.

ITEM 2. APPROVAL OF AGENDA

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

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 3. APPROVAL OF MINUTES

a. June 10, 2010

A motion to approve the June 10, 2010 Special Planning Board Meeting minutes was made by Mr. Gilleran and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

b. June 17, 2010

A motion to approve the June 17, 2010 Planning Board Meeting minutes was made by Mr. Gilleran and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 4. ITEMS FOR PUBLIC HEARING

a. NEW BUSINESS

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 gave members an overview of the proposed amendment.

Cynthia Domenech-Coogle, Urban Forestry Program Manager, informed members that palm weavers are removing the center fronds from palms located on private property. The palm weavers prefer center fronds since they are easier to weave and work with. However, the younger palm fronds provide the tree with vital nutrients and immunity from disease.

Members reviewed and discussed Mrs. Domenech-Coogle's concerns with staff. Members asked Mr. Erskine for clarification on penalty and enforcement of this ordinance. Mr. Erskine stated that this would be enforced by Code Compliance. He then stated that he will discuss the concerns raised by the members and Mrs. Domenech-Coogle with Ron Ramsingh, who drafted the amendment.

Members were in agreement to postpone the item to the next Planning Board meeting.

A motion to postpone the recommendation of the Amendment to Chapter 110 of the Key West Code of Ordinances entitled "Resource Protection" to time certain was made by Mr. Browning and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

2. **Variances – 2718 Harris Street (RE# 00067640-000000) – A variance request for proposed rear-yard setback, building coverage and impervious surface ratio in the Single Family zoning district per Sections 122-238 (4)(a) and 122-238 (6)(a)(3) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley informed members that 47 notices were sent to surrounding property owners, two were undelivered, eight web hits and one public comment was received.

Mr. Cunningham gave members an overview of the variances request. He informed members that the building currently encroaches on the setback and building coverage. He then stated that the existing nonconformities were not created by the applicant; however, the chosen design is what is causing a need for an additional variance. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be denied.

The applicant, Zachary Bentley, gave members an overview of the request to build a roof over an existing concrete patio.

The following member of the public spoke on the matter:

- Diana Jones, 2721 Harris

Ms. Tennyson asked staff if permits were ever issued for the previous work constructed in the setbacks. Mr. Cunningham stated that he reviewed the Building Department files and found an application that addressed the impervious surface issue; however, to his knowledge, that plan is no longer in effect since the home foreclosed. Mrs. Kimball-Murley informed Ms. Tennyson that most of the homes in Key West are presumptively legally nonconforming

because the construction of most of them predates our record keeping system as it exists today.

Mr. Browning asked the applicant if they have met with neighbors. Mr. Zachary stated that they had met with some but not with Ms. Jones. Mr. Zachary then informed members that they have plans to move into the home. He then stated that they are going to decrease the deck to create more green space. Mrs. Kimball-Murley stated that impervious surface is being reduced by 1%.

A motion to deny the variances request was made by Mr. Gilleran seconded by Ms. Tennyson.

Motion carried by 4-2 vote (opposed by Mr. Holland and Mr. Oropeza).

SO ORDERED.

3. **Conditional Use – 1010 Kennedy Drive (RE# 00065650-000500) – A conditional use for a proposed wireless facility (consisting of a monopole, antennas and associated equipment shelters) as a private utility in the CG zoning district per Section 122-418 (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 informed members that the facility would be considered a private utility and therefore a conditional use application was required. The height variance will be heard by the City Commission sitting as the Board of Adjustment. The original denial of the variance is now subject to reconsideration and may be scheduled for a future Board of Adjustment meeting. Therefore, the height variance is listed as a condition of approval. She then stated that the original height proposed was 125'; however, the application was recently amended to indicate a 105' height monopole.

The applicant, Pritam Singh, provided members with revised application and site plans.

Mr. Root asked Mr. Erskine if the process is affected if the applicant submits new evidentiary material during the meeting. Mr. Erskine requested that the applicant clarify the changes to ensure that this change does not increase or expand the extent of the original request.

Mr. Singh stated that all of the changes made are a decrease in impacts. Mr. Singh informed members that the revisions include the removal of the equipment shelter; monopole decreased from 125' to 105'; and a reduction in carriers from four to three. He then stated that the Conditional Use application references the decrease in height, the addition of up to five antennas the height of the equipment and equipment mounted on the roof as opposed to shelters.

Mr. Browning asked Mr. Erskine if it was appropriate for an applicant to submit an application at the meeting. Mr. Erskine stated that he is interpreting that the applicant is submitting an application which consists of changes.

Mr. Singh clarified that the only additions were the five antennas, which he will remove from the request.

Ms. Tennyson asked Mr. Singh if the five antennas were originally inside the equipment shelter. Mr. Singh stated that they were in the equipment area; however, to avoid any confusion, they will be removed.

Mr. Erskine informed the members that for the record, the item referenced in paragraph eleven, which appears on top of page two which has the language "and up to five antennas" is being removed from the request by the applicant. Therefore, there is no increase to what is being requested by the applicant.

Mr. Erskine clarified for members that the new application will be made part of the record, but he wants to be clear that if there is any discrepancy between the new application other than the changes that were just discussed, then the application that was previously filed is going to be the one we move under with those two changes that the applicant discussed.

AT&T Representative, Michael Yaniz, informed members that based on drive test data, RF prediction simulations and twelve years experience designing wireless networks, he has determined that the property at 1010 Kennedy Drive is near the center of AT&T's coverage gap. He then stated that a wireless facility at this location would address AT&T's need to provide improved coverage and enhance data and emergency call service to the residents and visitors of Key West.

Mr. Singh expanded on how 1010 Kennedy is the best location for a tower, stating that it geographically meets the needs as well as its visual presentation to the rest of the community and what people see with the poles that are already there.

Mr. John Allison then addressed a letter sent by Mr. Rick Richter dated June 7, 2010. He stated that even with the shelter, we would not have a floor area ratio (FAR) issue as stated in Mr. Richter's letter; however, they have decided to take away the issue by removing the shelters. Mr. Allison submitted a letter into the record responding to Mr. Richter's concerns on floor area ratio.

Mr. Browning asked if Mr. Erskine agreed with Mr. Allison's interpretation of floor area ratio. Mr. Erskine stated that he had spoken with Mrs. Kimball-Murley and they agree that the floor area ratio even with the previous incarnation was not an issue and as Mr. Allison stated that it appears that that issue has been removed. Mrs. Kimball-Murley stated that members were provided a copy of Mr. Richter's letter as part of the material and no other comments were received. Mr. Richter's letter was the only written objection received.

Mr. Gilleran asked clarification on the antenna height. Mr. Singh clarified for members that the top of the monopole is 105'. Mr. Yaniz confirmed that nothing can exceed 105'.

Mr. Root informed members that the height is not being discussed at this meeting but at the City Commission as a variance.

The following members of the public spoke on the matter:

- Margaret Romero, 1615 Washington
- Rick Richter, 104 Palmetto

Mr. Root asked Mr. Erskine for some clarification on Mr. Richter's comments on the FAR. Mr. Erskine stated that the FAR is a planning issue and asked that the question be deferred to Mrs. Kimball-Murley. Mrs. Kimball-Murley stated that there is no variance request to FAR

that is part of this application. She has assessed this situation and has received Mr. Richter's letters and disagrees with his perspective. She does not believe that equipment is part of floor area ratio in this case. In comparison, every air conditioning unit on top of every building would then become FAR. She stated that she does not think this is supported by the code and believes this is not an issue on this project.

A motion to approve the conditional use request with the following conditions was made by Mr. Oropeza:

- **Proposed height of 105'**
- **Removal of the five antennas**
- **Removal of the equipment shelter**

Mr. Browning asked for clarification if the motion included Planning Department recommendations. Mr. Oropeza clarified the motion for approval to include the following conditions:

- **Proposed height of 105'**
- **Removal of the five antennas**
- **Removal of the equipment shelter**
- **Planning Department recommendations**

Motion was seconded by Mr. Gilleran.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 5. PLANNER'S REPORT

a. City Hall Update

Mrs. Kimball-Murley informed members that the City is still examining other options and that the application has not been reactivated. She then stated that the staff from the Madeleine Bean building was relocated to offices at Habana Plaza.

b. Other

Mrs. Kimball-Murley informed members that the City Attorney requested some changes on the proposed Conditional Use Ordinance. The changes were made and resubmitted. The changes pertained to establishing fees and clarifying how permits issued outside of the ordinance would be handled. Mrs. Kimball-Murley then stated that the permit fee would be $150.

ITEM 6. ADJOURNMENT

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

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 7:15 pm.

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Submitted by,
Carlene Cowart
Development Review Administrator
Planning Department