

Minutes of the Key West Planning Board

June 18, 2009

Approved July 16, 2009

Chairman Richard Klitenick called the Key West Planning Board Meeting of June 18, 2009 to order at 6:10 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ITEM 1. ROLL CALL

Present were: Chairman Richard Klitenick; Vice-Chairman, Tim Root; Members, Barry Barroso, Michael Browning, Edward Gartenmayer and Gregory Oropeza.

Excused absence: James Gilleran

Also in attendance were: Planning Director, Amy Kimball-Murley; Chief Assistant City Attorney, Larry Erskine; Alan Averette, Lt. Fire Inspector; John Woodson, Building Official; HARC Planner, Enid Torregrosa; and Key West Planning Department staff, Rodney Corriveau, Ashley Monnier and Carlene Cowart.

ITEM 2. APPROVAL OF AGENDA

Mrs. Kimball-Murley stated that the applicant has requested that Item 4b1 be postponed to time certain on July 16, 2009

Mrs. Kimball-Murley then stated that the agent for Item 4b4 has requested that agenda item be moved to the beginning of New Business.

A motion to approve the agenda and table Item 4b1 to time certain and move Item 4b4 to be the first subsequent item was made by Mr. Browning and seconded by Mr. Gartenmayer.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 3. APPROVAL OF MINUTES

a. Planning Board Meeting Minutes – May 21, 2009

Mr. Klitenick stated that he would like a reference added to the second to last paragraph on page 4; his comments were directed to the fact that he didn't think that the staff report's treatment of the two zoning districts on one site was consistent with his understanding of the law and City precedent and thought that it presented a logistical problem for the applicant.

A motion to approve the amended May 21, 2009 Planning Board Meeting minutes was made by Mr. Gartenmayer and seconded by Mr. Root.

Motion carried by unanimous voice vote.

SO ORDERED.

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ITEM 4. ITEMS FOR PUBLIC HEARING

a. OLD BUSINESS

1. **Variance Extension - 19 Hilton Haven Drive (RE# 00002180-000000) – Extension of approved variance for impervious surface regulations in the Medium Density Residential (MDR) zoning district per Section 122-270 (4) b of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida**

Mr. Klitenick stated that he has a conflict of interest; therefore, he recused himself and passed the gavel to Vice-Chair, Mr. Root. Mr. Klitenick then left the dias.

Mrs. Kimball-Murley gave an overview of the variance extension application. The original variance was approved by the Board of Adjustment last year for a two year timeframe. The applicant has requested an extension to that variance until 2011 to accommodate economic conditions and other scheduling issues related to the construction of the home. Mrs. Kimball-Murley also mentioned that when the application was reviewed by staff it was noticed that there was an oversight by staff in looking at tree issues on the site. The applicant accommodated that on the site plan. The change to the site plan has no impact to the request; the impervious surface amount remains the same. Therefore, based on the criteria established in the original approving resolution, the Planning Department recommends the request for a one-year extension, for a new expiration date of July 16, 2011.

The applicant, Bill Horn, reviewed the request with members.

A motion to approve the variance extension application was made by Mr. Browning and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

b. NEW BUSINESS

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

This item has been tabled until the July 16, 2009 Planning Board meeting.

4. **Transient License Transfer - from 409 William Street (RE#00005880-000000) to 519 Duval Street (RE#00009690-000000) & 522 Bahama Street (RE#0000740-000000) - Transient License Transfer from 409 William Street in the Historic Medium Density Residential (HMDR) zoning district to 519 Duval Street & 522**

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Bahama Street in the HRCC-1 Historic Residential Commercial Core zoning district, for the purpose of using two new residential units as transient rentals.

This item was moved to be the first subsequent item per the request of the applicant's agent.

Mr. Oropeza disclosed, in abundance of caution, a member of his immediate family was a member of 519 Duval, LLC several years ago. Mr. Erskine stated that the circumstance described in the disclosure does not pose a conflict.

Mrs. Kimball-Murley stated that 158 notices were mailed to property owners within 300' radius; 4 were returned and 3 comments were received. Mr. Scales requested that his comment not be read into the record since he was present at the meeting.

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

- Martin E. and Evelyn G. Brown, 5620 Pinckney Ave, Myrtle Beach, SC
- Clarice Yentsch, 504-506 Bahama Street

Mrs. Kimball-Murley gave an overview of the transient license transfer request. The Planning Department recommends approval of the transient residential license transfer for six bedrooms in two units, three to 519 Duval Street and three to 522 Bahama Street.

The applicant, Mark Phillips, reviewed the request with members and thanked the staff for their assistance.

Board members reviewed and discussed the request with the applicant and staff. Mr. Barroso asked Mr. Phillips for clarification on the downstairs use and if the intent was to use the downstairs area transiently. Mr. Phillips clarified that the downstairs is retail and that the original intent was for the two residential units to be transient. Mr. Phillips then stated that there will be a manager available to handle any issues that arise, including noise concerns.

Mr. Klitenick stated that he was informed that the building was built to sustain hurricane impact and that when the doors are closed outside noise cannot be heard. Mr. Phillips stated that the information is accurate and that the 519 building is solid concrete.

Mr. Erskine clarified for Mr. Browning that conditions can be placed on the approval.

The following member of the public spoke on the matter:

- Greg Harden, 524 Bahama Street
- Ed Scales, 201 Front Street

Mr. Scales is the agent for the applicant. Mr. Browning disclosed that Mr. Scales represents him on various matters. Mr. Erskine stated that the circumstance described in the disclosure does not pose a conflict.

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The applicant, agent and members discussed conditions for the application and came to an agreement to the following conditions:

- No tenant, guest, owner, visitor, licensee, or occupant of the Receiver Sites units, or either of them, shall park in the parking lot owned by Mulberg, Ltd. (or its successors and assigns, collectively “Mulberg”), which parking lot is located at 518 Bahama Street, to the north of the Receiver Site, without the express written consent of Mulberg. This condition shall run with the land and otherwise be enforceable in accordance with Section 122-63(f) of the City of Key West Land Development Regulations. This condition shall be liberally construed against the owner(s) of the Receiver Sites to effectuate its purpose, i.e. to prevent tenants, guests, owners, visitors, licensees, and/or occupants from parking in the Mulberg lot.
- The applicant will advise the occupants of premises in writing that this is a residential neighborhood.
- Applicant will use their best efforts to contain noise on the property.

A motion to approve the transient license transfer with the conditions listed above was made by Mr. Browning and seconded by Mr. Barroso.

Motion carried by unanimous voice vote.

2. Outdoor Display – 804 Caroline Street (RE 00003200-000000) – An application for Exception for Outdoor Merchandise Display, to allow the display of home and garden items and associated merchandise in the HNC-2 zoning district per Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Mrs. Kimball-Murley stated that 57 notices were mailed to property owners within 300’ radius; 2 were returned and 3 comments were received.

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

- Rene Blass, 812 Caroline Street
- Robert A. Cobb and Ron Heck, 832 Caroline Street
- Allen Miller, 806 Caroline Street

Mrs. Kimball-Murley gave an overview of the exception for outdoor display application. Based on the criteria by the City Code, the Planning Department recommends the request for exception for outdoor merchandise display be approved per the proposed plan.

Mr. Klitenick asked staff if this request was due as a result of a code violation. Mrs. Kimball-Murley confirmed that this was due to the applicant being cited by Code Compliance. She then stated that members will be seeing an increase in these requests within the next few months from applicants responding to Code Compliance issues and trying to bring their existing display into compliance.

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Mr. Klitenick disclosed that he is friends with the applicant and has not discussed this request with them.

Mr. Klitenick asked Mr. Erskine for guidance on how the members would know or guarantee, other than having a statement of what the retail operations does, if the visual display is compatible or visually harmonious with the character of the neighborhood, per Section 106-52 (1)b. Mr. Erskine stated that since this is a mixed retail area, a lot of a variety of uses might be consistent.

Mr. Browning stated that there is a 60 month provision on the request; therefore, the applicant would have to come back for another approval, at which time we will know if the prior approval was abused.

Mr. Barroso expressed his concern on the increase of outdoor displays. Mr. Klitenick stated that each will be dealt with on a case by case basis.

The applicant, Bill O'Connor, reviewed the request with members.

Board members reviewed and discussed the variance application with the applicant and staff and set the following conditions on the outdoor display request:

- Display is limited to the front porch as shown on the site plan and will not be placed in the City right-of-way.
- Display will only be present during hours of operation.

A motion to approve the exception for outdoor display with the conditions listed above was made by Mr. Root.

Mr. Gartenmayer stated he would like to see the 60 months be shortened. Mr. Barroso agreed with Mr. Gartenmayer and also suggested the approval be tenant specific.

Mr. Root withdrew his motion to allow further discussion.

Mrs. Kimball-Murley noted that Mrs. Monnier's staff report noted that section 106-52 (4) of the City Code allows the Planning Board to revoke an approval if the applicant is out of compliance with any conditions.

Mr. Klitenick commended Mrs. Monnier for informing the members.

A motion was then made to approve the exception for outdoor display by Mr. Root and seconded by Mr. Browning with the following conditions:

- Display is limited to the front porch as shown on the site plan and will not be placed in the City right-of-way.
- Display will only be present during hours of operation.
- Exception to the Outdoor Merchandise Display is specific to Patricia O'Connor and granted for 60 months.

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Motion carried by unanimous voice vote.

SO ORDERED.

- 3. Transient License Transfer - from 415 Julia Street (RE 00027290-000000) to 918-920 Center Street (RE 00017830-000000) – Transient License Transfer from 415 Julia Street located in the Historic Medium Density District (HMDR) to 918-920 Center Street located in the Historic Residential Commercial Core (HRCC-3) zoning district per Sections 122-1338 and 122-1339 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mr. Barroso disclosed that the applicant is one of his clients; therefore, he has a conflict of interest and will recuse himself.

Mrs. Kimball-Murley gave an overview of the transient license transfer application. The receiving site has a total of four units. This is a transfer for a single license. Additional licenses will be required to operate the remaining units transiently. The Planning Department recommends approval of the transient residential license transfer.

Mrs. Kimball-Murley stated that 69 notices were mailed to property owners within 300' radius; 11 were returned and no comments were received.

The applicant, Naomi Van Steelandt, reviewed the request with members.

Board members reviewed and discussed the request with the applicant and staff. Mr. Browning asked staff how we monitor if the other 3 units are used transiently. Mrs. Kimball-Murley stated that if the units are used transiently then this would become a Code Compliance issue.

Mr. Erskine stated that approvals are site specific and also referenced in the resolution. Members are in agreement that the unit being assigned be identified on the survey and attached to the resolution.

A motion to approve the transient license transfer was made by Mr. Browning and seconded by Mr. Root with the following condition:

- The unit being licensed will be identified on the survey and attached to the Resolution.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 5. PLANNER'S REPORT

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Mrs. Kimball-Murley informed members that over the past few months the Planning Department has had an increase of substantive applications, along with other requests. The Planning Department has been tracking the number of phone request and seeing 160-180 requests for the planners that are independent of the application being processed. These calls do not include the ones Mrs. Kimball-Murley receives. Many of these applications show an increased interest of what can be done with a property.

Due to the increase of applications, there will be two Planning Board meetings in July and possibly in August. Mrs. Kimball-Murley stated that whenever possible, applications are being expedited due to the economic situation.

Mrs. Kimball-Murley then stated that the Planning Department is also working on hurricane evacuation surveys to assess transient evacuation needs.

The Planning Department has also increased their work on Workforce Housing. We are working collaboratively with the housing committee to address both updates to the Housing Element of the comprehensive plan and as well as the City's Housing strategic plan and doing that with the same volunteer, Norm Fowler, who was successful in helping the City map out the housing process.

Mrs. Kimball-Murley then informed members that the long range planner position was frozen during last year's budget cuts; however, that position is in the draft the budget for the next year.

Mr. Klitenick complimented staff, stating that he has heard nothing but positive feedback about the Planning Department.

ITEM 6. ADJOURNMENT

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

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 8:10 pm.

**Submitted by,
Carlene Cowart
Administrative Coordinator
Planning Department**