

Minutes of the Key West Planning Board

October 15, 2009

Approved November 10, 2009

Chairman Richard Klitenick called the Key West Planning Board Meeting of October 15, 2009 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: Chairman Richard Klitenick; Members, Ed Gartenmayer, James Gilleran, Gregory Oropeza, Michael Browning and Tim Root (arrived at 6:45 pm).

Mr. Klitenick informed members that Mr. Barroso announced his resignation from the Planning Board. Mr. Klitenick thanked Mr. Barroso for serving this board with distinction and dedication.

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

ITEM 2. APPROVAL OF AGENDA

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

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 3. APPROVAL OF MINUTES

a. Planning Board Special Meeting Minutes – August 25, 2009

A motion to approve the August 25, 2009, Planning Board Special Meeting minutes was made by Mr. Gilleran and seconded by Mr. Gartenmayer.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 4. ITEMS FOR PUBLIC HEARING

a. NEW BUSINESS

- 1. Major Development - 512-514 Duval Street (RE 00009840-000000) -** An application for a Major Development Plan for a mixed use commercial and residential building in the HRCC-1 zoning district per Section 108-91 A. 2. (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Mrs. Kimball-Murley gave an overview of the history of the establishment.

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Mr. Erskine requested that an additional condition be added to the request:

- The owner will execute and record a deed restriction restricting use of the three residential units to affordable rental housing pursuant to the Workforce Housing provisions of the Code of Ordinances of the City of Key West.

Mr. Browning inquired about the monitoring and enforcement of such condition and if the enforcement ordinance could be applied. Mr. Erskine stated that we currently have a provision in the code which allows us to enforce conditions that we place on development through the code enforcement process or judicially.

Mr. Klitenick clarified that the conditional use enforcement would not apply to major developments.

Mrs. Kimball-Murley added that projects where enforcement was a large concern have been projects with operational conditions.

Mr. Oropeza asked staff if the deed restrictions on the units would restrict them to always be affordable rentals.

Mr. Erskine stated if ownership changes then deed restrictions get fairly complicated.

Mr. Klitenick suggested adding language in the title stating if the type of ownership changes, then the type of restriction would change.

On another note, Mr. Klitenick stated that there is a continued issue with corporate applications. The verification form for the project is signed by an individual as if he were an owner of the property. Mr. Pinkston apparently is a member of an LCC that was probably created before the property was deeded to it. However, there is nothing on the application that has any reference to the LLC which is the actual owner of the property. If this were to go forward he would want to make sure this is rectified and asked that staff review the verifications more carefully in the future.

Mr. Erskine stated that knowing the title was held in the name of Susan Rafferty LLC; he went on the Secretary of State's website and determined that Mr. Pinkston is the sole and managing member of the LLC.

Mr. Klitenick acknowledged that the information may be factual but stated that the actual application is defective in itself. He would like something established to correct this. There needs to be clarification in the application of the person's official capacity when dealing with corporations and LLCs.

Mr. Cunningham gave an overview of the major development request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for Major Development Plan be approved with the following conditions:

- The variance request for building and impervious coverage is approved; and
- Tree Commission approval.

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

Mr. Klitenick stated he liked the design but would like to hear from the Fire Department.

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Mr. Averette stated he was comfortable with the design. He added that the new structure will be fully sprinkled, there is a 2 ½' setback and there is a route to the back of the building. Mr. Averette confirmed that although the sprinkler system is required, the applicant is providing it willingly.

Mr. Oropeza stated that workforce housing and rentals are major issues and is very pleased with the new development providing affordable rentals.

Mr. Brown complimented the architect on the design.

The applicant, Tom Pope, stated that the owner has no problems adding the additional condition regarding deed restriction.

A motion to approve the major development request with conditions stated was made by Mr. Browning and seconded by Mr. Gartenmayer.

Motion carried by unanimous voice vote.

SO ORDERED.

Mr. Browning stated in regards to Mr. Klitenick's comments on corporate applications, that it may be easier to add within the instructions itself that corporations and/or LLC's need to execute the documents in their proper capacity.

Mrs. Kimball-Murley stated that we will improve the instructions on the applications. She added that staff did review this issue; however, not to the extent members are describing now. Comments are well taken and we will do better in the future.

- 2. Variances - 512-514 Duval Street (RE 00009840-000000) -** An application for variances to building coverage and impervious surface for a mixed use commercial and residential building in the HRCC-1 zoning district per Section 122-690 (4) a. & b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Mr. Cunningham gave an overview of the variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the variance request be denied.

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

Mrs. Kimball-Murley informed members that the 2nd floor addition of workforce housing, which is considered a public benefit, stimulated the need for a variance.

The applicant, Tom Pope, stated that this project will benefit the community. It is virtually attractive, meets Fire Department requirements, improves the drainage system and provides the benefit of affordable housing.

A motion to approve the variance request was made by Mr. Oropeza and seconded by Mr. Gartenmayer.

Motion carried by unanimous voice vote.

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SO ORDERED.

- 3. Transient License Transfer - 915 Windsor Lane (RE 00020090-000000) to 918-920 Center Street (RE 00017830-000000)** - An application for a Transient License Transfer from 915 Windsor Lane located in the Historic Medium Density Residential (HMDR) zoning district to 918-920 Center Street located in the Historic Residential Commercial Core (HRCC-1) 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. Klitenick declared a conflict of interest and left the dias during the discussion.

Mr. Erskine informed members that since Vice-Chairman Root was not present, the remaining members will need to make a motion to appoint a Vice-Chairman to lead the discussion.

A motion to appoint Mr. Gilleran as Vice-Chairman was made by Mr. Browning and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

Mr. Oropeza disclosed in an abundance of caution that his law firm represents the applicant. Mr. Erskine stated that this does not pose a conflict of interest.

Mrs. Kimball-Murley gave an overview of the transient license transfer request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request to transfer four transient licenses from 915 Windsor Lane to 918-920 Center Street be approved.

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

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

A motion to approve the transient license transfer request was made by Mr. Gartenmayer and seconded by Mr. Browning.

Motion carried by unanimous voice vote.

SO ORDERED.

- 4. Two-and-a-Half Stories Ordinance – HARC Guidelines** - An Ordinance of the City Commission of the City of Key West, approving an amendment to the Historic Architectural Review Commission Guidelines as referenced in Section 90-142 of the Code of Ordinances of the City of Key West, Florida; and providing an effective date.

Mrs. Kimball-Murley gave an overview of HARC and informed members that effective October 1, 2009 HARC is now under the Planning Department.

HARC Planner, Ms. Enid Torregrosa, gave an overview of the Two-and-a-Half Stories Ordinance.

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Mr. Woodson stated that the Building Department has been struggling with the definition of Two-and-a-Half Stories for many years.

HARC Commission members, Mr. Nils Muench and Mrs. Barbara Bowers, stated their support of the Ordinance.

The following members of the public spoke on the matter:

- Michael Ingram, 1001 Whitehead
- Tom Pope, 1015 Flagler
- Dar Castillo, 1503 Washington
- Owen Trepanier, 402 Appelrouth

Board members reviewed and discussed the Ordinance with staff.

Members discussed FEMA standards and how they would affect the minimum floor height.

Mr. Klitenick asked Mr. Erskine if this Ordinance applied to residential and commercial. Ms. Torregrosa stated that the intent of the HARC Board was for this Ordinance to cover both residential and commercial.

A motion to approve the two-and-a-half stories ordinance request was made by Mr. Gilleran and seconded by Mr. Gartenmayer.

Motion carried by unanimous voice vote.

SO ORDERED.

- 5. Two-and-a-Half Stories LDR Ordinance** - An Ordinance of the City Commission of the City Of Key West, approving an Amendment to Part B, Land Development Regulations, Section 86-9 Definition of Terms, Section 102-1 Definitions, Section 122.600 Dimensional Requirements, Section 122-630 Dimensional Requirements, Section 122-660 Dimensional Requirements, Section 122-690, Dimensional Requirements, Section 122-720 Dimensional Requirements, Section 122-750 Dimensional Requirements, Section 122-810 Dimensional Requirements, Section 122-840 Dimensional Requirements, Section 122-870 Dimensional Requirements, Section 122-900 Dimensional Requirements, Section 122-930 Dimensional Requirements, Section 122-960 Dimensional Requirements, Section 122-970, Dimensional Requirements, Section 122-980, Dimensional Requirements, Section 122-990, Dimensional Requirements, Section 122-1005, Dimensional Requirements, and Section 122-1151, Size and Dimension; and Providing an Effective Date.

Mrs. Kimball-Murley gave an overview of the Two-and-a-Half Stories LDR Ordinance.

Mr. Klitenick asked Mrs. Kimball-Murley if there was additional information that was not discussed on the prior item. Mrs. Kimball-Murley stated no.

A motion to approve the two-and-a-half stories ordinance request was made by Mr. Gartenmayer and seconded by Mr. Root.

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Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 5. DISCUSSION ITEM

a. Conditional Approval Monitoring and Enforcement Draft Ordinance

Mrs. Kimball-Murley gave an overview on the Conditional Approval Monitoring and Enforcement draft Ordinance.

Mr. Klitenick stated that he liked that the draft Ordinance was simple and straight forward.

Mr. Young stated that this draft Ordinance fits the ultimate goal. This is the direction he would like to take Code Compliance.

Mr. Gilleran thanked City staff for their work on this Ordinance. He then gave the members of the public an overview of how the draft Ordinance came about.

Mr. Oropeza asked Mr. Young if Code Compliance officers enter properties without permission. Mr. Young stated that Florida Statue 162 states they have the right to investigate but not enter without the consent of the property owner. If the property owner does not allow entrance, then an inspector warrant would be sought.

Mr. Erskine stated that members approved a condition allowing property access by Code Officers on the Charles Street project.

Mr. Browning inquired about fees.

Mrs. Kimball-Murley stated that page two Section 18.611 states that fees are set by the City Commission. She added that an amount was not stipulated on the Ordinance to avoid having to change the Ordinance when fees are changed.

Mr. Browning then verified with staff that this Ordinance will track those who violate their licenses.

Mr. Erskine stated that this is not part of the LDR and does not have to have Planning Board approval. However, Mrs. Kimball-Murley added that staff would like to see a resolution of support as an action item.

Mr. Klitenick concurred to have staff add it on the next agenda as an action item.

ITEM 6. PLANNER'S REPORT

Mrs. Kimball-Murley stated that Mr. Corriveau has resigned and will most likely be leaving the Keys. She added that he has been a valued member of the Planning Department and will be missed.

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Mrs. Kimball-Murley then informed members that Ms. Torregrosa is now part of the Planning Department as of October 1, 2009.

She then gave members an update on the number of DRC meetings held in the month of September in an attempt to get projects back on track due to a procedural change. She added that the next few agendas may be longer than normal in order to get some of the projects moved along to help those in these economic times.

Mr. Gilleran expressed his gratitude for the presence and participation of HARC members this evening. He has envisioned HARC and Planning as a one-stop shop. He added that tonight's meeting was a great example how well departments can work together in accomplishing goals.

Mr. Klitenick agreed and added that the process is working more on a streamline fashion as viewed with the 512-514 Duval Street project.

ITEM 7. ADJOURNMENT

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

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 8:05 pm.

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