

# Minutes of the Key West Planning Board

**November 10, 2009**

Approved January 21, 2010

Chairman Richard Klitenick called the Key West Planning Board Special Meeting of November 10, 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, Gregory Oropeza, Michael Browning, and Sam Holland, Jr.

**Excused absence:** Tim Root and James Gilleran.

**Also in attendance were:** Planning Director, Amy Kimball-Murley; Chief Assistant City Attorney, Larry Erskine; Alan Averette, Lt. Fire Inspector; and Key West Planning Department staff, Brendon Cunningham, Ashley Monnier and Carlene Cowart.

## **ITEM 2. APPROVAL OF AGENDA**

Mr. Klitenick informed members that he would need to recuse himself on Item 4a5, which would then leave the body without a quorum. Mr. Erskine suggested to members that Item 4a5 be brought to the top of the agenda and at that time state the recusal on the record.

Mr. Klitenick then stated that the applicant for Item 4a8 has requested that the item be moved up on the agenda.

Lastly, Mr. Klitenick asked members to table Item 4a7 to the November 19, 2009, Planning Board meeting, so that Mr. Gilleran can be present when the item is brought forth for discussion.

**A motion to approve the agenda as amended was made by Mr. Oropeza and seconded by Mr. Gartenmayer.**

**Motion carried by unanimous voice vote.**

**SO ORDERED.**

## **ITEM 3. APPROVAL OF MINUTES**

### **a. Planning Board Meeting Minutes – October 15, 2009**

**A motion to approve the October 15, 2009, Planning Board Meeting minutes was made by Mr. Oropeza and seconded by Mr. Gartenmayer.**

**Motion carried by unanimous voice vote.**

**SO ORDERED.**

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

### **a. NEW BUSINESS**

- 5. Transient License Transfer - 915 Windsor Lane (RE# 00020090-000000) to 515 Amelia Street (RE# 00027750-000000) - An application for a Transient License Transfer from 915 Windsor Lane located in the Historic Medium Density Residential (HMDR) zoning**

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district to 515 Amelia 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 recused himself since his client is involved in a related matter, leaving the body without a quorum. Therefore, this item will be moved to the November 19, 2009 meeting.

8. **An Ordinance of the City Commission of the City of Key West, approving an Amendment to Part B, Land Development Regulations, Sections 122-968 and 122-1111, of the Code of Ordinances to permit nursing homes, rest homes and convalescent homes as a conditional use in the Historic Public and Semipublic Services District-1 (HPS-1); and providing an effective date.**

Mrs. Kimball-Murley gave an overview of the Ordinance request. The Planning Department recommends approval of the proposed amendment to the HPS-1 District.

Mr. Klitenick clarified for the record that this is an amendment to the Land Development Regulations, which is championed by Florida Keys Assisted Care Coalition; however, this is not an approval of that project.

The applicant, Owen Trepanier with Trepanier and Associates, reviewed the request with members. He stated that the way the amendment is drafted in the Planning Board packet is acceptable to his client.

Mrs. Kimball-Murley clarified for members that this use is allowed overall in the HPS and PS districts but not in the HPS-1 designation.

Mr. Gartenmayer asked Mrs. Sandra Higgs to present an overall scenario of the project. Mrs. Higgs gave members a breakdown of the cost and room size for the project.

Mr. Klitenick stated that he understands that the overall concern is to have an element that is truly affordable; however, this meeting is not the venue to go through the specifics of the project. Members need to focus on the change to the Land Use that would do what has been outlined. Mr. Klitenick stated that he likes how this Ordinance was drafted; however, his only hesitation is that the Board is short some members that would have had some very good input into analysis of Land Development Regulations.

Mrs. Kimball-Murley clarified for members that the language being suggested requires that if this use is developed in HPS-1 classification, one third of the beds have to be affordable. That language matches the language in the HMDR district which happens to be the other district which is involved in the leasehold area.

Mr. Klitenick added that affordability data will be very important if and when this project comes before the Board.

**A motion to approve the Amendment to Part B, Land Development Regulations, Sections 122-968 and 122-1111, of the Code of Ordinances to permit nursing homes, rest homes and convalescent homes as a conditional use in the Historic Public and Semipublic Services District-1 (HPS-1) was made by Mr. Gartenmayer and seconded by Mr. Holland.**

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Motion carried by unanimous voice vote.

SO ORDERED.

1. **Major Development Plan – 524 Eaton Street (RE# 00006500-000100) - An application for Major Development Plan to construct four transient units by reducing existing office space from 10,000 square feet to 5,000 square feet and adding an additional third floor with roof and front tower elevator to the existing building in the HNC-1 zoning district per Section 108-91 (A.)(2.)(a.) and (b.) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mr. Klitenick stated that even though each item would be heard separately, he asked that staff give a description of the overall project and then individual details as each item moves forward.

Mrs. Kimball-Murley gave an overview of the 524 Eaton project which is located on Eaton Street and Bahama Street. The next four items pertain to two parcels which have two different structures on them that have become internally linked. The two parcels will be joined in a unity of title in order for the proposed project to move forward.

Mrs. Kimball-Murley then reviewed the Major Development Plan request. She informed members that there was mislabeling on the site plans that were distributed, and that she is requesting a condition be added that labeling be updated. She also clarified that the installation of a small trench drain addressed on page 13 of the staff report is indeed on the site plans. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for Major Development Plan and right-of-way waiver/modification be approved with the following conditions:

- The approval of the Major Development Plan is contingent upon the applicant obtaining a unity of title for parcels 512 Eaton Street (RE# 00006500-0000) and 524 Eaton Street (RE# 00006500-0100).
- Variances for open space, maximum building coverage, impervious surface ratio, and for front, rear, and street side setbacks are approved.
- A recorded deed restriction or recorded perpetual easement providing for such required parking on the designated site for the duration of the principal use must be accomplished in a form acceptable to the City attorney before building permit issuance.
- Tree Commission approval will be required.
- H.A.R.C. approval is required for the elevator shaft is required prior to building permit issuance.
- Upon findings and order by the special magistrate, per Section 2-641 of the Code of Ordinances, if the non-transient residential unit located on the subject premises has been found to be transiently rented, or that the four transient units on the subject premises have been used for any other purpose than the four transient units as approved, this Major Development Plan shall be revoked by the City Manager.
- Site plans will be labeled appropriately.

The applicant's attorney, Ginny Stones with Stones and Cardenas, gave an overview of the request. Mrs. Stones informed members that the small trench drain is not an addition and that it has already been incorporated within. She then stated that conditions 1-5 and 7 and acceptable to her client; however, she finds condition 6 to be excessive and that City should rely on the Code.

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Mr. Klitenick expressed that he was surprised that there were no public comments on this project especially after adding an additional story to a building. Mrs. Kimball-Murley stated that 46 notices were sent to surrounding property owners, one was returned as undelivered and 17 web hits.

Mr. Klitenick stated that with any conditions to a development plan or conditional use, once ownership changes, conditions often get lost. The intent is to preserve the use of the units.

Mrs. Stones stated that transient units are not a conditional use but are permitted as a right. Additionally, the owner has been forthcoming since the application process started that the existing residential use is not a receiver site for a transient license and therefore must maintain that identity. She added that attaching conditions to a use which is permitted as a right is questionable as in terms of its legal defensibility.

Mr. Erskine clarified for members in regards to the separate offsite parking, that before the applicant can pull a building permit, a deed restriction would need to be recorded to run with the land.

Members reviewed and discussed condition 6 with the applicant and staff and members were in agreement to remove condition 6 since this portion can be handled by the City's Code Compliance Department.

Mr. Gartenmayer asked staff for clarification on stormwater. Mrs. Monnier stated that there will be three injection wells and that the applicant will use best management practices.

Mr. Gartenmayer requested more detailed site plans. Mrs. Kimball-Murley informed members that onsite and offsite stormwater was addressed under the code. Mr. Gartenmayer requested that stormwater calculations be provided by the applicant and approved by the City Engineer.

Mr. Holland stated that Mr. Kephart has been in the transient business for an extended time and that he knows what he is obligating himself to do in maintaining a residential unit.

**A motion to approve the Major Development Plan request was made by Mr. Gartenmayer and seconded by Mr. Holland to include the following list of conditions:**

- The approval of the Major Development Plan is contingent upon the applicant obtaining a unity of title before building permits are issued for parcels 512 Eaton Street (RE# 00006500-0000) and 524 Eaton Street (RE# 00006500-0100).
- Variances for open space, maximum building coverage, impervious surface ratio, and for front, rear, and street side setbacks are approved.
- A recorded deed restriction or recorded perpetual easement providing for five required parking spaces on the designated site for the duration of the principal use must be accomplished in a form acceptable to the City Attorney before building permit issuance.
- Tree Commission approval will be required.
- H.A.R.C. approval is required for the elevator shaft is required prior to building permit issuance.
- Labeling corrections will be made on the site plan prior to City Commission review as follows:
  - The residential use will be identified as Unit #5 and the transient use as Unit #1, which is the accessible unit.

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- Eliminate Pilot House References.
- Eliminate the cover sheet.
- Stormwater calculations shall be provided by the applicant and approved by the City Engineer.

**Motion carried by unanimous voice vote.**

**SO ORDERED.**

2. **Variances – 524 Eaton Street (RE# 00006500-000100) - Variances for open space, maximum building coverage, impervious surface ratio, front, rear, and street side setbacks in the HNC-1 zoning district per Section 108-346 (b); 122-810 (4)(a),(b); (6)(a),(c),and (d) 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 variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be denied.

The applicant's attorney, Ginny Stones with Stones and Cardenas, gave an overview of the request.

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

**Motion carried by unanimous voice vote.**

**SO ORDERED.**

3. **Transient License Transfer – 524 Eaton Street (RE# 00006500-000000 and 00006500-000100) – An application for transfer of four (4) transient units in the HNC-1 zoning district per Section 122-1338 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 transient license transfer request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for transient license transfer be approved with the following conditions:

- That the Major Development Plan enabling these uses is approved and remains in effect;
- That the variances required for the Major Development Plan are approved and remain in effect; and
- Only four transient units are allowed through this transfer. Lock-outs are specifically prohibited.

The applicant's attorney, Ginny Stones with Stones and Cardenas, was available for any questions the members may have.

**A motion to approve the transient license transfer request to include conditions recommended by the Planning Department was made by Mr. Gartenmayer and seconded by Mr. Oropeza.**

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Motion carried by unanimous voice vote.

SO ORDERED.

4. **Conditional Use Extension - 512 Eaton Street (RE# 00006500-000000) - A request for Conditional Use Extension in the HNC-1 zoning district per Section 122-63 (e) 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 conditional use extension request. She stated that the original approval was not properly rendered to the Department of Community Affairs (DCA); however, once it was, the DCA had no objections. The delay in rendering in effect extended the effective date of the original approval. The conditional use is set to expire on November 13, 2009. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for conditional use extension be approved.

**A motion to approve the conditional use extension request was made by Mr. Gartenmayer and seconded by Mr. Holland.**

Motion carried by unanimous voice vote.

SO ORDERED.

6. **Variance – 508-510 South Street (RE 00036280-000000, 0036290-000000, 00036310-000000) - An application for a variance to impervious surface coverage for a mixed use commercial and residential building in the HCT zoning district per Section 122-900(4) 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 variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be denied.

The applicant's representative, Barbara Mitchell with The Craig Company, gave members an overview of the request. Ms. Mitchell informed members that the activity area is currently covered in sod.

Mr. Klitenick clarified with staff that there was no change to the drainage.

The following member of the public spoke on this matter:

- Martin Saturn, 1401 Simonton Street

Mr. Klitenick asked staff why artificial turf was not considered pervious surface in our code. Mrs. Kimball-Murley stated that due to the preparation of the subsurface it became impervious.

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

# **Minutes of the Key West Planning Board**

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**Motion carried by unanimous voice vote.**

**SO ORDERED.**

- 7. Recommendation of an Ordinance of the City Commission of the City of Key West, approving an Amendment to Chapter 18, Businesses, of the Code of Ordinances of the City of Key West to include a conditional approval permit; and providing an effective date.**

This Item has been tabled to the November 19, 2009, Planning Board meeting.

## **ITEM 5. PLANNER'S REPORT**

Mrs. Kimball-Murley informed members that Barry Barroso will be acknowledged for his time and service to the Planning Board at the November 17, 2009, City Commission meeting.

Mrs. Kimball-Murley then stated that staff has reviewed authorization and verification forms and will draft changes to them as well as the applications.

Mr. Klitenick offered his assistance to amending the forms.

Mrs. Kimball-Murley then informed members that we have had some Ambassadors assist staff with transient unit surveys.

## **ITEM 6. ADJOURNMENT**

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

Motion was carried by unanimous voice vote.

**SO ORDERED.**

Meeting adjourned at 8:15 pm.

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