

DEVELOPMENT REVIEW COMMITTEE

Monday, July 25, 2022

MEETING MINUTES

The Monroe County Development Review Committee conducted a virtual meeting on **Monday, July 25, 2022**, beginning at 1:00 p.m.

CALL TO ORDER by Emily Schemper at 1:00 p.m.

ROLL CALL by Debra Roberts

DRC MEMBERS PRESENT

Emily Schemper, Senior Director of Planning and Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Rey Ortiz, Assistant Building Official
Cassy Cane, Deputy Fire Marshal
Shereen Yee Fong, FDOT Representative

STAFF MEMBERS PRESENT

Peter Morris, Assistant County Attorney
Devin Tolpin, Principal Planner
Debra Roberts, Senior Planning Commission Coordinator

APPLICANTS & PUBLIC PRESENT

A.J. Davila, Larry Connor, Lou Howell, Dottie Moses, Norman Wartman

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, May 24 26, 2022, by Emily Schemper.

MEETING

1. KLF RE, LLC., 1313 OCEAN BAY DRIVE, KEY LARGO, FL 33037 MILE MARKER 99 OCEAN SIDE: A PUBLIC MEETING CONCERNING A REQUEST FOR AN AMENDMENT TO A MAJOR CONDITIONAL USE PERMIT BY KLF RE, LLC., FOR THE EXPANSION OF A RESTAURANT USE AND SITE IMPROVEMENTS ON THE PROPERTY. THE SUBJECT PROPERTY IS DESCRIBED AS LOTS 1, 2, 3, 4 AND 5, IN BLOCK 9, IN KEY LARGO BEACH ADDITION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 22, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND 1, 2, 3, 4 AND 5, BLOCK 1, IN AMENDED AND EXTENDED PLAT OF KEY LARGO OCEAN SHORES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 18, OF THE PUBLIC RECORDS OF MONROE

COUNTY, FLORIDA AND TRACT, L, TRACT M, TRACT N, AND THE EAST 5 FEET OF TRACT A, AND PART OF LAKE LARGO, OF KEY LARGO BEACH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 149, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBERS 00502870-000000, 00497620-000000, AND 00497600-000000. (FILE 2021-166)

(1:03 p.m.) Ms. Devin Tolpin, Principal Planner, presented the staff report. This is a request for an amendment to a major conditional use permit for the expansion of restaurant use and site improvements on the subject property. Ms. Tolpin presented a diagram of the property explaining that it is located in the Commercial Fishing Special District 5 Land Use Zoning, and is designated as Mixed Use Commercial Fishing on the Future Land Use Map. The property is designated as Tier III and currently developed with existing uses of a marina, a 77-seat restaurant, and commercial fishing uses including charter boats, a warehouse, and fish shipments. Ms. Tolpin presented a snapshot of the proposed site plan. The actual construction with this use is relatively small. The upper right-hand corner depicts a 10-by-24 foot deck expansion to accommodate a restaurant seating increase from the current 77 seats to 180. The applicant is also proposing to improve the stormwater retention and drainage areas, and increase the parking lot size. Currently, the marina use is approved with an off-site parking facility located to the south below the main Key Largo Fisheries property. There are already two lots being used for parking, and this proposes expansion of the parking to include the rest of that block.

The application has been reviewed for the standard conditions applicable to all conditional use permits. A few issues have been identified that must be addressed prior to this item moving to the Planning Commission. The first issue is the lack of necessary information included in the submitted traffic study, which must include a gross trip generation, meaning all trips that will be generated based on all uses of the property. This must be completed and identified in the traffic report to verify that the proposed restaurant use will comply with the Land Development Code. Currently, based on the documentation submitted, it does not comply; however, that is likely due to lack of sufficient documentation rather than an actual unpermitted use being proposed. That revised traffic study is also needed to determine and verify compliance with the localized impacts and access management standards, and the level of service criteria.

The submitted site plan is also not in compliance with the required setbacks. When an existing use is expanded, it requires the parking and loading standards be brought into compliance to the maximum extent practicable, including complying with setbacks as determined by the current Land Development Code. The most recent site plan submitted included a new loading zone within the secondary front yard setback which is not permitted; however, based on recent communication with the applicant, that may have been a typo and it may be an existing loading zone. That will need to be reviewed following this meeting and addressed prior to moving to the Planning Commission. The solid waste collection facility within the secondary front yard setback is not permitted per code; however, the applicant is making changes and addressing that as well.

The expansion of the use does require compliance with current off-street parking requirements. The application is using the shared parking calculations and includes the minimum number of required parking spaces; however, the current off-street parking agreement must be amended to include the new area that will be added for the off-site parking facility. In 2007 when this property received the most recent amendment to the conditional use permit, an off-site parking agreement was recorded; however with adding new property to that off-site parking area it must be updated to include the property as proposed now.

Outdoor lighting requirements must also be addressed. When a use is expanded, the property must come into full compliance with outdoor lighting criteria. In some cases, this is addressed at time of building permit application; however, at the community meeting held on July 7, 2022, to discuss this application, staff became aware that some neighbors had a concern over existing lighting shining beyond the property line into their residences. At this point, staff is requesting a compliant photometric light plan be submitted prior to this item going to the Planning Commission with specific lighting details being reviewed at the time of building application.

Prior to this item being presented to the Planning Commission, staff is also requesting the following six items be addressed. The comments raised by the County's Transportation Consultant be revised and addressed to include the gross trip generation number. The intensity of the proposed restaurant use must be determined to be of medium or low intensity. The loading zone and solid waste collection area must be relocated outside of the secondary setback. The density and intensity table and parking calculations must be revised to demonstrate consistency. A photometric light plan compliant with current lighting requirements must be submitted. And, the applicant must demonstrate documentation of an on-site pump-out station and/or clarification as to how a pump-out station will be installed, as this is required for all existing marinas in the County.

Once those items are addressed and compliant, staff would recommend the following conditions of approval for the requested major conditional use permit: That the off-site parking agreement be drawn and executed in accordance with the County's Land Development Code. That an elevation plan be submitted to document the proposed deck expansion. And then, all other conditions of approval are consistent with the general conditions added to conditional use permits.

Ms. Schemper asked for clarification on whether the proposal only includes things already there as there was mention of some expansion of seating without permits previously. Ms. Tolpin responded that that was correct, aside from the deck extension which was 10 by 24 feet. Ms. Schemper then clarified that the deck expansion is new, but is to accommodate seats existing elsewhere on the property. Mr. Rey Ortiz had asked if the required ADA was on a site plan and if that could be zoomed in on. Ms. Tolpin pulled up the plan. Mr. Ortiz confirmed the measurements, but thought the five foot dimension at the top seemed off. Mr. Ortiz asked if there was a transition step between the pathways and from there, how the space would be entered. Ms. Schemper and Ms. Tolpin pointed out the ramp. Mr. Ortiz thought that overall it looked fine, but the dimensions are not where they need to be. Mr. Ortiz then asked for confirmation that only the deck was being expanded. Ms. Tolpin confirmed that to be correct, but corrected the measurement as being 40 by 24.9 feet. Ms. Schemper further pointed out that current seating within the shoreline setback would need to be removed.

Ms. Schemper noted for the applicant that conditional use permit review is primarily land development code review, so everything needs to be coordinated with the Building and Fire Departments, and they cannot always see all of the details from the site plan. The designer or engineer working on the plans needs to make sure it's constructed in accordance with building and fire codes so this doesn't get kicked back at the permit application stage in a way that will change the site plan, as then the conditional use permit will be messed up. Mr. Ortiz added that one of the ADA parking spaces must be able to accommodate a van as well.

Ms. Schemper asked for questions or comments from DRC members. There were none. Ms. Schemper then asked if the applicant wished to speak. Mr. A.J. Davila stated he believed the

improvements would improve the workability of the project, which was the main point, and that would fix a lot of these issues. Ms. Schemper then asked for public comment.

Mr. Norman Wartman stated that his comments and suggestions would be based on traffic and parking. The plans are generally pretty good but there are opportunities to improve traffic safety, which would need the help of Planning, Building, Zoning and the Public Works Departments. The west side shoulder of Ocean Bay Drive is being used for parking and that is actually part of the roadway of Ocean Bay Drive. On the east side, it is not a problem as it is safely beyond the bike path and allows parallel parking to the hedge. But on the west side, people park with their left-side vehicle tires still on the street which has the southbound traffic going a little bit to the east, which then pushes northbound vehicles onto the bike path. This area is used constantly for parking for Key Largo Fisheries. Public Works could either put signing there for no parking on that side of the street, or restrict it to so many feet off the roadway so that it does not create a problem, including for people crossing the street there. A big opportunity that is missing is on the south side of Ocean Way where the parking lot is being expanded to the third parcel, which is fine and helps, but there are about 25 to 30 90-degree angled parking spots on the south side in front of that, which is also on the right-of-way. This has been used for years and though it's needed, this is another opportunity here to improve that. Going into the parking lot there is a 25-foot setback on the north and south sides. If those 25 to 30 spaces could be pulled in as a middle row in there, it would mean having 18 feet in the middle, and dividing the thoroughfare in the middle of that from instead of 24 feet as it is now, split it into one way with 12 on the top and 12 on the bottom, that would surround it. It would have to be expanded because of the turning radius to 15 feet on each side. Pulling from the right-of-way into there, granting the variance to expand that area, would pull 25 to 30 cars off of Ocean Way. This would have vehicles go into the one entrance, make a right turn, loop around, and then come out, heading out, keeping the line of site visible. This would remove conflicts going from the intersection all the way back. And, if the two driveways could be matched up pretty closely, that would leave only one conflict point with better visibility. The same amount of land would be used, but it would be incorporated it into an encapsulated area. In addition to the hedge and planting, a fence should be added to direct the people to a crosswalk to be put in by Public Works, preventing hundreds of people zigzagging across the street close to an intersection on two roadways. This would improve traffic safety, use no more land than is already being used, would expand the parking lot using part of the setback but removing the part being used on the road. Ms. Schemper responded that she understood Mr. Wartman's proposal and indicated staff would take a look at that with the applicant.

Mr. Lou Howell stated that Mr. Wartman had hit the nail on the head on items he was going to bring up due to the traffic. Mr. Howell then asked about the expansion of the deck. There is now a permanent deck with additional seating on the edge with a cloth cover, and he asked if the applicant was going to try to include that in the expansion or only the hard-covered deck that is present now. Ms. Schemper was not sure what Mr. Howell was asking, so Ms. Tolpin put the diagram back up on the screen. Ms. Schemper asked if he was referring to the portion closer to the water with the shade cloth. Mr. Howell stated that on the outside of the raised platform is what he would call temporary restaurant parking as the chairs and tables are on the ground. Ms. Tolpin explained that the hard deck would be expanded into another location. The part more like a carport with the cloth top would not contain seating and those car park structures should not be

there following this project. Mr. Howell then confirmed that this request was for 180 seats total. Ms. Schemper interjected that this should be the same number of seats currently there, though some of them will be moving away from the water and onto the new deck area. Mr. Howell then asked whether Key Largo Fisheries was not in compliance with some of the issues on this expansion. Ms. Tolpin explained that there are some lawful non-conformities meaning they were put in prior to the establishment of the current code. A lot of those are addressed when a use is expanding or substantially improving, and those existing lawful non-conforming uses will be required to come into compliance. Additionally, yes, originally the County approved 77 restaurant seats and it is her understanding that there are presently 180. This request is to approve 180 to remain. Mr. Howell stated he understands this to be trying to get this grandfathered in.

Mr. Peter Morris, Assistant County Attorney, interjected that the word “grandfathered” can be something of a powder keg that often gets weaponized against the County, and he wanted to make sure that it’s clear that nothing is actually being grandfathered. Mr. Howell then asked whether, on top of Mr. Wartman’s very good plan, remote parking had ever been discussed. Ms. Schemper asked if Mr. Howell had a location in mind. Mr. Howell did not, but wondered if that had been looked at as an option. The Bungalows has remote parking on the highway, as does the Italian Food Company, which may be an option, though he does not have any spots in mind. Ms. Schemper explained that the parking displayed is considered off-site parking because it’s not within the property, but there has been parking there in the past and spaces are being added. Per the plan submitted, the Fisheries site and that parcel will be adding spaces to accommodate the new seating per the code. Ms. Schemper acknowledged that there are some properties in the Keys where even if the property meets the code for parking requirements, some still have parking issues. She was not aware of an official off-site parking agreement for Italian Food Company and the Bungalows, and they may be trying to come up with independent solutions not officially required. Associating parking on a different site than the developed parcel does have to meet certain criteria such as not being in a Tier I area, as is on the west side of Ocean Bay, cannot require people to walk across U.S. 1, and cannot require cars to drive through a residential neighborhood to get to the parking lot. A crosswalk across Ocean Way, as suggested by Mr. Wartman, is something that could be negotiated with County Engineering. Mr. Wartman then asked about the Tier 1 lots on the west side of Ocean Bay, and asked what the chances would be to get no parking signs on that side, as they are up close to where Marina Avenue intersects with Ocean Bay. Ms. Schemper responded that this would be a separate request to discuss with Engineering and Roads. The Tier 1 property is across Ocean Bay Drive to the west and that does not have a proposed parking lot. On Ocean Way, between the two Fisheries business parcel and the parking lot parcel, there is some parking that noses in on Ocean Way and people then back out onto the right-of-way. Ms. Schemper pointed out that the parking on Ocean Way is on Fisheries property, although some of it is within the setbacks. The site plan will be reconfiguring some of that. Ms. Tolpin confirmed that some of the parking proposed is compliant to the maximum extent practicable. Mr. Howell responded that he was talking about the west side of Ocean Bay. With the dynamics of the business changes over the years, there is a lot of parking now that didn’t used to take place on the west side of Ocean Bay. Ms. Schemper stated that the no parking signs are something that could be taken up with Engineering, as those parking spaces are not included in any of the approvals for this or contemplated as being existing bona fide parking. Staff is not proposing to legitimize anything on that side of the street on those

parcels through this process. Mr. Howell then added, regarding code compliance for the lights and noise, most of the violations and problems come on weekends and after hours and he asked what the residents can do about that. Ms. Schemper responded that this topic is for the Code Compliance Department and would need to be dealt with separately. She honestly doesn't know the answer for weekends but this would not be a discussion for today.

Ms. Dottie Moses asked about the first slide where the property was color coded and whether the properties in purple were those owned by Key Largo Fisheries. Ms. Tolpin said that the purple properties were not all of the property owned by Key Largo Fisheries, but were all of the properties within the Commercial Fishing Special District 5 Zoning District. Ms. Moses noted that some of the purple coded properties did not belong to Key Largo Fisheries. Ms. Moses then asked about the site plan for the seating and wanted to confirm that the present seating in the shaded setback area would not be permitted. Ms. Schemper responded that that should be moved. Ms. Moses stated that the site plan submitted still shows chairs in that area and when counting all of the seats, it comes to 180 seats. Ms. Schemper stated that staff would take another look at that and see if that's an issue, as Mr. Mike Roberts is out today. Ms. Moses then referenced a letter she had sent regarding the parking site plan where there is an area in the main property that shows it's for parking where there is a fenced in area with gates, and spaces are being put right in front of the gate, although people are not allowed to park in front of the gates today and will be chased off. Ms. Schemper stated staff would check into that. Ms. Moses also mentioned the noise which has been a chronic problem in the community in complete conflict with adjacent residential areas, and asked if a condition could be placed on that. Ms. Moses was not sure when approval was given to have live outdoor amplified music, but when it becomes too loud it impacts the homes, along with the traffic and parking, and was brought up at the community meeting. Ms. Schemper thought it may be something the Planning Commission could address.

Mr. Peter Morris interjected that this is not dissimilar to making a request to a circuit court judge for an injunction mandating that a party follow the laws. He is not confident that there would be lawful elbow room for the County via the Planning Commission to impose a condition in the form of some kind of exaction that required compliance with a noise standard or requirements vis-à-vis the noise ordinance in the code, going beyond what is enumerated in the code. The Planning Commission is rather limited in terms of requiring anything other than what the code currently provides.

Mr. Larry Connor stated that everything he was planning to say had been addressed by Mr. Wartman, but added that the south side of Ocean Way is a big problem every day, especially with cars backing out, and there is the same thing on the north side. This morning there were a whole bunch of cars along there already that make the 90-degree turn and pull into that existing place. If both of those could have no parking and it all went into a parking lot that did line up with the parking lot across the street, then that would be good, as long as there is no parking on the street. The second issue is on Ocean Bay where they park on the west side, he's gathering that that may not be legal now, so it needs to have signs along there to stop the parking because the vehicles definitely stick out into the street.

Ms. Schemper then asked for any further questions or comments. There were none. Ms. Schemper noted that as Ms. Tolpin had pointed out, there are a number of items that need to be cleared up before this can proceed to the Planning Commission so she cannot give the date when that will happen. There were no further comments.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 1:55 p.m.