

PLANNING COMMISSION  
November 14, 2012  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, November 14, 2012**, beginning at 10:02 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL** by Gail Creech

**PLANNING COMMISSION MEMBERS**

|                              |         |
|------------------------------|---------|
| Denise Werling, Chair        | Present |
| Randy Wall, Vice Chair       | Present |
| Jeb Hale                     | Present |
| Elizabeth Lustberg           | Present |
| William Wiatt                | Present |
| Ron Demes, Ex-Officio Member | Present |

**STAFF**

|  |         |
|--|---------|
| Townsley Schwab, Senior Director of Planning and Environmental Resources     | Present |
| Susan Grimsley, Assistant County Attorney                                    | Present |
| Steve Williams, Assistant County Attorney                                    | Present |
| John Wolfe, Planning Commission Counsel                                      | Present |
| Mayte Santamaria, Assistant Director of Planning and Environmental Resources | Present |
| Joe Haberman, Planning & Development Review Manager                          | Present |
| Mitch Harvey, Comp Plan Manager  | Present |
| Mike Roberts, Senior Administrator, Environmental Resources                  | Present |
| Rich Jones, Senior Administrator, Marine Resources                           | Present |
| Tiffany Stankiewicz, Development Administrator                               | Present |
| Rey Ortiz, Planner   | Present |
| Timothy Finn, Planner  | Present |
| Gail Creech, Planning Commission Coordinator                                 | Present |

**COUNTY RESOLUTION 131-91 APPELLANT TO PROVIDE RECORD FOR APPEAL**

County Resolution 131-92 was read into the record by John Wolfe.

**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

Gail Creech confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

Mr. Wolfe swore in County staff. Mr. Wolfe then swore in all members of the public intending to speak at today’s meeting.

**CHANGES TO THE AGENDA**

A revision for Item 5-b was submitted. Ms. Grimsley explained that the Wisteria Island portion of the maps should be deleted from this ordinance because ownership of Wisteria Island is currently being litigated in Federal Court. The Board of County Commissioners (BOCC) will be informed of this and, if the Board wants to have Wisteria Island go forward promptly, that can be done as a separate hearing and proceed as its own ordinance. Mr. Wolfe clarified that even if ownership were known, there are additional legal issues surrounding whether or not this matter should go forward at this time.

**APPROVAL OF MINUTES**

**Motion: Vice Chair Wall made a motion to approve the September 26, 2012 minutes with the revision of the language under Board Discussion from “will include allowing residents” to “will include allowing applicants.” Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**MEETING**

**New Items:**

**1.A public hearing to consider and finalize the ranking of applications in the Dwelling Unit Allocation System** for the July 13, 2012, through October 12, 2012, ROGO (1<sup>st</sup> Quarter Year 21). Allocation awards will be allocated for all unincorporated Monroe County. (File 2012-137)

(10:10 a.m.) Ms. Stankiewicz presented the staff report. Ms. Stankiewicz recommended approval of the following residential dwelling unit allocations: Lower Keys applicants ranked 1 through 6; Big Pine/No Name applicants ranked 1 through 2, or allocation awards based on mitigation available from the County; Upper Keys applicants ranked 1 through 15.

Chair Werling asked for public comment. There was none.

Vice Chair Wall commented that the reason the Lower Keys numbers are so low is because the majority of the applicants are Tier I and only 10 percent can be issued in Tier I. Therefore, it can be anticipated for the next three quarters possibly seeing the numbers for the Lower Keys to be zero because the only applicants that are left are Tier I’s. Ms. Stankiewicz responded that if applications are received for allocations outside of Tier I, staff would be able to recommend approval with the amount available.

**Motion: Vice Chair Wall made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**2. Proposed CVS Pharmacy, 5610 Overseas Highway (US 1), Stock Island, Mile Marker 5:**

A request for approval of a 2APS (beer and wine, package only) Alcoholic Beverage Special Use Permit. The subject property is legally described as Square 24, Lots 1 through 20, Maloney Subdivision (PB1-55), and an abandoned portion of US 1, Stock Island, Monroe County, Florida, having real estate number 00124090.000000.

(File 2012-071)

(10:12 a.m.) Mr. Finn presented the staff report. Mr. Finn reported that this is a request for a 2APS alcoholic beverage special use permit for a proposed CVS pharmacy on Stock Island. Mr. Finn then described the physical location of the property. On May 21<sup>st</sup>, 2012 the applicant submitted an application for a minor conditional use permit to allow for the construction of a new CVS pharmacy, as well as an application for an administrative variance of five feet from the required 15-foot front yard setback along the US-1 right-of-way. The administrative variance has been approved by the Director of Planning. Staff recommended approval with conditions. Those conditions were then outlined.

Paul Tremblay was present on behalf of the applicant, Boos Development Group. Mr. Tremblay stated that the applicant acknowledges the conditions of approval and welcomes any input that may be needed.

Chair Werling asked for public comment. There was none.

Commissioner Lustberg asked why the condition is made that the drive-through window shall only be used for the pharmacy when the County does have drive-through liquor stores. Mr. Haberman explained that there is a different impact between the two and staff wants to make sure that the Commissioners can visualize what they are approving, not what it may become. Mr. Haberman reminded the Commission that the liquor license rides with the property, not necessarily the business. If the applicant ever wants to remove that condition, they can come back before the Planning Commission.

**Motion: Vice Chair Wall made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**3. Largo Lodge, 101740 Overseas Highway, Key Largo, Mile Marker 101:** A request for approval of a 2COP (beer and wine, on premise and package) Alcoholic Beverage Special Use Permit. The subject property is legally described as Lots 2 and 3, Tarpon Acres (PB2-109), Key Largo, Monroe County, Florida, having real estate number 00492670.000000.

(File 2012-115)

(10:21 a.m.) Mr. Ortiz presented the staff report. Mr. Ortiz reported that this is a request for a 2COP alcoholic special use permit for Largo Lodge. Mr. Ortiz described the site. The community character nearby is some residential, but generally commercial. The applicant is seeking to sell beer and wine so people can take it back to their rooms with no retail component to their application. Staff recommended approval with conditions. Those conditions were then outlined.

Alan Shore, agent for the owner, was present. Mr. Shore accepted the staff report and informed the Commissioners that engineering plans for the ADA parking spot should be submitted by the end of the week.

Chair Werling asked for public comment.

Tessa Vergara, who resides next to Largo Lodge, voiced concern about a large section of trees cut down on the property to create a sand parking lot for approximately 15 cars. Ms. Vergara stated the area she lives in is home to many endangered animals and she desires to maintain a suitable habitat for these endangered species. The increase of car and boat traffic concerns Ms. Vergara. The owners of Largo Lodge have taken down a portion of Ms. Vergara's wall and reassembled it in a different configuration. Ms. Vergara believes it is the owner's intention to occupy her property by storing their garbage in the recessed area of the reconfigured wall. After several conversations with the owner he agreed to repair the wall. Ms. Vergara stated that although most of the properties in the area are zoned commercial, it is primarily a residential neighborhood. Ms. Vergara corrected the acreage cited during the staff report of 21 acres to 2.5 acres. Ms. Vergara requested the Commissioners to seriously consider the impact of granting this beer and wine packaging license and the effect it may have on the neighboring properties. Pictures of the wall were submitted. Ms. Vergara also believes the owners are considering doing catering in the future for weddings on the property.

Ron Miller asked for and received assurance that the sale of alcoholic beverages would only be for the people staying at the lodge and boaters would not be allowed to buy alcoholic beverages at their dock. Mr. Ortiz stated that an additional condition can be added that the alcoholic beverage sales will only be for paying customers of the six rooms that are on site. Mr. Ortiz explained for Chair Werling that if, in fact, the owners expanded and added a food concern, that would violate this added condition and they would have to come before the Planning Commission for that.

Mr. Shore explained that the neighbor's wall was affected because a new person working on site did not realize where the property line was. The owner knows their garbage must be put on their own part of the property. Mr. Shore further stated that the owner goes out of his way to make sure everybody drives carefully on the property to protect the wildlife. Mr. Shore then clarified that ultimately the owners would like to make this property a destination place and if a wedding is held on the property, that qualifies under this new condition. The language to be used in the added condition was discussed. Mr. Ortiz read the final language as "Alcoholic beverages shall only be sold and consumed by guests at the hotel."

Vice Chair Wall inquired into the zoning of the bordering properties on either side of this property. Mr. Ortiz did not have that information readily available. Mr. Wolfe explained that the Commissioners have addressed the main impact, which is the effect on the use of surrounding properties and the immediate neighborhood within 500 feet.

Chair Werling asked for further public comment. There was none. Public input was closed.

**Motion: Vice Chair Wall made a motion to approve with the added condition read by Mr. Ortiz. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**4. TRANSMITTAL OF AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM INDUSTRIAL (I) TO MIXED USE COMMERCIAL (MC) FOR EIGHTEEN PARCELS OF LAND ON STOCK ISLAND, HAVING REAL ESTATE NUMBERS 00123660-000000, 00123720-000400, 00123760-000200, 00123720-000100, 00123720-000200, 00123730-000100, 00123740-000000, 00123770-000000, 00127290-000000, 00127380-000000, 00127250-000000, 00127280-000000, 00123600-000100, 00123600-000102, 00123600-000101, 00123590-000000, 00123570-000000, AND 00123540-000000; LOCATED ON SOUTH STOCK ISLAND; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2012-075)

(10:45 a.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this is a future land use map amendment request by the Safe Harbour Marina Property Owners Association for the 18 parcels surrounding Safe Harbour Port for a change from industrial to mixed use commercial. This is associated with a text amendment heard by the Planning Commission last year that was adopted by the Board in September for the mixed use commercial FLUM category with the maritime industries zoning category. This allows the potential development of hotels with certain restrictions to protect working waterfronts. 35 percent of the uplands would have to be retained for working waterfront uses and a certain number of wet slips would have to be set aside for those uses. Public access along the waterfront would be required and commercial retail is limited to 5,000 square feet, as well as the residential component is limited to commercial apartments and employee housing. The residential component nor the nonresidential development potential of these parcels are increased. The development of transient uses is allowed only through the transfer of existing units within the Lower Keys subarea. The area is Tier III and is not known as habitat for any protected species. This particular amendment was applied for prior to the effective date of the military compatibility strategies adopted by the County, so no additional noise studies need to be done. None of Safe Harbour is located within the 65 DNL line of the Navy's new draft AICUZ boundaries.

Ms. Santamaria explained to Commissioner Wiatt that "preservation" of public access for all parcels with direct access to the water is preservation of what already exists or the requirement of a new one, which was a condition added by the Board to encourage public access in that area with consideration given to safety or other limitations. The preservation requirements would kick in upon application to redevelop the property that requires a planning review. Ms. Santamaria clarified for Mr. Demes the 10 percent of the new wet slips is not for liveaboards, but is for the boats actually performing working waterfront type uses such as fishing boats or charter boats. Density limits would limit the amount of liveaboards in this area.

Commissioner Wiatt voiced concern that the language in this amendment does not protect the use of the shoreline in the 35 percent that should be left for marine industrial uses. Ms. Santamaria explained that there is no guarantee in this language that the shoreline be protected for those uses because the applicants desire the ability to make modest changes and transitions to allow some additional uses that hopefully could fund other declining uses that are not as economical or as profitable today. Ms. Santamaria then explained to Commissioner Lustberg that there is not a list of uses in the rules such as the list on Page 6, but staff is proposing and working on the addition of a definition section to the comp plan to define working waterfront and other related terms.

Mr. Demes then commented that the Navy currently uses the 2007 AICUZ as the basis of analysis and believes the County should also. The intentions of the military compatibility strategies are the same prior to the effective date and should be considered. The Navy also believes this amendment further creates an incompatible use with the Navy operation by allowing a significant increase in residential-type construction that did not exist before, specifically a transient use. The Navy sees no provisions in this proposal to ensure that residential-type construction is outside of the high noise area. The Navy objects to this change and will continue to object until such time as something is approved that is not impacted by the 65 DNL.

Chair Werling and Commissioner Hale disclosed they were contacted by Barton Smith, Esq. prior to this meeting to clarify any questions the Commissioners may have.

Barton Smith, Esq. was present on behalf of the applicant. Mr. Smith stated that he attempted to contact the Commissioners with the goal of getting the Commission as informed as possible before making a decision. Mr. Smith then began his presentation by explaining that this is not an individual applicant, but consists of all the properties within the harbor. A brief history was given of why this community came together to make this application. Mr. Smith then explained how a lot of the uses from the '60s, '70s and '80s are no longer viable. The property is now being reconfigured so that finger piers can be used by sport and commercial fishing boats. Sewage pumpout to this entire area will be provided to assist in cleaning up the harbor and surrounding area.

Mr. Smith stated that the change to a mixed use commercial FLUM was for the idea of having a lot of mixed uses to bring more people to the harbor for those uses. The applicant fully supports the idea of preserving a certain amount of the slips for commercial fishing or recreational fishing, which the mixed use designation requires. Mr. Smith reminded Commissioner Wiatt that any hotel that may be proposed in the future would be required to come before the Planning Commission to ensure that a specific portion is still allocated for traditional waterfront uses on the shoreline. There is a 20-foot shoreline setback around the entire harbor and no structures are allowed to be located within that shoreline setback except accessory structures dependent on the water. The property owners feel that requiring a walkway upon redevelopment on the harbor is a good requirement of mixed use. The average ownership in this harbor is over 20 years and most property owners have no reason at this point to change their property, but are looking to the future to preserve what they have and the opportunity to be economically viable. Mr. Smith reiterated that liveboards are considered a transient unit and the transient unit density is

associated with the upland. Under the current code the liveaboards at Safe Harbour are a nonconforming use because there is no allocation for transient density in industrial. If this amendment is approved they will become conforming uses. Mr. Smith believes the original intent for this property was the maritime industrial the applicant is looking to move this to under the mixed use category with restrictions. Mr. Smith asked the Commissioners to vote for the future of this harbor by approving this amendment.

Commissioner Lustberg asked Mr. Smith how the protection provisions in the staff report that would come into effect if switched to mixed use commercial will help preserve working waterfront? Mr. Smith responded that under the current industrial FLUM there is no restriction and every parcel could change to residential with no restrictions. The applicant is concerned about what would replace the nonconforming use of liveaboards if liveaboards are no longer in the harbor. A mixed use FLUM would give a better understanding that restaurants are a conforming use. Mr. Smith repeated that under the current industrial FLUM there is no restriction on the use of this harbor.

Commissioner Lustberg voiced concern that there is no percentage requirement of slips specifically for commercial working waterfront uses. Mr. Smith responded that now there are no restrictions and every slip could be for private boaters, but this mixed use FLUM will provide for permanent restrictions. Commissioner Lustberg stated she understands the changing economic situations for fishing and for tourism and believes it is perfectly acceptable to give people some flexibility to do things with their property, but Commissioner Lustberg is concerned with the fundamental change in this amendment to allow the transient units and what that could mean for this property many years from now. Mr. Smith replied that those issues will always be addressed through multiple hearings if a hotel taking up the shoreline is proposed. Commissioner Lustberg likes the purpose of the amendment, but is concerned with the language.

Dave Shuman, operations manager at Safe Harbour Marina, was present. Mr. Shuman described what Safe Harbour presently consists of. This amendment assists in making all of the uses currently at Safe Harbour conforming. Safe Harbour has no intentions of taking apart the marina to develop a hotel.

Chair Werling asked for further public comment. There was none. Public comment was closed.

Commissioner Lustberg stated she would feel much more comfortable approving this is there were added conditions to protect the commercial uses, but understands that conditions cannot be attached to a map change. Mr. Wolfe explained to Commissioner Wiatt that the amendment language currently exists in the LDRs and any recommended change would be for the future only. Conditions could be put on any minor or major conditional use that comes before the Commission in the future.

Ms. Santamaria explained to Chair Werling that the finalization of the draft EIS will be available from the Navy in the summer or fall of next year and that is why both documents were included in the staff report. Notations from the existing 2007 AICUZ were also provided that states this is recommendations by the Navy and local government makes the decision on zoning and their future land use as well as their uses. Chair Werling agreed that the concern is not with the

property owners there now, but future property owners and unintended consequences. Ms. Santamaria stated that the intent of the Board and staff for the comp plan amendment was to provide another use, transient uses, without displacing all the working waterfront uses. Anybody can propose a future land use or zoning change in the future, which would be processed and brought before the Planning Commission. There are policies in the comp plan now that discourage increases in density and intensity and proposed future land use map amendments would require a donation of land to mitigate any offsets if approved.

Mr. Smith clarified for Commissioner Hale that the 10.9 acres of upland of Robbie's Marina could cease operation as a marina today and develop that property as residential homes, which a mixed use zoning would prohibit. Ms. Santamaria informed Commissioner Lustberg that changing from commercial uses to residential would be as of right for six units or less and more than six units would be a minor conditional use. Commissioner Lustberg stated she is not comfortable recommending approval because of the economic pressures put on a property that can develop hotel units with toothless protections in place. Vice Chair Wall asked the Commissioners to consider the CommuniKeys plan for this area, which is to promote a diverse mix of land uses, to support increased activity in the harbor area, while remaining compatible with its working waterfront character and function.

Commissioner Lustberg reiterated that there is not enough preservation language in the amendment. Ms. Santamaria added that hotels and motels are included in the definition of recreational commercial working waterfront. Staff is trying to balance the issues while providing for flexibility. Staff feels this is an appropriate amendment by providing an additional use that hopefully can be economically viable and support the other uses. Commissioner Wiatt again voiced concern that use of the shoreline is not preserved for working waterfront type businesses. Mr. Demes commented again that this amendment is not consistent with the principles for guiding development. Commissioner Lustberg agrees that Safe Harbour and Stock Island have to be able to move forward in changing economic times, but feels there are not enough protections in writing.

**Motion: Commissioner Hale made a motion to approve. Commissioner Wiatt seconded the motion. The roll was called with the following results: Commissioner Hale, Yes; Vice Chair Wall, Yes; Commissioner Lustberg, No; Commissioner Wiatt, Yes; and Chair Werling, Yes. The motion passed four to one.**

A recess was held from 11:54 a.m. to 12:18 p.m.

**5-a. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENTS TO THE TIER OVERLAY DISTRICT MAP DESIGNATIONS FOR APPROXIMATELY THIRTY (30) PARCELS THROUGHOUT MONROE COUNTY WHICH HAVE A TIER DESIGNATION RECOMMENDED FOR CHANGE; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE AND THE STATE LAND PLANNING AGENCY; AND PROVIDING FOR AN EFFECTIVE DATE.**

(File 2012-118)

(12:18 p.m.) Mr. Roberts presented the staff report. Mr. Roberts reminded the Commission of the history of the tier overlay ordinances. Mr. Roberts explained that Last Stand approached the BOCC and requested that an additional number of parcels be further reviewed and evaluated. That number of parcels turned out to be 393 parcels. Property owners and staff requested review of certain parcels as well, making the number of parcels increase to 515. The parcels being reviewed today were those parcels rendered tierless as a result of DOAH's final order, with the exception of some offshore islands that are part of the next agenda item. This review is divided into two ordinances: Those parcels that did not have a tier and those parcels that do have a tier. Only 29 parcels had a tier and were recommended for a tier change, and the vast majority of those are recommended to be moved to a less restrictive tier.

Mr. Roberts explained how to read the maps. The habitat data is based on the 2006 Fish & Wildlife data and is not updated pursuant to the recent focus area maps published by the Fish & Wildlife Service because those were not available at the time the TDRC reviewed these maps.

Mr. Roberts pointed out on Map A that the areas under consideration are the commercial areas immediately off of US-1 that consist of the shopping center. The TDRC's recommendation was to change the parcels in the upper right-hand corner to Tier I, the remainder of the shopping center and the commercial area behind it to Tier III, and then the parcels down along US-1 south of the shopping center a mix of Tier III and Tier III-A.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Lustberg made a motion to approve Map A as recommended. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

Next Mr. Roberts described the changes recommended for Map I. Staff's and TDRC's recommendation was to revise the one SPA lot to Tier I because of its adjacency to existing hammock and native area. Two parcels are recommended for Tier III because three sides of them are developed and the parcels themselves are not dominated by hammock vegetation. Two parcels are recommended for Tier III-A because they are dominated by hammock vegetation connected to the larger hammock across the road. Mr. Roberts reminded the Commission that a road breaking connection to hammock, unless it is US-1, was removed by the administrative law judge.

Chair Werling asked for public comment.

Naja Girard was sworn in by Mr. Wolfe. Ms. Girard read a letter on behalf of Last Stand, Upper Keys Citizens Association, Florida Keys Citizen Coalition and the Key Deer Protection Alliance. The letter was in support of the approval of the set of tier system overlay maps being recommended to the Planning Commission. The letter noted that in at least two instances County staff appeared to be recommending tier designations different from those recommended by the TDRC and asked for the justification of those deviations to be clear. The group who

authored this letter looks forward to a discussion of the recommendations by the TDRC for minor changes to the comp plan's tier designation criteria.

Alicia Putney spoke next. Ms. Putney stated that she is in support of staff's recommendation to adopt these two ordinances as each of the 110 parcels were carefully examined by the TDRC that was composed of representatives from the various agencies. Ms. Putney applaud staff who maintain that all offshore islands are designated Tier I. Ms. Putney also requested an explanation as to why staff's deviations from the TDRC's recommendations be put on the record. Ms. Putney then thanked staff and everybody involved in the tier designation process.

Chair Werling asked for further public comment. There was none. Public comment was closed.

**Motion: Commissioner Wiatt made a motion to approve Map Series I. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Roberts explained in Map J TDRC's and staff's recommendation is for the parcels within the subdivision to retain their Tier III designation, and the one parcel with complete hammock coverage to be Tier I, and then the larger parcel to be Tier III-A because it is a developed parcel and met the remainder of the Tier III-A criteria. Mr. Roberts confirmed for Commissioner Lustberg that the reason why the law center and the TDRC have different recommendations is because things were different from what they first seemed to be upon ground-truthing.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Lustberg made a motion to approve Map J. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Roberts stated that on Map K the TDRC is recommending a continuation of the Tier III-A designation on the larger parcel on the bayside of US-1 and Tier III within the two parcels in the subdivision.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Wiatt made a motion to accept the changes to Map Series K. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Roberts stated that on Map M the TDRC's recommendation and staff's recommendation are different. The TDRC's recommendation was for two lots to retain their Tier III designation and one to become a SPA lot. Staff believes that because the lot across the street is a developed lot it does break that connectivity and the hammock is, therefore, less than an acre and does not meet the Tier III-A criteria any longer.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Wiatt moved to accept staff's recommendation for Map Series M. Vice Chair Wall seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Roberts explained that Map N is a series of parcels within a subdivision and the existing condition is primarily Tier III-A.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Lustberg made a motion for approval. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Roberts explained that the Commission will be looking at Map R twice today: Once under this ordinance and again under the following agenda item. The map consists of scattered IS lots on both sides of US-1 and current conditions are primarily Tier III. There are a couple of SPA lots in the extreme upper left-hand corner. Staff recommends the parcels within the subdivision remain Tier III because they are scarified and the two parcels on the left side retain their SPA designation. In front of the commercial plaza there is a strip of grass whose current condition is Tier I and staff recommends to change that back to Tier III.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Hale made a motion to approve Map R. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**Motion: Vice Chair Wall made a motion to approve the ordinance with the tier designations as approved by the Commission on each map based on the staff report and exhibits and data presented. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**5-b. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENTS TO THE TIER OVERLAY DISTRICT MAPS BY ASSIGNING TIER DESIGNATIONS TO APPROXIMATELY EIGHTY (80) PARCELS THROUGHOUT MONROE COUNTY WHICH HAVE NO PREVIOUS DESIGNATED TIER; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE AND THE STATE LAND PLANNING AGENCY; AND PROVIDING FOR AN EFFECTIVE DATE.**

(File 2012-118)

(12:46 p.m.) Mr. Roberts pointed out the undesignated parcel on Map R and reported that the TDRC and staff recommended Tier I. It is County-owned land. Ms. Grimsley requested that the RE number be cited. Mr. Wolfe suggested continuing with the next map while that number was researched.

Mr. Roberts stated that staff's and the TDRC's recommendation for three developed lots on Map X was for Tier III, as they did not meet any of the Tier I or SPA criteria.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Lustberg made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

On Map Y Mr. Roberts explained that offshore islands off the northern tip of the Keys were never given a tier designation and the TDRC's and staff's recommendation is Tier I.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Lustberg made a motion for approval. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

Next Mr. Roberts explained that Map Z is a small partially developed island located offshore of Ocean Reef. It does have infrastructure, utilities and other easements and agreements with Ocean Reef Club, but is not part of the club. Staff's and the TDRC's recommendation is Tier I.

Mr. Williams commented that extensive meetings and contact with the owners of the island have occurred over the past few days. The County's position is that this should proceed forward as a Tier I. Mr. Williams anticipates the property owners will ask for a brief extension of time to incorporate themselves into Ocean Reef, thereby becoming tier-exempt pursuant to County rules. They are hopeful that will be accomplished at the next Ocean Reef board meeting this Friday. This map is going before the BOCC in February. The property owners have extensive documentation in terms of their vested rights and development of the island.

Kathleen Martinez, general manager of Terra Cotta Realty of Florida (TCR), was present on behalf of the owners. TCR believes that Pumpkin Key should be exempt from the tier overlay district as they believe their rights to develop Pumpkin Key are vested and supported by the platted subdivision and IS zoning previously granted by Monroe County. Ms. Martinez asked to submit a binder of documents which provide a comprehensive and detailed history of the development of Pumpkin Key dating back to 1973 when the island was purchased. Mr. Wolfe advised the Commission that a decision is needed whether to accept the binder because of the five-day rule. Mr. Williams stated that he had no objection to the submittal.

**Motion: Commissioner Wiatt made a motion to accept the documents. Vice Chair Wall seconded the motion. There was no opposition. The motion passed unanimously.**

Ms. Martinez then summarized the significant events that have occurred in the development of Pumpkin Key since 1973 that support the owners' vested rights position and confirm that this property should be excluded from the tier designation. Ms. Martinez stated that TCR has worked with Monroe County for almost 40 years and invested in excess of \$10 million to develop Pumpkin Key, all in reliance of approved zoning and development rights. The County has upheld the current zoning designation of IS. Mr. Martinez believes TCR's record of

development of Pumpkin Key serves as a model for appropriate development in Monroe County. Ms. Martinez brought attention to the Commissioners an agreement and letters stating all owners of lots on Pumpkin Key shall be eligible for membership in Ocean Reef. Ms. Martinez highlighted the fact that any required hurricane evacuation required by Pumpkin Key residents would occur via Card Sound Road, which does not add to the evacuation lines of the Keys. TCR objects to any attempt to encumber their development rights on Pumpkin Key with any form of restriction which supersedes their zoning classification. Ms. Martinez requested a deferral on this matter for a period of 60 days to allow this matter to be resolved with Planning staff.

Chair Werling asked for public comment.

Alicia Putney read Policy 101.7.3 aloud regarding the discouragement of development on offshore islands and reminded the Commission that the IS zoning designation does not guarantee the right to build a house, that one needs a separate permit to build a house. Ms. Putney then cited to the Ambrose case.

Ron Miller questioned if utilities extended to Wisteria Island would deem Wisteria Island part of the City of Key West instead of Unincorporated Monroe County.

Ms. Grimsley stated that the only thing relevant to this hearing is what the tier should be and asked the Commissioners to make a recommendation and then, if the Planning Department determines that the development is a part of Ocean Reef, this map would be deleted from the ordinance going to the BOCC. Mr. Williams clarified that, although staff does not necessarily concur with everything presented today, if staff can continue to work with the property owners this may be removed from the ordinance that goes forward to the BOCC and, if staff is satisfied that what the property owners have asserted is true and the paperwork is forthcoming, it will not have to come back before the Commission and the requested deferral will not be necessary.

Chair Werling asked for further public comment. There was none. Public comment was closed.

Vice Chair Wall asked for a clarification of what would be the harm of the Commission agreeing to postpone the matter. Ms. Grimsley explained that would hold up the entire ordinance. Mr. Wolfe agreed that the whole matter would have to be continued. Ms. Grimsley pointed out that conceivably public comment would be held again. It is staff's position that it does not harm the property owner in any way for this to move forward unless they fail to provide the information that they assert they are going to. It would then go forward as a Tier I over their objection.

Commissioner Lustberg asked Ms. Martinez if it turns out Pumpkin Key is not part of Ocean Reef, would she be before the Planning Commission arguing why the property should be Tier III? Ms. Martinez responded that she would argue they should not have any tier designation because their rights are vested and they should not be encumbered by the tier overlay.

Commissioner Hale and Vice Chair Wall like the option of deleting Pumpkin Key from this ordinance like Wisteria Island was deleted from the ordinance. Ms. Grimsley clarified that the Administration Commission specifically wrote that they did not have an objection to Wisteria Island being deleted because of the ownership questions, which is not the case with Pumpkin

Key. Ms. Grimsley explained that as a recommending body the Planning Commission can remove them prior to the BOCC meeting if this is not resolved. Ms. Grimsley confirmed for Commissioner Lustberg that a tier designation is necessary to get the points to get into ROGO. Mr. Wolfe suggested the alternative of continuing all of Item 5-b until the next meeting, which will still allow time to make the BOCC deadline. Ms. Grimsley pointed out an answer may not be available in two weeks. Ms. Grimsley further explained at any point in time, if the property owners can show that they are part of Ocean Reef, they come out of the tier system.

Commissioner Lustberg asked Mr. Roberts if there is any reason besides this property being an offshore island that it should be designated as Tier I? Mr. Roberts responded that based on what he has seen it would have been staff's recommendation for Tier I designation based on existing criteria. Ms. Grimsley again reminded the Commission the only thing relevant that was presented is whether or not they are or are not part of Ocean Reef. Mr. Wolfe then clarified if this matter were continued there would be no further public comment because public comment was closed. Ms. Grimsley confirmed for Commissioner Lustberg that if the applicant is given another two weeks no applications will be held up for property owners.

**Motion: Vice Chair Wall made a motion to continue Item 5-b to the December 19, 2012 meeting. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Roberts then presented a parcel of industrial land on Rockland Key on Map BB. The TDRC's and staff's recommendation is Tier III. There is nothing on the parcel that met the Tier I criteria.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Wiatt made a motion to accept staff's recommendation for Map BB. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

Ms. Grimsley cited the RE number for the parcel on Map R as 00114030-000400. Mr. Roberts reminded the Commissioners the recommendation is Tier I.

Chair Werling asked for public comment. There was none.

**Motion: Commissioner Hale made a motion to approve Map R. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

Mr. Wolfe stated there will be no vote on the ordinance today since Item 5-b was continued.

**6. TRANSMITTAL OF AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY 2010 COMPREHENSIVE PLAN TO CREATE POLICIES WITHIN THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT TO ESTABLISH SUB-AREA POLICIES APPLICABLE TO A SPECIFIC GEOGRAPHIC AREA OF SUBMERGED LANDS TO**

ENACT SITE-SPECIFIC, TAILORED PARAMETERS FOR THE RE-DREDGING OF PRIVATELY-OWNED SUBMERGED LANDS AND TO AMEND POLICIES TO DEFINE THE SPECIFIC, LIMITED CIRCUMSTANCES AND CONDITIONS WHICH SHALL BE MET TO ALLOW THE RE-DREDGING OF PRIVATELY-OWNED SUBMERGED LANDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2010-046)

(1:31 p.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this is a request by Little Conch Key Development Corporation for a text amendment to the comprehensive plan to define the parameters where re-dredging could occur subject to certain conditions. The original application from 2010 was a much broader scope and had county-wide application. The County had concerns that coordination was needed with the other agencies involved with dredging activities and resource protection. Since that time staff has worked closely with the applicant and met with those different agencies, as well as with staff of the different departments within the County. Through those meetings and discussions it was determined that site-specific projects are easier for the different agencies to provide input. Balancing navigational access with resource protection is the goal of staff and the applicant.

Ms. Santamaria described the changes in the policies. There are 12 conditions that must be met before this re-dredging policy would be allowed. This is in no way allowing new dredging, but is for areas that have existing dredged areas and have lawfully established upland development docking facilities, are privately owned, and conditions have been put in place to ensure depth limits and required mitigation. Policy 202.9.2 is this applicant's proposed site-specific policy, the Walkers Island privately-owned submerged lands, which includes additional conditions. Ms. Santamaria reiterated that this amendment is only for privately-owned submerged lands. This item was not part of the initial EAR process because in the multiple outreach and County meetings the public did not identify this as a major issue, as well as the fact this is also a private application. A performance bond is required for any restoration that occurs if this exceeds the scope of the permit and for the dredging itself.

The Commissioners disclosed they were contacted by the applicant's agent to have a meeting, if needed, to clarify issues on this matter.

Patricia Silver, Esq. was present on behalf of the applicant. Ms. Silver thanked Ms. Santamaria for her assistance and devotion in setting forth this text amendment. Ms. Silver stated that this comp plan amendment is good public policy and is an excellent model for effective resource management. This will protect seagrass and flats from damage caused by boaters by permitting limited redredging of previously existing dredged channels, by the placement of channel markers and buoys directing people into the channel and by restoring seagrasses that have been damaged. This comp plan amendment will be done at no cost to the County or its residents. Ms. Silver introduced Sandy Walters, biologist, and asked for her to detail what the comp plan amendment does specifically.

Ms. Walters was sworn in by Mr. Wolfe. Ms. Walters explained the importance of the seagrass communities in our marine environment. It is estimated there are at least 600 vessel groundings per year in the Sanctuary. A 2008 Everglades National Park study found an average seagrass loss of more than 2.1 acres per year from propeller scars alone. The Lignumvitae Aquatic State Preserve 2008 study found seagrass lost from propeller scarring increased from 26 to 66 acres per year during the period of the study. Ms. Walters pointed out that at the public workshops held by the Sanctuary a few months ago the most common comment on the subject of seagrasses addressed the need for more and better marking of flats and channels. Ms. Walters believes these comp plan amendment leads the way to healthier seagrass beds through prevention of impacts. The success of different jurisdictions due to implementations made to increase the marking of flats and channels were described. Ms. Walters then explained the effective methods of restoring seagrass that has been damaged.

Ms. Silver then informed the Commissioners of the costs of seagrass restoration and protection. Ms. Silver explained that there is a subpolicy requirement for each parcel which necessitates and in-depth review of the site and have specific conditions and requirements to be met. This comp plan amendment achieved consensus in terms of the imposition of requirements and standards to be met, as well as the language, by both the state and federal agencies. The requirements were then detailed. Ms. Silver stated that Walkers Island, which is the subpolicy contained within the proposed amendment at this time, meets each and every requirement.

Ms. Walters mentioned that the eight upland units on Walkers Island are the subject of a vesting letter from the County and building permits to the vested units and that this is not new development. A US Government geodetic survey documenting aerial photographs from 1955 was shown. A bathymetric survey was referred to that shows what the current depths are in the channel and how they are highly constraining to navigation at this time. Ms. Walters explained how the ways people can now reach the existing dock and boat basin on Walkers Island all go across the very shallow flats. Walkers Island is limited to a redredge depth of minus 4.5 feet. The entrance channel will be the minimum size with minimized impacts. There will be mitigation for the impacts on seagrasses that have recolonized in the historic entrance channel, and there will also be off-site restoration as part of the Sanctuary's regional restoration plan. There will be an extensive signage and large educational component, as well as perpetual maintenance. The proposed amendment would in effect avoid 1.43 acres of seagrass impacts. More detail was given of the proposed markings in this area. More detail was given of the educational component included in this proposal, including an informational billboard installed at the dock entrance. Ms. Walters also believes this is a model for more healthy and protected seagrass. Shelly Telaxin was present to answer questions about seagrass restoration, as well as the property owner was present, Tom Cerito.

Ms. Walters clarified for Vice Chair Wall that the buoys on the left of the large natural channel will be maintained by these property owners. The Water Management District and Army Corps of Engineers cannot issue their permits until the comp plan is changed. Ms. Walters then explained that the sides of the dredge have a three-to-one slope, which will provide for a good lifespan before any maintenance dredging would be required. The design of the entrance channel has been approved by the Water Management District. The permanent markers that will

be marking the entrance of the channel will be at that transition where there is a 20-foot width of boat clearance area and the markers are outside of that 20-foot width. So if anyone does wander outside the markers as they try to go in and out of the channel, they will run aground before they get out of the permitted impact area.

Commissioner Lustberg asked how the “in perpetuity” works. Ms. Silver explained that there is a covenant and a requirement of the perpetual maintenance. Cameras will monitor this area for scarring and it will be the obligation of the property owner to repair it. If they do not, the bond gets used to pay for the repair of whatever damage is done. That bond is held by the Water Management District. Ms. Santamaria added that the County’s permits can cite the bond number and perpetual maintenance within that bond.

Chair Werling asked for public comment.

John Hammerstrom believes there has been wonderful work done here with all of the agencies and time involved, but is concerned that the public has not been involved. Mr. Hammerstrom finds it incongruous that very fine definitions for a change to the comp plan are being done when the comp plan is meant for general issues. Although this could turn out to be the prototype for the way this needs to be done, Mr. Hammerstrom requested this be extended so the public can be involved and experts can be brought in to bear on this subject.

Naja Girard spoke on behalf of Last Stand. Ms. Girard pointed out that the link to the backup data on this item was not available until one day before the five-day rule kicked in. Last Stand objects to the County delegating the power to initiate general legislation to one property owner who is allotted the opportunity to have the general laws changed to benefit their private interests. Last Stand also objects to the creation of a subarea policy for this particular property. Last Stand has learned that Walkers Island is a documented turtle nesting area. The channel in the report has not been maintained for such an extensive period of time that the submerged lands have healed and certain protected seagrass and other benthic resources are now found there. Last Stand believes the historic use of the submerged lands throughout this area appears to have been for kayaking, not motor vessels. Last Stand believes this is new dredging, not restoration, and the public is entitled to more time to understand what the dock looked like prior to Hurricane Wilma and what is being proposed in expanding it. Ms. Girard urged the Commissioners to either recommend denial or allow the public more time to prepare competent input to balance the influence that the private property owner seems to be having on this legislative amendment and process.

Alicia Putney stated that the Commission is being presented today one perspective: A developer with a business model that calls for deep draft vessels to navigate Walkers Island channel. Ms. Putney asked the Commissioners to direct staff to conduct an objective comprehensive analysis of all the relevant data as required by Florida Statute. Ms. Putney believes the public needs a minimum of 90 days to review the 300 pages of backup material crafted by the developer’s team to be able to represent the interest of the rest of the citizens. Ms. Putney does not think planning based on an application for a specific use for a specific property is good planning. Ms. Putney stated that the proposed activity on Walkers Island is not about maintenance dredging, which the comp plan does allow, but is about new development and a developer who wants to change the

basic environmental protections supported by the public to suit their business model. The proposed re-dredging of Walkers Island channel was found by the DEO to be inconsistent with the current language in the comp plan. Ms. Putney cannot understand why this major of an issue was not discussed in the public purview of the EAR process. Ms. Putney would like staff to understand how many other places there are in the Florida Keys that have a canal that needs to be re-dredged to a certain depth before moving forward. Ms. Putney asked the Commissioners to delay their decision of this to find out exactly what the consequences are of moving forward with this site-specific approval.

Murray Shatt, vice-president of the Florida Marine Contractors Association and owner of a local marine construction business, was sworn in by Mr. Wolfe. Mr. Shatt stated that he is not involved in this project. Mr. Shatt believes channels and basins should be cleaned out and maintained like storm drains are to provide for more water flow and, therefore, cleaner water. Mr. Shatt stated that out of all the marine construction that gets done, 75 percent of it is restoration work for the betterment of the environment. Mr. Shatt is a proponent of this restoration being accomplished without the taxpayers having to pay for it, as well as having a local marine contractor recycle the money they earn from this project back into Monroe County.

Rudy Krause, local contractor, was sworn in by Mr. Wolfe. Mr. Krause believes that because of the regulations of the federal and state agencies, everything is done in the proper way. There are bonds put in place to insure against any damage to resources. Mr. Krause does not believe this is going to encourage new construction, but only restore existing docks and basins. Mr. Krause stated it is a win/win situation to stop people from running aground in the future and refurbish the sea bottom that is already damaged without taxpayers paying for it.

John Keller, vice-president of the Florida Keys Contractors Association, was sworn in by Mr. Wolfe. Mr. Keller stated that he is familiar with this property and it is constantly being run upon. Mr. Keller believes this amendment could open the door to make sure there is not damage going on in the future like the damage that is going on at Walkers Island now. Mr. Keller is concerned that people are talking about negative impacts and they are not familiar with the property. The federal and state agencies will monitor everything going on. Mr. Keller believes this is something that needs to be looked upon as a positive in our community and not a negative.

Chair Werling asked for further public comment. There was none. Public comment was closed.

Ms. Silver reiterated that this is not new dredging. A shallower and narrower channel is being proposed to protect the environment. The upland property is already developed. Ms. Silver stated that there has been notice provided for the DRC meeting, this meeting and there will be proper notice for the BOCC meeting. Ms. Walters added that the process for a private individual to amend the comp plan is specific in County Code. There was no intention by the applicant to avoid any other subprocess. The application was in the works for several months before the public hearings started and it is pure coincidence that this was filed within a few days of the public hearings.

Upon questioning by Vice Chair Wall, Ms. Walters stated that the authorities would never allow a channel in a historic location of a channel which is currently a flats area because of the four-

foot depth requirement. Ms. Walters stated that there were talks with the District about donating the submerged land to the State, and the District believes maintaining private ownership is better because of the ability to mark and regulate the property. Once it is publicly owned it is much more difficult to assure the protections able to be implemented by private property owners. Ms. Santamaria clarified for Vice Chair Wall that there is absolutely nothing inappropriate about an individual coming to Planning staff to introduce a comp plan amendment.

Commissioner Wiatt asked how many maintenance dredging projects staff is aware of over the last ten years. Mr. Roberts responded that over the last five to ten years there were approximately a dozen permits, and several of those were slip dredges where slips had silted in and they were maintenance-dredging slip areas as opposed to channels. Mr. Roberts recalls only two or three actual channel dredge permits issued over that period of time. Commissioner Wiatt voiced concern about the current restrictive language in the comp plan with respect to dredging which may prohibit approval of projects that might have a positive net benefit to the environment. Commissioner Wiatt is familiar with this location and assured the Commission that the concerns regarding prop scarring in this area have not been exaggerated. Commissioner Wiatt believes if this project is allowed to move forward it would improve the environment in this area. Commissioner Hale agreed with Commissioner Wiatt's comments.

Vice Chair Wall stated that private channels stay open in the Keys because of large boats being run in and out of them and stated that this amendment is a better plan environmentally. Vice Chair Wall spoke of the successful seagrass restoration he had been informed of. Vice Chair Wall is not opposed to spending more time on this item with more public input, but believes it is historically established that more than kayaks ran in and out of this channel.

Ms. Santamaria confirmed for Commissioner Lustberg that this item was properly noticed and the public comment heard today does not change staff's recommendation. There have been multiple meetings on this proposal, as well as discussion with other involved agencies to be able to incorporate their comments.

Chair Werling applauds the effort in trying to make navigation in this area better but, because of the time that has passed from the original dredging, would like more time to consider all of the information presented. Ms. Santamaria explained to Vice Chair Wall that the site-specific language in this comp plan amendment resulted from a recommendation from the DCA. Because of the environmental features of not only this site, but the Keys in general, the site-specific language seemed to be the most appropriate to tailor and narrow the scope as much as possible. If another property wants to do this, they would have to propose their own site-specific policies and they would have their certain site-specific conditions and would have to go through the same process for approval.

Chair Werling commented that her hesitation to have the meeting with the applicant's consultant prior to today was because the packet of information on this item had not yet been received at that time. Commissioner Hale stated he has no problem voting on this today. Ms. Walters informed Chair Werling that she believes turtle nesting in this area is extremely unlikely because there is nowhere a turtle could crawl up on the subject property. It was clarified that these are eight separately owned properties.

**Motion: Vice Chair Wall made a motion for approval.** Commissioner Lustberg asked about a tentative date set for this to go to the BOCC. Ms. Santamaria responded that it is anticipated for the comp plan transmittal to be in January and any 90-day continuance would exceed that time. **Commissioner Wiatt seconded the motion. The roll was called with the following results: Commissioner Hale, Yes; Vice Chair Wall, Yes; Commissioner Lustberg, Yes; Commissioner Wiatt, Yes; and Chair Werling, No. The motion passed four to one.**

**7. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 101-6, OWNERSHIP DISCLOSURES, TO CREATE A REGULATION PROVIDING THE MINIMUM REQUIREMENTS FOR DISCLOSING OWNERSHIP OF PROPERTY AS IT RELATES TO APPLICATIONS UNDER THE LAND DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-112)

(3:20 p.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that Monroe County Code currently has no regulations relating to ownership disclosures. This ordinance is modeled after Ft. Myers' land development code. This ordinance would make sure that when somebody comes in for an application under a corporation or an entity it would be clear who would benefit from the land use decision. Mr. Haberman then described some small changes that he is recommending. Where Subsection 4 talks about sending a mailing to the person in advance, Mr. Haberman is proposing changing that to say our application shall inform them that they have to make this disclosure rather than anticipate that somebody is going to apply and then sending them a letter. Wherever it says "beneficial interest" in Subsections 2 and 3 Mr. Haberman would like to revise that to say "beneficial or contractual interest" to encompass more. In Subsection B under "Intent" it says who would benefit from the "land use transactions" and Mr. Haberman would like to change that to say "land use related applications." Staff recommended approval. Mr. Haberman confirmed for Vice Chair Wall that each type of development and amendment applications that this may apply to have been listed. It would include any type of application that would require a public meeting or public hearing and some administrative items like variances and setback waivers.

Chair Werling closed public input since there were no members of the public present.

Commissioner Lustberg agreed that openness is always a good thing, but believes what the Planning Commission does should be based on good planning and who the applicant is should have no bearing on the decision. Mr. Haberman generally agreed, but added that major conditional use permits include a standard in the code that they have to have the financial and technical capacity to carry out the project. Commissioner Lustberg responded that that question is never answered by staff and no bond is ever required. Vice Chair Wall believes this ordinance would be valuable to ensure that all of the owners of a property would know what conditions are going to be on a property. Mr. Haberman noted that in most cases all owners are disclosed, but

this is more for those rare situations when they are not disclosed. Once that disclosure is made it would be part of the application, which is public record.

**Motion: Commissioner Wiatt made a motion to approve staff's recommendation. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

**8. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTION 114-67(C), REQUIRED OFF-STREET PARKING, TO REVISE THE MINIMUM REQUIRED NUMBER OF PARKING SPACES FOR SINGLE-FAMILY DWELLING UNITS, MOBILE HOMES AND RV PARKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-109)

(3:30 p.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that this amendment comes about due to an amendment to the same section of code regarding multifamily developments. Because it was advertised specifically for multifamily, parking issues for single-family properties could not be addressed at that time. The Planning Commission recommended at that time that the parking requirements for multifamily be increased from 1.5 per unit regardless of bedrooms to 2 regardless of bedrooms. At the BOCC meeting it was decided and approved that that was not enough; that it should be two for one- or two-bedroom units, but three for three-bedroom or more units. That created an inconsistency with single-family dwelling units. Staff is recommending the standard should be the same, that they are based on the bedrooms of the unit, not whether it is multifamily or single-family. The Census figures showed that the average household in the Keys has more than two cars, so the spaces have to be shown and be available.

Mr. Haberman further reported that the second part of this amendment has to do with restaurants and bars. Staff wants to base parking for restaurants and bars on seating as opposed to square footage. Codes of other jurisdictions in the Keys were reviewed and staff is proposing one space per three seats for the dining area and, if they have other areas such as an office, it would be three spaces per thousand square feet, which is the standard for other retail uses. In the unlikely instance that the per-seat is less than three-per-thousand for the whole building, they would have to use whatever is more restrictive. The reason for that is under County code retail uses and restaurant uses are interchangeable.

An additional change to parking requirements reported is to the space associated with each gas pump or canopy that is required. Staff is clarifying it is based on the pump so sufficient dimensions can be required. Staff is also recommending mobile homes on individual lots are brought consistent with single-family dwellings. Mr. Haberman clarified that the space associated with the gas pump is adjacent to the pump.

**Motion: Commissioner Wiatt made a motion to accept staff's recommendations. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

### **BOARD DISCUSSION**

Commissioner Lustberg asked for an update on the South Florida Water Management District's and FKAA's evaluations of their resources. Mr. Schwab stated that he will give an update on that at the December meeting. Mr. Harvey added that he was informed at some District meetings that the South Florida Water Management District is in the process of preparing their water supply plan and it should be finalized sometime late next year.

It was confirmed that the December meeting will be held on the 19<sup>th</sup>. Some Commissioners stated they had conflicts with that date. The Commissioners will check their schedules to confirm who can attend that meeting.

Mr. Schwab confirmed that Ron Miller has been slated to replace Vice Chair Wall upon his retirement from the Planning Commission. Mr. Schwab then introduced Cassie Scanlon, the new administrative assistant, to the Commissioners. Mr. Schwab announced there will be a meeting at the Murray Nelson Building tomorrow, November 15, 2012, at 6:45 to address the Land Development Code.

Ms. Grimsley suggested reopening Item 5-b for a motion to continue it to November 28, 2012 instead of December 19, 2012 in case there is no quorum for that December meeting. **Motion: Vice Chair Wall made a motion to continue Item 5-b to November 28, 2012 due to the anticipated lack of a quorum on December 19, 2012. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 3:52 p.m.