

PLANNING COMMISSION
January 29, 2014
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, January 29, 2014**, beginning at 10:03 a.m. at the Murray E. Nelson Government Center, 102050 Overseas Highway, Key Largo, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL by Gail Creech

PLANNING COMMISSION MEMBERS

William Wiatt, Chair	Absent
Jeb Hale, Vice Chair	Present
Elizabeth Lustberg	Present
Ron Miller	Present
Denise Werling	Present

STAFF

Townsley Schwab, Senior Director of Planning and Environmental Resources	Absent
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
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Matt Coyle, Planner	Present
Karl Bursa, 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

County staff members were sworn in by Mr. Wolfe. Mr. Wolfe then swore in members of the public who were planning on speaking during the meeting. Vice Chair Hale stated the time to speak is limited to three minutes for individuals and five minutes for somebody representing a group.

CHANGES TO THE AGENDA

Ms. Creech stated Item 2 was taken off the agenda, to be rescheduled at a later date.

Motion: Commissioner Miller made a motion to reschedule Item 3 to the February 26, 2014 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.

APPROVAL OF MINUTES

Commissioner Lustberg noted a minor typo contained within the motion to approve Section 1 to the BOCC on Page 7 of the November 15, 2013 minutes. **Motion: Commissioner Werling made a motion to approve the minutes of the November 15, 2013, November 21, 2013 and December 18, 2013 meetings with the noted typo. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

MEETING

1.Paradise Point Senior Housing (Proposed), 2 North Blackwater Lane, Key Largo, Mile Marker 105.5: A request for a minor conditional use permit allowing the development of an institutional residential use, involving 46 deed-restricted affordable housing units (in the form of rooms), 1 commercial apartment and accessory uses/structures. The subject property is described as a parcel of land in Section 1, Township 61, Range 39, Monroe County, Florida, having real estate number 00084260.000100(part).
(File 2013-118)

Mr. Coyle first noted that under normal circumstances this application for a minor conditional use would be heard in front of the Development Review Committee and the decision would be the Planning Director's, but due to the interest and concern in the community the applicant and the Planning Director mutually agreed to have it heard before the Planning Commission today.

Mr. Coyle presented the staff report. Mr. Coyle showed an aerial photograph of the site and described the location and surrounding properties of the site. Mr. Coyle presented photographs of the property from different perspectives. Mr. Coyle reported that staff found that the proposed use for this property is consistent with the goals, objectives and policies of the comprehensive plan, the Key Largo CommuniKeys plan and the land development regulations. Staff found that the minor conditional use application meets all nine standards imposed by the land development regulations.

Mr. Coyle further reported that in November of 2013 staff met in Key Largo with the community and applicants to discuss the project. There were a number of issues and concerns brought up by the community, including traffic impacts, parking, the visual impact of the buildings and previous land clearing and fill on the site. After the meeting staff requested that the applicant submit a traffic study. The applicant submitted a Level I traffic study, which found that there was adequate capacity on U.S.1 and the intersection of U.S.1 and North Blackwater Lane had an adequate level of service. Staff also requested that two parking spaces be provided per unit, which the applicant has done.

There is a permit from 2006 for after-the-fact land clearing. Mr. Coyle noted that if this application is approved there will be landscaping requirements for the site, including the addition of a number of trees and shrubs. Staff is requesting that 100 percent of the vegetation is native to the Florida Keys. The applicant will be required to protect and maintain the existing habitat, hammock and mangrove, on the northern part of the property. Mr. Coyle stated the County still has an open code case for replacing fill on the property without benefit of a permit, which remains open. Any approvals for site work on the subject property will need to be addressed and remedied, if applicable, before any approvals. Staff then recommended approval of the application with a number of conditions, which were then recited.

Vice Chair Hale asked who will be monitoring whether the prospective tenants are using this property as their primary residence. Mr. Coyle replied that the developer will be including that issue as part of their requirements. Mr. Williams asked Mr. Coyle to give a brief history of his education and experience. Mr. Coyle stated he has been employed with the County for over a year and the past few months as a Senior Planner. Mr. Coyle previously was employed by Broward County Planning and Redevelopment Division and has a Master's degree in urban and regional planning from Florida Atlantic University. Reviewing minor conditional uses is a part of Mr. Coyle's functions with the County.

Nicholas Mulick, Esquire, was present on behalf of the applicant, Gorman and Company. Mr. Mulick stated Hana Eskra, Gorman's Florida Market President, will discuss the project details, the background of Gorman and their experience in the development of projects of this type. Joel Reed, Gorman's planning professional, will be testifying regarding compliance with the applicable comprehensive plan provisions, policies, goals and the land development regulations. Raj Shanmugam, the applicant's traffic expert, will be testifying with regard to the traffic, safety, parking requirements, on-site traffic control and related matters.

Ms. Eskra presented a rendering of the project. Ms. Eskra stated Gorman is currently working in six states, including Florida, and is based out of Wisconsin. Gorman has 30 years of experience having developed over 60 residential properties in those six states, including some in the Florida Keys. Ms. Eskra described Gorman's reputation as impeccable. Ms. Eskra presented statistics of Monroe County to illustrate the population the applicant proposes to serve. The 2012 Census data states 19 percent of the residents in the Keys right now are seniors. The average retirement income in the Keys is \$29,735. From the Census data Ms. Eskra said Gorman can serve over half of the senior residents of Monroe County. Gorman is building housing for seniors earning \$24,000 to \$39,600 a year. This is housing for people who have worked in this community, have some retirement income and want to stay in this community and age in this community. Ms. Eskra added that potentially by 2030, 25 percent of the Keys' population could be seniors. Ms. Eskra explained that Monroe County currently has only 28 age-restricted apartments, which are located in Key West. Ms. Eskra described Gorman's proposed development as all one-bedroom units of 700 square feet each and they are all going to be one level and elevator accessible. The front doors of all units are going to open to the interior corridors and the building entrance will be secured. There will also be a covered passenger drop-off area. The age restriction will be 62 plus. Planned amenities and services include a community room, an activity room, a warming kitchen, a supportive services office and coordinated transportation for appointments and shopping. Visiting nursing services and a community garden are also proposed. There will be

live-in property management employees. Ms. Eskra further explained this property is going to be monitored by the Florida Housing Finance Corporation. There will be an annual audit. Gorman's funding requirements require that the unit has to be the tenant's primary residence with signed one-year leases.

Joel Reed spoke regarding the land use elements, the LDRs and the comp plan. Mr. Reed noted policies already established within the County's comp plan are to try and provide housing for people with need, affordable housing, as well as housing for the elderly. Mr. Reed then discussed the site selection. Mr. Reed presented a picture showing both the smaller parcel being retained by the current owner and the larger L-shaped parcel the applicant is going to purchase. The site is conveniently located to hospitals up in Miami and in Tavernier and is adjacent to Winn-Dixie. Mr. Reed stated by putting institutional housing on this parcel it will bring this site into compliance from its current legally nonconforming light industrial use. Mr. Reed described how and why this proposed development ended up before the Planning Commission. Mr. Reed presented Monroe County GIS maps showing that the majority of the site is disturbed with both mangrove and hammock area on the edges of the property. Mr. Reed explained there are questions of when this property was disturbed. A County pre-'86 existing conditions map was presented showing the site as disturbed, which is consistent with the disturbed area shown on the parcel today. The parcel has been designated as a Tier III parcel. It has been zoned urban commercial, which is the highest intensity zoning category the County has. Mr. Reed believes the applicant is trying to put a more compatible use on this property supported by the future land use map. Mr. Reed showed a floor plan for the 47 units, 46 of which are for senior housing and one for a manager's apartment. The building is set back almost 400 feet from the property line. Mr. Reed explained how the mangrove, the hammock and buffers will address the community's concern about the potential community character impact. Clear sight triangles are being addressed. Mr. Reed agrees with staff that all nine criteria required by code have been met by the applicant. Mr. Reed stated the proposed development is a huge enhancement and positive impact to this area and site from the existing conditions. The applicant has included two parking spaces per unit to address the community's concern about overflow parking on North Blackwater Lane. Mr. Mulick asked Mr. Reed to describe his educational background and experience in the area of planning. Mr. Reed stated he has a Master's degree in urban planning and policy from the University of Illinois in Chicago and has been practicing planning for over ten years. Mr. Reed is a certified planner and has been working in Monroe County for the last ten years. Mr. Mulick requested that Mr. Reed be considered an expert in the area of planning, interpretation and application of the Monroe County comprehensive plan and the land development regulations.

Mr. Mulick introduced Raj Shanmugam, the applicant's traffic expert. Mr. Shanmugam was sworn in by Mr. Wolfe. Mr. Mulick asked Mr. Shanmugam to provide his education and background in the area of traffic engineering. Mr. Shanmugam stated he received his Bachelor's degree in civil engineering, and then received his Master's degree from West Virginia University in 1985, and has been practicing engineering in South Florida since '85. Mr. Shanmugam worked with the Florida Department of Transportation for eight years and then as a consultant for 20 years, with Monroe County Planning Department being one of his clients. Mr. Shanmugam has been a registered professional engineer since 1988 and has been performing traffic engineering duties for 28 years and is specifically familiar with the traffic, parking, control and

safety issues with regard to the standards contained in the Monroe County land development regulations. Mr. Mulick asked that Mr. Shanmugam be considered an expert in the field of traffic engineering, specifically with regard to interpretation and application of the applicable land development regulations.

Mr. Shanmugam then explained his traffic study for this site. The site will be generating about 163 trips a day, 14 of which would be during the peak time, between 3:30 and 4:30. The number of trips shown are the gross number of trips with no reduction for pedestrian, bicycle or transit trips. A slide was shown of the existing traffic and the projected traffic for the intersection of North Blackwater Lane and U.S.1. The analysis performed proves that the number of trips being generated by this site is insignificant. The delay for northbound left-turning traffic going into Blackwater Lane will be increased only .3 seconds more than what is existing now. Mr. Shanmugam pointed out that the site is in a location that is walkable to the Winn-Dixie plaza and the applicant is also proposing to provide transit services, so some of these trips are going to be reduced. Mr. Shanmugam's analysis did not take any credit for those reductions. The increase in the amount of trips and any delay associated with those trips in traffic engineering terms is considered insignificant. The four segments of the U.S.1 corridor that are going to be impacted by the trips generated by this site has more than adequate capacity to handle them. Commissioner Miller questioned why Mr. Shanmugam determined that the peak travel time for a homogenous population like a senior housing is relevant to the general population. Mr. Shanmugam explained that he has taken the peak for the site and the peak for U.S.1 and combined them together.

Lee Rohe, Esquire, on behalf of Stillwright Property Owners Association, asked to cross-examine the witnesses that appeared on behalf of the applicant. Upon question by Mr. Rohe, Mr. Shanmugam stated that he was previously on a salary with a consulting firm providing consulting services for Monroe County and has recently opened an independent engineering company. Mr. Shanmugam sees no conflict whatsoever now testifying on behalf of the applicant. Mr. Shanmugam explained the term "delay" is the amount of time a vehicle spends sitting before making a turn. Mr. Shanmugam testified that he assumed that all the trips generated by this development are going to be made by private automobiles, but cannot give an amount of trips generated by the Stillwright neighborhood, which also uses North Blackwater Lane. There is an existing curb cut that exists to provide access to the site on North Blackwater Lane, but no curb allowing access from U.S.1 directly onto the property. The residents of the proposed development will have to use the curb cut on North Blackwater Lane and they come to U.S.1 and use the public intersection of U.S.1 and North Blackwater Lane. Mr. Shanmugam cannot comment on the adjacent property between the proposed senior building and North Blackwater Lane. Mr. Shanmugam does not know the age of the seniors expected to live at the facility, but is assuming that all occupants will be driving. Mr. Shanmugam's trip generation is based on not allowing any reduction for the public transportation. The advanced age of the drivers was taken into account in the program used by Mr. Shanmugam, the Highway Capacity Manual. Mr. Shanmugam testified he has not looked at the safety aspects of the intersection of Blackwater Lane with U.S.1 and stated the roads do not meet at a 90-degree angle.

Mr. Rohe then cross-examined Mr. Reed. Upon questioning by Mr. Rohe, Mr. Reed testified that he has no knowledge about the status of the code enforcement violation. Mr. Wolfe

reminded Mr. Rohe that although wide latitude has been given to Mr. Rohe, cross examination should be regarding what the witness has testified to. Mr. Reed further testified that the comp plan says the County should proceed with trying to provide housing for the elderly, but he was not part of collecting the data and needs assessment for that. Mr. Reed places this proposed development most closely in the institutional residential use category of life care or elderly housing, but specified this development is senior housing. Mr. Reed clarified that the applicant did not use the definition of “institutional” in their application, but used “institutional residential.” Mr. Reed testified the survey stakes have not been set to the area identified within the site plan to separate the parcel into two separate parcels with separate tax ID numbers. That is why there is a condition in the staff report that says that amount of land is required in order to support the density proposed. The last revision of the survey reviewed by staff was dated June 22, 1997. Mr. Reed then had Mr. Reed clarify that the site plan depicts the boundaries of the proposed project upon which the parking calculations and density calculations are based. Mr. Reed testified Patrick Patrello, an architect with Gorman and Company, prepared the site plan and Mr. Patrello is present at this meeting.

A recess was held from 11:36 a.m. to 11:52 a.m.

Mr. Rohe asked to question the architect. Mr. Mulick did not object. Mr. Patrello testified he is an architect with Gorman and Company based in Wisconsin. Mr. Patrello is a direct employee of Gorman and Company and is licensed as an architect in the State of Florida. Mr. Patrello testified the site plan was based off of the survey discussed previously. Upon questioning by Mr. Mulick, Mr. Patrello stated the site plan accurately depicts the area on which this proposed project will be located.

Mr. Rohe then called Miles Moss to testify. Mr. Moss testified he is president of Miles Moss and Associates, Consulting Engineers, and has been conducting traffic engineering and safety and impact studies for over 44 years. Mr. Moss provided his background in traffic engineering since 1970. Mr. Moss has a Bachelor’s of Science degree in engineering from the University of South Carolina and a Master’s of Science degree in civil engineering from the University of Miami. Mr. Moss listed his experience giving testimony in different locations and stated he has been accepted by courts as an expert on over 650 occasions. Mr. Moss further testified he has reviewed the application and the traffic impact study discussed earlier. Based upon the traffic conditions, the development being proposed, the conditions of this intersection, Mr. Moss opined having this project at this location will not be safe and it should not be approved. Mr. Moss presented photographs of the intersection of U.S.1 and North Blackwater Lane. Mr. Moss stated the intersection meets at a 60-degree angle, causing a longer distance in turning left at an angle. It is particularly difficult to determine at night how far approaching vehicles on U.S.1 are from the intersection, as well as how fast they are going. Based on a speed count it was determined that 89.1 percent of cars on U.S.1 exceeded the speed limit. Mr. Moss stated a car turning left onto U.S.1 from North Blackwater Lane would take 7.1 seconds to make that maneuver. Mr. Moss opined seniors are going to be more susceptible at a stop-sign-controlled intersection to not make a good choice when it is safe to take off and are going to be more susceptible to not being able to judge a safe gap. Their reaction time is twice that of an average driver. Mr. Moss does not have statistics involving this particular intersection. Mr. Moss concluded by stating not only will this proposed development at this intersection be a safety issue for the residents living there,

but it will be a safety issue for the other residents already living in the area and anybody traveling on U.S.1.

Upon cross examination by Mr. Mulick, Mr. Moss testified the speed count referred to was conducted at Mile Marker 102 and this project will be located at Mile Marker 105. Mr. Moss believes even more cars would be speeding at Mile Marker 105 because it is closer to the 18-mile stretch. Mr. Mulick questioned Mr. Moss about the photographs presented and the 7.1 seconds Mr. Moss testified it would take to clear the intersection. Mr. Moss testified even though there is no obstruction seeing southbound traffic from this intersection, the problem is knowing how far away that traffic is and how fast they are going. The people that are going to be more susceptible to getting into accidents here are seniors because of their diminished capacity. This intersection would not meet the criteria for installation of a streetlight. Mr. Moss believes a senior citizen facility should be at a location that had an intersection that was at a 90-degree angle, had streetlights and had a traffic signal. Seniors would have a more difficult time to turn their bodies 120 degrees to view northbound traffic.

Mr. Mulick called Frank Greenman, Esquire to speak in response to the issue regarding the need for senior citizen housing. Mr. Greenman stated he is an attorney from Marathon, Florida and has been active in affordable housing since 1981. Mr. Greenman described his work in affordable housing. Mr. Greenman explained the only housing for the elderly in the Keys is a 199-unit development being rehabbed in Key West, Florida for elderly housing. There is a 28-unit elderly housing going up with Florida Housing Finance funds also in Key West. This is a need that the County has recognized in its policies, in its comp plan, and it is also becoming demographically obvious as the population of Monroe County ages. Mr. Greenman believes this is a good project by a good company with a good track record. Upon questioning by Mr. Rohe, Mr. Greenman stated although he is legal counsel for the applicant, he is testifying as a witness today because of his affordable housing background. Through questioning by Mr. Mulick it was clarified that Mr. Greenman represents the property owner and not the applicant.

Mr. Mulick called Mr. Shanmugam for rebuttal testimony. Upon questioning by Mr. Mulick, Mr. Shanmugam testified there is no negative impact on clear sight triangles in the subject intersection. The increase in delay time this proposed development would cause is .4 seconds. Mr. Shanmugam informed Commissioner Miller that there were only two accidents in the three years from the data provided by FDOT. Compared to many other intersections, the subject intersection is much safer. Mr. Rohe then questioned Mr. Shanmugam. Mr. Shanmugam testified that looking left from the intersection is less than 90 degrees and, therefore, easier to make the turn. Looking north, although turning 120 degrees, the turn is a two-step movement because of the median and there is enough room to stop the vehicle at 90 degrees in the median and be able to see on the right side. The delay times Mr. Shanmugam testified about are based on a computer model that takes the general population into consideration, which includes elderly drivers.

Mr. Mulick recalled Ms. Eskra to talk about the plan and the applicant's willingness to comply with it and the ability to meet the requirement concerning monitoring the residents. Ms. Eskra testified she is comfortable the applicant can and will comply with any conditions imposed by the proposed development order. The applicant can only lease to residents making less than 60

percent of median family income, which is a requirement of their funding source. The ROGO allocations are available and are for affordable housing. Upon questioning by Mr. Rohe, Ms. Eskra testified the Florida Housing Finance Corporation is considered a quasi-governmental agency. The Governor appoints the board of Florida Housing Finance and they are responsible on the state level for allocating affordable housing funding. The Florida Housing Finance Corporation will audit this facility to make sure the residents are income-certified. Mr. Mulick clarified that the affordable housing deed restriction runs in favor of the County and is enforced by the County.

Vice Chair Hale asked for public comment.

Barbara Ballen, neighbor, presented pictures of tractor-trailers on North Blackwater Lane. Ms. Ballen stated North Blackwater Lane is the one and only way to get in and out of Stillwright Point. Residents in this neighborhood have to negotiate daily tractor-trailers going into Winn-Dixie and the subject parcel. Stillwright Point residents generate 733 trips a day themselves. Ms. Ballen asked the Commissioners to think of them when considering this proposed development.

Burke Cannon, President of the Island of Key Largo Federation of Homeowner Associations, disclosed the Island of Key Largo Homeowners Federation was fashioned after Mr. Miles Moss' Kendall Federation of Homeowner Associations. Mr. Burke stated the homeowners federation is not against senior housing for local citizens. Stillwright Point is one of the federation's 20 members. Mr. Cannon read aloud a resolution that was supposed to have been available on the website, which states: Toxic soil tests should be performed on the property before approval by the County; that the land area that will remain under ownership of Number 2 Blackwater LLC with existing light industry and an office building facing North Blackwater Lane will continue to include parking by the building just inside of the entry to the Winn-Dixie; this project would bring additional heavy traffic on North Blackwater Lane; that the Stillwright Property Owner Association is concerned that if the project falls into a problem it could be turned into something other than a residence for senior citizens in the future; that the Stillwright Property Owner Association and the Federation of Homeowners Association all have a concern for their peace and quiet and property values.

Stella Creelman, Florida Keys resident over 30 years and current resident of Bluewater Apartments, stated if it were not for Bluewater Apartments, an affordable housing development by Gorman, she would have had to move out of town. The projected increase in traffic accidents discussed prior to its development due to Bluewater has not occurred. Ms. Creelman is a proponent for low-income housing and believes it is a very good thing for this community.

David Galloway, neighbor, stated he is a former elected official and understands the complexities of issues like this. Mr. Galloway is adamantly opposed to allowing the continued demise of these pristine properties for a low income housing project. It will be detrimental to the already oppressed property values. Mr. Galloway asked the Commissioners to consider the many concerns of the affected property owners and determine the long-term viability of this proposed project. Mr. Galloway questioned whether the proposed developer will be responsible for any increase in infrastructure or if it will be borne by the County taxpayers at a later date.

Mr. Galloway is also concerned about the safety of the increased number of bicyclists on the new bike path at this intersection.

Pamela Shockey, homeowner on North Blackwater Lane, stated she is not against affordable senior housing, but is against a poorly planned development that may lead to environmental exploitation, safety issues and have a negative impact on existing neighborhoods. Ms. Shockey noted that no affordable housing that is government funded can serve people just from one particular area. Ms. Shockey stated the subject property has been cleared and filled without regard to mangrove and hardwood preservation with little knowledge or intervention from Monroe County and asked the issues be rectified before further consideration of the project is given. Ms. Shockey asked the Commissioners to consider the negative safety impacts created by the further development of the east end of North Blackwater Lane from this project. Ms. Shockey has been able to find a dozen properties of a similar asking price to the subject property between Mile Marker 106 and Mile Marker 88. Ms. Shockey reminded the Commissioners that once any property is developed it is changed forever and the Florida Keys must guard against overcrowding and overutilization of freshwater resources.

Mr. Wolfe clarified for Commissioner Werling that it is unlawful to discriminate against residents outside of Monroe County when leasing these proposed units.

Dale Guerkink, neighbor, stated the proposed development will be close enough to the back of Winn-Dixie to be able to smell rotten fruit and rotten meat. The parcel has been filled with sewer fill. The effect of them filling that property has caused flooding in the area. Ms. Guerkink questioned whether the development will have a generator to provide minimum lights and operate the elevators in case of a storm. Ms. Guerkink does not want somebody to be paid for their land when they have destroyed it.

Emilie Stewart, vice-president of the homeowners association, presented photographs illustrating dumpsters on the property and behind Winn-Dixie overflowing, as well as photographs of traffic at the site. Ms. Stewart described being hit on a sport bike by someone coming out of the Winn-Dixie service road as she was exiting U.S.1. Ms. Stewart questions this location for this proposed development and asked the Commissioners to give this a lot of consideration from a safety aspect.

Pauline Kahn, president of the Stillwright Property Owners Association, stated the neighbors are not against senior citizen having assisted living and nursing home care, but they believe this property is unsafe for these seniors to live there. Ms. Kahn would like Gorman and Company to look for a better location.

Donald Fritch, neighbor, pointed out that the traffic in this area will increase by 20 percent and North Blackwater Lane is narrowest by two feet at the subject property. Mr. Fritch added that North Blackwater Lane does not have any area for pedestrian, bicycle and golf cart traffic. There also is no slow-down on U.S.1 to turn onto North Blackwater Lane, so the traffic enters this road at a high rate of speed.

Sergio Del Oro, neighbor, stated older citizens cost the County money in services. Mr. Del Oro asked the Commissioners to not allow these large for-profit corporations to build these type of developments.

Edward Arduino, neighbor, stated the last house he built in this area took seven years to get a permit and now this development is going to increase the neighborhood's population by 25 percent. Mr. Arduino discussed the tractor-trailers that block the intersection at this property. Since this property was filled there is no place for the water to go and the neighborhood floods. Everything the owner has done to this property has been illegal and done for money.

Armand Arduino, neighbor, stated he tried to buy this property 25 years ago for warehouses, but there was no ground and no place to get in and out of the warehouses. As time has gone on this property has been filled and the mangroves removed. Mr. Arduino spoke of the heavy traffic and difficulty getting in and out of the neighborhood during special events in the area. Half of the Winn-Dixie customers exit through Blackwater Lane. Mr. Arduino asked the Commissioners to consider all of this before making a decision.

Alan Wood, resident of Islamorada, believes this project will help Monroe County reach its goals for affordable housing and there is a significant need for senior housing in the Keys. Mr. Wood finds Gorman and Company to be reputable and build a quality project. Mr. Wood recommended going forward with this project.

Stetson Hinds, neighbor, stated this is a very challenging intersection, which a great part of that has to do with the angle of the street and the crown of the road. Mr. Hinds believes one should be cautious exiting North Blackwater Lane onto U.S.1 when looking at the southbound lanes as well as the northbound lanes. Mr. Hinds considers himself an expert driver and finds this intersection very challenging. Trucks parked on the north side of North Blackwater Lane can completely block the view, making it impossible to make the proper judgment to turn left.

Richard Bradley, neighbor, was sworn in by Mr. Wolfe. After hearing argument from both sides Mr. Bradley is swayed by Mr. Moss' argument. Mr. Bradley is concerned that his family is at risk by driving through this intersection several times a day. Mr. Bradley asked the Commissioners to listen to the people of Key Largo as opposed to the interest of an out-of-state company, no matter how noble their cause may be.

Kay Thacker, resident of Key Largo, stated this property was previously considered environmentally sensitive with wetlands, native plants and native trees. After being cited by the County a few years back for exotics, the exotics were cleared and then a mysterious fire destroyed the native plants and trees. The Key Largo Wastewater Treatment District was then allowed to dump fill on the property, causing residents to complain about runoff coming into the canal and through the waterways. A delineation of elevations is obvious on the property. Ms. Thacker does not believe the property owner is a good steward of the environment and should not now be able to make a profit on this land after destroying it. Ms. Thacker is not against senior housing, but does not feel this is an appropriate site for it.

Adrian Mottola, neighbor, stated the intersection into this neighborhood is extremely dangerous with the amount of customers coming out of Winn-Dixie onto North Blackwater Lane. Ms. Mottola pointed out that the property owner is selling the land that he filled, but is keeping the warehouses.

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

Mr. Mulick again addressed the Commissioners and stated although he understands how neighbors feel about changes in their community, the issue today is whether or not this project satisfies the County's criteria. Mr. Mulick summarized the testimony of Mr. Moss that the configuration is dangerous, but offers no explanation as to why, and the clear sight triangle is not in any way diminished. Mr. Mulick stated access at the intersection from this project does not require travel throughout the community itself. Every development will generate traffic, but the question is will that traffic create a situation that does not satisfy the County's criteria. Staff found it met the criteria. Mr. Mulick pointed out that the opposition's expert based some of his testimony on a study based upon accident reconstruction at a point three miles away from this project. Mr. Mulick stressed that the current owner is not applying for this project. The applicant has an impeccable track record. Mr. Mulick commented affordable housing is necessary and that the BOCC has recognized the need not only for affordable housing, but for elderly affordable housing, and that is part of the comp plan. This project is consistent with Keys design, is an attractive facility and will serve the needs of the elderly that will be there. Affordable housing ROGOs are restricted and the County does enforce those strictly. Mr. Mulick noted that traffic generation numbers were determined assuming all of the residents would be driving and none would be walking. Mr. Mulick stated there is no evidence that the County's existing conditions map showing a scarified site is wrong. Mr. Mulick asked will it be better to maintain it the way it is or is it better to have a place for senior citizens to reside in our community? An on-site water retention management plan is included in the conditional use criteria and must be approved by the County. The applicant has planned for parking over the minimum requirement because that is what the residents of the community wanted. No one has testified that property values would be diminished by this project. This is an allowed use in this district. Mr. Mulick believes that the policy to provide affordable elderly housing overrides the community concern about having somebody next to them that they are not comfortable with. Mr. Mulick asked the Commissioners to consider staff's report and the credible evidence that directly applies to the criteria that must be applied.

Commissioner Lustberg asked to look at a map from 1986 that was shown previously in the meeting. Ms. Grimsley read aloud Section 760.26 of the Florida Fair Housing Act prohibiting discrimination in land use decisions and in permitting of development. Commissioner Miller noted that age is not mentioned. Ms. Grimsley replied that age falls under familial status, but age is not specifically a protected category. Mr. Wolfe stressed that the Commission's decision here is whether to approve this conditional use applying the standards provided in Monroe County Code.

Commissioner Lustberg asked if the open code case regarding the fill will be addressed before the applicant purchases the property or if the applicant will purchase it and then fix the problem

prior to starting any development. Mr. Mulick responded that there is a letter in the County's files indicating that the violation had been corrected, but if the Commission would like to make that a condition the applicant would be happy to meet that criteria. Mr. Williams clarified that letter addresses the fact that the elevation matches what the engineer originally said. The code case will have to be resolved either by the property owner or the potential developer. The code case cannot be addressed here other than to put it in the conditions that it must be resolved prior to the building permit being issued. Mr. Roberts added that the code case relative to the fill has not been closed yet and the fill issue was relative to height, not to depositing in wetlands or the water system.

Commissioner Lustberg is concerned that the development uses all of the property to the maximum capacity and, if the outcome of the code hearing is a restoration of certain property, it might mean that the area needed for development would not sustain that development. Mr. Reed responded that the total calculations for upland are based on the area minus the mangrove area and minus an area that cannot be counted as upland. Commissioner Miller wants to see this code issue vetted before proceeding with this development. Vice Chair Hale and Commissioner Werling agreed. Mr. Mulick interjected that the applicant will do everything they can to satisfy the Commissioners that it has been resolved satisfactorily. Mr. Wolfe asked for a recess to caucus with staff.

A recess was held from 2:20 p.m. to 2:33 p.m.

Mr. Wolfe asked Ms. Santamaria to shed some light on the code compliance issue regarding the fill. Ms. Santamaria explained that based on staff's review of data, including the previous permit, it did not include any filling of habitat and the grade is at the appropriate level. So the buildable upland area will not change based on that code case. Commissioner Lustberg asked if any testing has been performed of the fill for any potential contaminants. Mr. Reed replied that the Phase I environmental assessment on the site came back clean. Mr. Wolfe suggested adding to the end of Condition E that in the event that any resolution of this matter results in a reduction of buildable area or change in site plan, that it would have to come back before the Planning Commission for approval. Commissioner Lustberg raised the possibility that a code enforcement hearing could be swayed by having a plan that has already been approved for the area for good things like affordable housing. Mr. Mulick stated the applicant has no objection to having that issue resolved before final determination.

Commissioner Miller again voiced concern that a property owner disturbed environmentally sensitive lands and created buildable area that they did not have before. Commissioner Lustberg commented that although the property currently before the Commissioners is all developable scarified land and people have a right to use it as it is zoned, it appears that the current owner did things they should not have done which gives them a more valuable property to then sell to the applicant. Commissioner Lustberg asked if there is a way to make the stormwater provisions for this property more stringent than would normally be in the code to prevent runoff from the property. Ms. Santamaria replied the regulations in place have to be enforced and additional regulations cannot be imposed that do not exist in the Land Development Code. Mr. Williams explained to Commissioner Lustberg that the Planning Commission is hearing this matter due to the consent of the applicant, which is somewhat unusual, but the decision made here will either

be lived with or appealed to DOAH. Commissioner Lustberg asked if the trucks on the property will still be a problem if this application is approved. Mr. Haberman explained only the property owner can say what will continue there in terms of trucks, but a Fed Ex facility has recently gone on this property. Full maneuverability is something that is looked at by the engineering department when there is application for a public works access permit.

Mr. Wolfe advised the Commissioners that a motion to approve would require a motion finding that it meets all of the required conditions for a minor conditional use. A motion to deny would require explanation of which grounds it did not meet. Mr. Williams explained to Commissioner Miller that approval cannot be conditioned upon the code enforcement department. Mr. Wolfe suggested the language should state “prior to the issuance of any development order” or continue the matter to a date certain to see if the code compliance hearing has occurred. If it has not, it can be continued again. The point of that is to not require a re-advertisement and everything that has already been put in the record stays in the record. Mr. Wolfe recommended continuing this hearing and setting it 90 days out. Mr. Mulick stated the applicant does not object.

Motion: Commissioner Miller made a motion to continue this matter to the April 30, 2014 meeting. Mr. Wolfe then suggested continuing this to the March Planning Commission meeting and, if the code compliance hearing has been heard, setting a special meeting up in Key Largo in April. **Commissioner Miller altered his motion to continue it to the March 26, 2014 meeting. Commissioner Werling seconded the motion. The roll was called with the following results: Commissioner Lustberg, Yes; Commissioner Miller, Yes; Commissioner Werling, Yes; and Vice Chair Hale, Yes.**

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 3:05 p.m.