

PLANNING COMMISSION  
**June 25, 2014**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, June 25, 2014**, 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**

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

**STAFF**

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
Steve Williams, Assistant County Attorney	Present
Tom Wright, Planning Commission Counsel	Present
Joe Haberman, Planning & Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Rey Ortiz, Planning & Biological Plans Examiner Supervisor	Present
Emily Schemper, Principal Planner	Present
Matt Coyle, Senior 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 Tom Wright.

**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. Wright.

**CHANGES TO THE AGENDA**

Ms. Creech asked for Items 2 and 3 to be read and heard together, and Items 4 and 5 to be read and heard together.

## APPROVAL OF MINUTES

**Motion: Commissioner Lustberg made a motion to approve the minutes of the May 28, 2014 meeting. Commissioner Werling seconded the motion. There was no opposition. The motion passed unanimously.**

## MEETING

### Continued Item:

**1.95231 Overseas Highway, Key Largo, mile marker 95:** A REQUEST FOR APPROVAL OF A MAJOR CONDITIONAL USE PERMIT IN ORDER TO DEVELOP THE SUBJECT PROPERTY WITH A NEW ANTENNA-SUPPORTING STRUCTURE. The subject property is legally described as Block 4, Lots 1, 2, 27 and 28, Revised Plat of Sunrise Point subdivision (Plat Book 3, Page 11), having real estate number 00484790.000000. (File 2013-144) Continued from April 30, 2014

(10:05 a.m.) Mr. Wright swore in all members of the public planning on testifying on this matter.

Chair Wiatt asked for the staff report. Mr. Schwab noted that the staff report was presented at a previous meeting when this item was continued.

Lauralee Westine, Esquire, was present on behalf of SBA, AT&T and Verizon. Ms. Westine confirmed that the staff report and all applications are a part of this record, as well as staff's CV's or resumes are on file so that they, too, will become part of the record. Mr. Schwab agreed. Ms. Westine then addressed the issues that the Commissioners asked at the last meeting to be addressed. Ms. Westine requested that everything from the last hearing be incorporated into this hearing. Ms. Westine then stated that the applicant hosted a community meeting on 6/16/14. 66 notices were sent out and ten people were in attendance, one of whom was a member of County staff. A lot of the community's questions were answered, but the neighbors simply do not want this tower in their neighborhood.

Ms. Westine has done an analysis of alternative locations a quarter-mile in each direction of the proposed site, which would be a total of a half-mile. A search area is generally smaller than that so that all the towers talk to each other. 20 total parcels zoned SC, where towers are allowed, were reviewed. Two other recommended parcels and the AT&T building, which was recommended, are zoned SR, where towers are not permitted. An AT&T and Verizon map of existing towers was shown. Ms. Westine stated collocation was considered by the applicant's engineers on existing towers and they will explain why they will not work. A local property appraiser will provide an analysis of property values and a community impact statement was provided. Ms. Westine revised a previously cited incorrect distance from residential property on Page C1.

Ms. Westine called Maiko Llanes to testify. Upon questioning by Ms. Westine, Mr. Llanes testified he has been employed by AT&T for the last 17 years. Mr. Llanes provided his educational background. Mr. Llanes stated AT&T has explored collocating on existing towers within the search area. Collocating on an existing tower is usually more rapid and less expensive

and, therefore, preferable to getting involved in the construction of a new tower. Mr. Llanes explained the intended coverage area is between the two existing AT&T sites shown on the map, AKEY and K104. The proposed tower location is near the center of the intended coverage area. AT&T is seeking a new site in this area as a result of reviewing computer programs and modeling and customer complaints. The coverage maps show a weak to non-existent coverage area near the proposed tower location. The capacity on the surrounding sites are reaching its trigger level for additional facilities. A map of the coverage of AT&T's existing two surrounding towers within the target area was shown demonstrating an area in red indicating marginal outdoor and poor to no indoor service. A map was then shown to demonstrate the additional coverage supplied by the new site. Upon questioning by Commissioner Miller it was explained that coverage of towers of different heights was analyzed and the ideal height of the tower to cover the entire gap would be a lot higher, but the applicant is only proposing a lower tower to address the areas of the map in red. The ideal height for this site would have been approximately 190 feet in order to address the entire gap. The proposed tower is a compromised solution, understanding the character of the area.

Maria Dubon-Jimenez, Verizon's engineer, was called next by Ms. Westine to testify. Ms. Jimenez provided her educational background and her 14 years of experience. An AT&T and Verizon existing tower map was shown. Ms. Jimenez testified that the K104 tower would not suffice in meeting Verizon's coverage needs in that area because it is too close to existing Verizon towers. The proposed location is exactly in the middle between the two existing sites, which is the target location. Verizon's Geoplan shows a gap between these two sites and Verizon has received customer complaints in the area. Verizon is wanting to collocate on the proposed 130-foot tower as opposed to 170 feet as a compromise in this particular instance. The right location is more important than the height of the tower.

Ms. Westine then called James Wilson, property appraiser, to testify. Mr. Wilson provided his educational background, as well as his certifications and licenses held. Mr. Wilson testified that he evaluated this site by performing a site visit, taking pictures and then visiting some other towers in the area. Mr. Wilson concluded that there is no evidence of this proposed tower having any adverse effect on property values. Mr. Wilson researched a recent monopole tower of 129 feet in Big Coppitt Key located on an SC-zoned site on the highway with a residential community that backs up to it immediately. After analyzing the ups and downs of the real estate cycle and looking at prices per square foot of homes directly adjacent to the tower and ones within a half-mile perimeter, there was no adverse impact noted on real estate values. Mr. Wilson believes the proposed tower will have no adverse effect on the values of the surrounding properties. Mr. Wilson contacted the Monroe County Property Appraiser, who told Mr. Wilson his department has done some research on the impact of towers and they have never been able to prove that there is an impact on property values adjacent to towers. Mr. Wilson told Commissioner Miller that Big Coppitt was chosen as a comparable because there, too, the tower is actually on the highway on an SC-zoned lot. Commissioner Miller asked Mr. Wilson about his language submitted, "Monroe County is linear and narrow, which unfortunately prohibits installing towers remote from residential and commercial development." Mr. Wilson explained that ideally cell towers would not be near anyone. Ms. Westine clarified for Commissioner Lustberg that the nearest residential property is 135 feet from the proposed tower. There are three parcels within 200 feet of the proposed cell tower.

Ms. Westine then called Rick Richter to testify. Upon questioning by Ms. Westine, Mr. Richter testified that he has been working in the tower business in the Keys for the past seven years and is very familiar with the proposed site. Mr. Richter was proposed to be the wireless operator of this site and was tasked with finding a suitable location. Mr. Richter's experience is that there is unreliable coverage in this area. Using the map of alternative analysis, Mr. Richter chose the proposed site because it is an SC parcel and the adjacent business that fronts the highway provides a great visual buffer, as well as the two lots to the oceanside of the property. There are 75 to 80-foot transmission poles running on the oceanside of the highway in this area. Mr. Richter believes the property owner, Chris Sante, is the kind of businessman to have a long-term business relationship with because he is trustworthy. There are also camera poles that FDOT located along the right-of-way of US-1 in this area. Mr. Richter further testified that siting towers in the Keys is difficult because SC-zoned properties are along US-1 with very limited openings. A tower does not take up a whole parcel, but reduces what else can be done on a piece of property. In the area of this particular site there are a substantial amount of canals which have various setbacks and environmental criteria to consider when building near them. Mr. Richter feels this tower located on this property is compatible with community character because of the power poles in the area causing the area to be already vertically visually impacted. The significant amount of vegetation in the residential neighborhoods provide a fair amount of coverage. Mr. Richter explained to Chair Wiatt that Verizon and AT&T are doing a lot of work to improve service in the area while other carriers have reduced their coverage in the Keys. Ms. Westine stated her carrier, T-Mobile, does not have coverage in the area. Ms. Westine believes other carriers will collocate on this tower if it is built. Mr. Richter noted that the fire and sheriff's department in Monroe County use Verizon services and this tower will serve that purpose as well. Chair Wiatt asked how many customers in this area do not have adequate service. Mr. Richter did not have the answer, but commented that a recent survey shows wireless-only households are now in the 30 to 35 percent range, which likely will increase as the younger generation ages. Commissioner Miller asked about the alternative Property No. 7 water treatment site. Ms. Westine replied that underground pipes would be an issue at that site because of the nature of its business, although that business has not been approached.

Next Ms. Westine called the property owner, Chris Sante, to testify. Mr. Sante testified he has been a businessman in the Keys for over 30 years. The properties in this area owned by Mr. Sante have poor to no coverage. Some of the property owners around the proposed site have told Mr. Sante they have no objection to the project. Mr. Sante explained how towers are used as landmarks in this area. Mr. Sante considers having a tower on a property to be a passive use. Mr. Sante has requested that a solid fence be installed around the entire property so there will be no visibility of any of the equipment other than the tower. Mr. Sante stated there is no visibility of the tower from any of the homes unless you actually walk out to the street. Mr. Sante has purchased two residential lots behind the proposed tower site to add an increased buffer. The lots are 60 feet wide and are vegetated. Jerry Wilkinson, an active local historian in the community, has told Mr. Sante he has no objection to the tower either. Commissioner Miller pointed out that Mr. Wilkinson lives two miles away from this site. Mr. Sante stated that Chuck Fishburn, who was running the sewer construction project on Alternative Property No. 7, has said the Wastewater Board was not interested in the tower because of the size of the tower and the amount of equipment connected with it.

Ms. Westine then called Eddie Bee to testify. Mr. Bee testified to his association with and his business background in the Florida Keys. Mr. Bee has been involved in building approximately 13 towers, some adjacent to residential property for zoning purposes. Photographs of some of these towers were shown. Mr. Bee explained there was a prior ordinance in place that allowed towers to go into the native areas and then in 1998 through 2001 there were a series of moratoriums. The drafters of the current tower code were aware of the challenges in siting towers on very shallow lots immediately adjacent to residential properties. Additional requirements were put in place in order to buffer or screen and allow these towers to be a part of the community character. Experts in telecommunication siting were employed by the County when drafting this code. Seven to eight public workshops were held where there was a lot of public comment. Photographs of the neighborhood surrounding the proposed site were shown to illustrate the dense vegetation in this area.

Chair Wiatt asked for public comment.

Omar Gadalla, neighbor of the proposed site, was present. Mr. Gadalla mentioned he has a PE license in environmental engineering and has done a lot of work in permitting. Mr. Gadalla has reviewed this application. Mr. Gadalla clarified that at the community meeting last Monday nobody objected to the other alternative sites. In regard to the alternative sites, Mr. Gadalla stated the community feels the applicant has found a willing property owner and redid everything to make that the best property as opposed to looking at it unbiasedly and actually finding the least impactful place. 20 SC alternative properties one-quarter mile from the proposed tower were looked at. Five of the 20 were noted as not being available because the property utilized space for storage, when the target property uses the space for storage. Photos were shown of what Mr. Gadalla feels is visual vertical impact in the area. 16 of the 20 alternative sites, over 75 percent, were ruled out due to neighboring residential-zoned properties.

Mr. Gadalla feels the alternative sites are encompassed within too small of an area without consideration to building off of an existing network or looking for a site within the dead zone. Mr. Gadalla stated there are other potential SC locations on the north end of the purported dead zone. Mr. Gadalla feels the proposed site is not about what is best for the community, but what is most financially beneficial. Mr. Gadalla explained how he used his own cell phone throughout the dead zone and never received lower than two bars on his AT&T phone. Mr. Gadalla summarized by stating the alternatives analysis was flawed and biased; the determination need is flawed; the tower will negatively affect the properties; the tower is not consistent with the community character in any way, shape or form. Mr. Gadalla requested the Commissioners to not allow this project to happen. Upon questioning by Ms. Westine, Mr. Gadalla testified that he does not have access to AT&T or Verizon's propagation models or their studies, nor has he been trained in any of their propagation models or studies. Mr. Gadalla is a licensed professional engineer in New York and has not been trained in property appraising.

Sue Heim, resident of Key Largo, clarified that Chuck Fishburn left the Key Largo Wastewater Treatment District over three years ago. Ms. Heim stated the Wastewater Board has not been contacted regarding use of their property and that would be something that they would not turn away. Ms. Heim reported that Jerry Wilkinson stated at the community meeting that he did not

care about this project because it would not affect his neighborhood. Ms Heim believes that Mr. Sante has business relationships with people on the adjacent streets of this site which might have an effect on their response regarding their agreement with this project. This project has divided the Tavernier Community Association. The majority of the residents Ms. Heim has spoken to object that this is not within the community character and they believe it is not needed. Ms. Heim asked the Commission to vote against this application.

Stan Nitz, Key Largo resident, stated he lives in a mobile home near this area and has a \$25 TracFone and has never had a dropped call.

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

Ms. Westine recalled Ms. Jimenez to testify. Ms. Jimenez testified the bars on a phone show the power level that they have in dBms, which can be relative to the model of the phone, but bars do not indicate whether a carrier has reliable coverage in an area. An area of service is recommended based on the necessity of the network and the service that would be provided, including 911 services. Maiko Llanes was also recalled to testify. Mr. Llanes clarified that the cone of service underneath a tower is usually the strongest and best service. Mr. Llanes agreed with Ms. Jimenez that bars on a phone is not an exact indicator of service like the scanning equipment and other tools used by the carriers, which are calibrated equipment to measure and characterize the signal. Both Mr. Llanes and Ms. Jimenez agreed that the compromise referred to earlier is in regard to the height of the tower, not the location of the tower. Mr. Llanes discussed how service among a number of homes in one area can differ depending on the structure of the building and in which direction windows in the house face. AT&T is able to see that there are a large number of personal devices that improve coverage within a house in the immediate vicinity of the proposed tower.

Chair Wiatt questioned the logic behind centering the quarter-mile radius at the proposed site as opposed to the center of the dead zone. Ms. Westine responded that when looking at alternative sites you look at what else would work. There are two carriers involved in this, so one carrier's search area cannot be used exclusively. Mr. Llanes added that this proposed tower is in the middle of the two carriers' dead zone. Ms. Jimenez agreed with that.

Ms. Westine pointed out that community character is not defined anywhere within the County's comprehensive plan or Land Development Code. It is for the Planning Director to decide whether something meets community character. Staff has made the determination in the staff report that this tower is within the community character of this area. Mr. Wright advised the Commissioners that rebuttal is limited to items that are already in evidence, but it can be allowed if the Commission decides to hear it. Mr. Williams stated if community character was addressed by the opposition in their presentation, the applicant would have the right to rebut that. Mr. Wright suggested allowing it limited to rebuttal of matters brought up by the opposition. The Commissioners agreed to hear rebuttal on the community character issue.

Townsley Schwab, Senior Director of Planning and Environmental Resources, was called by Ms. Westine to testify. Mr. Westine asked Mr. Schwab to explain what staff uses to evaluate whether something is consistent with community character. Mr. Schwab explained first a determination

of what community character is needs to be made. Community character varies not only from one area or one environment to another, but the elements that make up community character can vary from one area to another. The corridor roadway that feeds the Keys from north to south is a major part of the community character. In this instance the utilities in this area are part of the community character. Chair Wiatt asked whether the County employs the opinion of local residents in determining the definition of community character. Mr. Schwab replied the residents might be aware of certain aspects of the specific community character that staff would not be aware of. Some aspects might be relevant and some might not, but that would be for staff to ascertain or determine. Having heard the comments from the residents in the neighborhood, Mr. Schwab is comfortable with staff's recommendation.

Ms. Westine closed her presentation by stating the applicant is not asking for any waivers or variances. The main question on this decision is basically community character. From the original hearing on 4/30/14 through the 6/16/14 community meeting through today staff's recommendation did not change. The only testimony placed in front of the Commission was testimony of a licensed appraiser with an appraisal report entered into evidence as compared to Mr. Gadalla's lay testimony. In addition to the project meeting all the setbacks, one of the requirements is that this parcel is brought up to code to the most extent practical, and one of the things that will be done is adding approximately 81 trees and plants with regard to its buffering. This tower code was developed with the input of residents and the input of the industry. They understood towers are not buildings and, although towers are going to be taller than buildings, there are going to be lower impacts. Criteria was added to the code regarding setbacks and buffers. Florida Statute 365.17 stated any decision-maker can take into account zoning factors, but cannot make a determination of need. The Planning Commission cannot make business practice decisions for the applicant such as determining what level of service is adequate. The Planning Commission is also prevented from making decisions as to who the applicant can contract with. Ms. Westine requested the Commissioners approve this site.

Commissioner Lustberg asked why both carriers cannot put their technology on the other cell towers that were on the map rather than build a new tower. Ms. Jimenez and Mr. Llanes both responded doing that would still leave a gap in coverage. Chair Wiatt addressed Item E, which talks about the scope of work has not been reviewed for compliance with the Florida Building Code. Mr. Ortiz responded that the applicant will need a building permit and they will be assessed for compliance with the Florida Building Code. Commissioner Miller stated the applicant has not demonstrated that they have looked at all of the alternative sites. Commissioner Miller also believes a cell tower does affect property value. Commissioner Miller recommended denial of this application at this location. Commissioner Hale stated, based on what he has heard today, he would recommend approval with staff's recommendations. Commissioner Lustberg commented this application meets the land development criteria and is allowed under the County's rules. Commissioner Lustberg agreed that the analysis of other potential locations was lacking. Commissioner Werling feels there was compelling information on both sides. Chair Wiatt believes this property does seem like a reasonable place to put a tower of that size considering the utility poles situated in this area. Chair Wiatt is also not happy with the other site assessments.

**Motion: Commissioner Hale made a motion for approval with staff's recommendations. Commissioner Werling seconded the motion. The roll was called with the following results: Commissioner Lustberg, Yes; Commissioner Hale, Yes; Commissioner Miller, No; Commissioner Werling, Yes; and Chair Wiatt, Yes. The motion passed four to one.**

**New Items:**

**2.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM RESIDENTIAL LOW (RL) TO COMMERCIAL (COMM), FOR PROPERTY LOCATED AT 95710 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATE MILE MARKER 96, DESCRIBED AS A PARCEL OF LAND LOCATED IN GOVERNMENT LOT 3, SECTION 12, TOWNSHIP 62 SOUTH, RANGE 39 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00088350-000000, AS PROPOSED BY MICRAN, INC.; 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 INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2013-093)

**3.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM SUBURBAN RESIDENTIAL (SR) TO COMMERCIAL 2 (C2), FOR PROPERTY LOCATED AT 95710 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATE MILE MARKER 96, DESCRIBED AS A PARCEL OF LAND LOCATED IN GOVERNMENT LOT 3, SECTION 12, TOWNSHIP 62 SOUTH, RANGE 38 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00088350-000000, AS PROPOSED BY MICRAN, INC.; 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 AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2013-104)

(12:20 p.m.) Ms. Schemper presented the staff report. Ms. Schemper reported that the applicant is requesting both future land use map and zoning map amendments for a piece of property where a restaurant is currently being operated. That commercial use is a lawfully established non-conforming use. Their non-conforming use has been confirmed by a letter of understanding in 2009 and then reiterated in 2012. The applicant is requesting that the property be given a new future land use map designation of commercial from residential low and a new zoning designation of commercial 2 from suburban residential. These zoning and future land use map categories would eliminate the non-conforming use on this property. The potential impact of this rezoning and re-designation would be a decrease in potential residential density to zero dwelling units per acre, no change in the transient residential, which is already at zero, and an increase in

non-residential potential of 3,125 square feet. The increase in non-residential intensity potential brings up Policy 101.4.20, known as the discouragement policy, into play, which would require mitigation. Mitigation in this instance would require the donation of .57 acres of land containing certain types of habitat and it would need to be donated to the County for conservation. The applicant is not in a position to do this. When reviewing the updates to the comp plan there was a proposed amendment that would amend the discouragement policy to specify that only future land use map amendments that increase residential density would be required to mitigate. The BOCC has directed staff to amend Policy 101.4.20 so that the mitigation applies only to increases in residential density. This is not effective yet. The applicant has requested that this proposed FLUM amendment and the associated zoning amendment be processed through the Development Review Committee and Planning Commission and possibly BOCC transmittal so that they are ready to have this adopted at the same time that the amended policy would be adopted. If the amended policy is not adopted, then this FLUM amendment would need to come into compliance with the current requirements of the policy. Ms. Schemper described the property and its surrounding area. Staff believes that this amendment to a commercial FLUM and commercial 2 zoning would be compatible with that surrounding area. Both amendments are consistent with the comp plan and the land development regulations, as well as principles for guiding development and Florida Statutes. Staff recommends approval for both amendments contingent on either compliance with Policy 1014.20 or adoption and approval of amendments to Policy 101.4.20 of the proposed future land use map amendment.

Chair Wiatt asked for public comment. There was none. Public comment was closed.

Mr. Wright advised the Commissioners to make separate motions for the two amendments even though they were considered together.

**Motion: Commissioner Werling made a motion to approve Item 2. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.** Commissioner Miller suggested that small businesses should possibly have a threshold of three to 4,000 feet when considering the non-residential intensity increase in the discouragement policy as opposed to getting rid of it altogether. Ms. Schemper explained that is based on the map amendment, not on an actual development proposal.

**Motion: Commissioner Werling made a motion to approve Item 3. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.**

**4.A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION**  
APPROVING A PRELIMINARY PLAT FOR HABITAT AT MANDALAY, LOCATED ALONG FIRST AVENUE, KEY LARGO, AT APPROXIMATE MILE MARKER 97.5 OF THE OVERSEAS HIGHWAY, BEING A REPLAT OF A PORTION OF BLOCK 3, MANDALAY SUBDIVISION, PLAT BOOK 1, PAGE 194 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA LOCATED WITHIN SECTION 6, TOWNSHIP 62 SOUTH, RANGE 39 EAST, MONROE COUNTY, FLORIDA.  
(File 2013-001-Preliminary Plat)

**5.A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** APPROVING A FINAL PLAT FOR HABITAT AT MANDALAY, LOCATED ALONG FIRST AVENUE, KEY LARGO, AT APPROXIMATE MILE MARKER 97.5 OF THE OVERSEAS HIGHWAY, BEING A REPLAT OF A PORTION OF BLOCK 3, MANDALAY SUBDIVISION, PLAT BOOK 1, PAGE 194 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA LOCATED WITHIN SECTION 6, TOWNSHIP 62 SOUTH, RANGE 39 EAST, MONROE COUNTY, FLORIDA.

(File 2013-001-Final Plat)

(12:34 p.m.) Mr. Ortiz presented the staff report. Mr. Ortiz reported that this is a request for approval for a preliminary and final replat of a previously platted subdivision. The property is .71 acres and they are looking to divide this into seven residential platted lots. Mr. Ortiz recited the history associated with this site. Mr. Ortiz described the zoning designation and community character associated with this site. There are currently two structures under construction, but the applicant still has to apply for and receive three additional building permits to complete the total of seven units on site. Photographs of the site were shown. Staff recommends approval with recommendations. Those recommendations were recited.

Commissioner Miller asked what would happen if the Commission voted no since there are already two homes under construction. Mr. Ortiz explained it would only mean the applicant would not be able to plat the parcel. The houses are not relevant to the platting process.

Chair Wiatt asked for public comment. There was none. Public comment was closed.

**Motion: Commissioner Werling made a motion to approve Item 4. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.**

**Motion: Commissioner Werling made a motion to approve Item 5. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.**

**6.Key Largo Ocean Resort Condominium, 94825 Overseas Highway, Key Largo, mile marker 94.8:** A public hearing concerning a request for a Development Agreement between Monroe County, Florida and Key Largo Ocean Resort Condominium Association, Inc. (KLOR). The requested agreement relates to the development of 285 permanent, market-rate dwelling units, and accessory structures/uses thereto, on the property. No structures will be higher than 35 feet. The subject property is described as a parcel of land in Sections 13 and 14, Township 62 South, Range 38 East, Key Largo, being part Tract 10 and part Tract 11 of Southcliff Estates (Plat Book 2, Page 45), Monroe County, Florida, having real estate numbers 00483401.000100 through 00483401.028500 and 00483402.000000.

(File 2014-040)

(12:41 p.m.) Mr. Coyle presented the staff report. Mr. Coyle started his report by providing the history of this property starting from 1994. Mr. Coyle reported that this development agreement consists of seven changes: It changes all references to the Key Largo Ocean Resort Co-Op to the Key Largo Ocean Resort Condominium Association; it updates the status of improvements to achieve compliance; it increases the marina slips from 65 to 76 on the property; it allows

accessory structures to be demolished and replaced on the property; it allows individual building owners to build their own houses in accordance with the KLOR architectural guidelines and obtain building permits from the County; it creates a date certain of December 31, 2016, that road-ready RVs would be allowed on the property; and finally, it would extend the duration of the original agreement to expire December 31, 2018. Staff recommends approval of the development agreement and is reserving the right to request additional revisions as it moves forward to the BOCC. Mr. Coyle noted that the second required public hearing for this item will be at the BOCC meeting on August 20, 2014 at 3 p.m. at the Murray Nelson Government Center in Key Largo.

Commissioner Lustberg asked what impact changing the number of slips would have on any people in the neighboring area. Mr. Coyle replied that the boat slips on the property are accessory to the houses and would not require any additional parking spaces, thereby having no impact. Mr. Haberman clarified that live-aboards will not be permitted at this marina because Key Largo Ocean Resort is already over density and live-aboards are not allowed in residential canals and water bodies. Mr. Haberman further clarified the existing agreement allows for RVs to be there between the phase where they had to demolish all the existing development and build the new houses. This development agreement is only extending that time frame.

Chair Wiatt asked for public comment.

Stan Nitz, neighbor to this resort, asked who will be in charge of the marina, if anybody. Mr. Nitz would like buoys set out to keep people idle 300 feet out the width of the property. Mr. Nitz asked about the plans for the buoys that people moor to on the south end of the property and if the proposed walkway will be open to the whole property or just the people that own the houses on the walkway.

Jim Saunders, representative for Key Largo Ocean Resort Condominium Association, stated there will be no live-aboards allowed, no overnight stays allowed in the marina, which will be added to the condominium association documents. The KLOR Board wanted to restrict the original development agreement to have a date certain for everybody to have their RVs out. Mr. Saunders informed the Commissioners that they have received approvals for all the utilities, the infrastructure is almost complete, and the demolition that was required was done. The Fire Marshal and the Building Official requested that the existing marina and existing clubhouse be removed rather than trying to refurbish them. The increase to 76 slips at the marina still fits within the same footprint. This project comes under the South Florida Water Management Jurisdiction and, consequently, there is a marina plan as part of that permit. A dockmaster has to be assigned. Mr. Saunder explained the walkway is for the homeowners on the lots only, there is no public walkway. There are no buoys offshore as part of this permit or development agreement for this project.

Chair Wiatt re-opened public comment. Mr. Nitz asked who would be responsible for placing the buoys out 300 feet to keep people from racing along the shoreline. Chair Wiatt explained that is a NOAA Sanctuary regulation that is enforced by FWC.

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

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

**BOARD DISCUSSION**

Commissioner Lustberg asked if there was any information that staff had regarding the waterfront issues that are changing and coming before the Planning Commission. Mr. Schwab stated that will be pursued at the next meeting.

**ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 1:00 p.m.