

PLANNING COMMISSION
November 19, 2014
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, November 19, 2014**, beginning at 10:09 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
Beth Ramsay-Vickrey	Present
Elizabeth Lustberg	Absent
Ron Miller	Present
Denise Werling	Present

STAFF

Townsley Schwab, Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
Pete Morris, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Joe Haberman, Planning & Development Review Manager	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Tiffany Stankiewicz, Development Administrator	Present
Matt Coyle, Senior Planner	Present
Karl Bursa, 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 Mr. 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.

CHANGES TO THE AGENDA

Ms. Creech stated Item 1 will be heard last and Items 2 and 5 will be read and heard together, but voted on separately.

APPROVAL OF MINUTES

Motion: Commissioner Werling made a motion to approve the minutes of the October 29, 2014, meeting. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

2.Oceanside Marina, 5948, 5950 and 5970 Peninsular Avenue, Stock Island, Mile Marker 5; 24930 Overseas Highway, Summerland Key, Mile Marker 25; 21585 Old State Road 4A, Cudjoe Key, Mile Marker 22; and 5176-5180 Suncrest Road, Stock Island, Mile Marker 5:

A request for approval of an Amendment to a Development Agreement between Monroe County, Florida; Summerland Palms Investors, LLC, Coco Palms Developers, LLC, Suncrest Investors, LLC, Singh Investors, LLC, and Oceanside Investors, LLC allowing the transfer of market-rate Residential Rate of Growth (ROGO) exemptions from sender sites at 24930 Overseas Highway, 21585 Old State Road 4A and 5671 MacDonald Avenue to a receiver site at 5950 Peninsula Avenue, in accordance with Monroe County Code Section 130-161.1. On the sender sites, the residential dwelling units in which the transferred market-rate ROGO exemptions are derived shall be converted to, or replaced with, affordable housing units. The Development Agreement also involves the redevelopment of 5948, 5950 and 5970 Peninsular Avenue, the receiver site, for the addition of up to 78 new, market-rate residential dwelling units, which may be used as vacation rentals, up to 17 new hotel rooms, a new restaurant with up to 150 seats, and other improvements related to the existing, partially-condominiumized marina and accessory development. 22 existing, market-rate permanent units (under condominium ownership), a boat barn (under condominium ownership), marina slips (under condominium ownership) and ancillary/accessory buildings would be maintained. An existing boat barn/light industrial building would be demolished. The residential density, under maximum net density, would not exceed 100 total permanent residential units and 17 transient units. Not including accessory structures related to the residential uses, the nonresidential floor area would not exceed 40,000 square feet. Dockage owned by the developer would include 8 new slips, for a total of approximately 16 slips, of which at least 20% (3 slips) shall be reserved for commercial fishing vessels. New residential or nonresidential buildings shall not exceed 35 feet in height. Public access will be provided from 7:00 a.m. until dusk. The Development Agreement concerns properties located at 5948, 5950 and 5970 Peninsular Avenue, Stock Island (legally described as Block 46, Lots 30, 31 and ½ Lot 32, Block 60, portions of Lots 1, 2 and 3, Block 61, portions of Lots 1, 2 and 3, the abandoned portion of Peninsular Avenue lying between Block 46 and Block 60, the abandoned portion of Maloney Avenue lying between Blocks 60 and 61, McDonald's Plat, also described as parcel of land in Sections 26, 34, 35 and 36, Township 67 South and Range 25 East, having real estate #'s 00126210.000000, 00126220.000000, 00126230.000000, 00127420.000000 and 00127420.000100), 24930 Overseas Highway, Summerland Key (legally described as Lot 55 and a portion of Lot 54, Summerland Yacht Harbor, having real estate #'s 00194741.000100, 00194741.000200, 00194741.000300, 00194741.000400, 00194741.000500, 00194741.000600, 00194741.000700, 00194741.000800, 00194741.000900, 00194741.001000, 00194741.001100, 00194741.001200, 00194741.001300, 00194741.001400, 00194741.001500, 00194741.001600, 00194741.001700, 00194741.001800, 0019471.001900, 00194741.002000, 00194741.002100 and 00194741.002200), 21585 Old State Road 4A, Cudjoe Key (legally

described as Lot 30, Sacarma, having real estate #00174960.0000000), and 5176 Suncrest Road, Stock Island (legally described as Lots 27 and 28, Sun Krest, having real estate #00132680.0000000)

(File 2014-112)

5.Oceanside Marina, 5948, 5950 and 5970 Peninsular Avenue, Stock Island, Mile Marker 5:

A request for approval of an amendment to a major conditional use permit in order to redevelop the existing marina by improving the marina's facilities, constructing up to 78 new market rate residential dwelling units, constructing up to 17 new hotel rooms, constructing a new restaurant, and carrying out associated site improvements. The subject property is legally described as Block 46, Lots 30, 31 and ½ Lot 32, Block 60, portions of Lots 1, 2 and 3, Block 61, portions of Lots 1, 2 and 3, the abandoned portion of Peninsular Avenue lying between Block 46 and Block 60, the abandoned portion of Maloney Avenue lying between Blocks 60 and 61, McDonald's Plat, also described as parcel of land in Sections 26, 34, 35 and 36, Township 67 South and Range 25 East, having real estate #'s 00126210.0000000, 00126220.0000000, 00126230.0000000, 00127420.0000000 and 00127420.000100.

(File 2014-133)

(10:13 a.m.) Commissioner Werling disclosed that her husband has done work for Mr. Singh and his son in the past and possibly some in the future, but does not have any financial interest in the vote today. Mr. Wolfe stated there is no conflict.

Mr. Haberman presented the staff report. Mr. Haberman reminded the Commissioners that this item was heard before the Planning Commission in late 2013 and ultimately the development agreement was approved by the BOCC in December of 2013. So although the full list of things that would be permitted was advertised, this hearing addresses the amendment and what it would allow additionally. Mr. Haberman reported that since the initial agreement the applicant has entered into a contract or sale agreement with the County to purchase the Hickory House, which should be finalized at the December meeting of the BOCC. This amendment would include that land area as part of the subject property, as well as an abandoned piece of road that was approved by the BOCC they currently own half of. That additional land area would allow for additional development. The applicant is asking for 17 hotel rooms as opposed to five. The applicant would also like to use the Hickory House added property for some accessory development, including a pool and tiki hut that would be limited to hotel guests and occupants of the condominium only. The public boardwalk will be extended across the abandoned road and up to the Hickory House property. Some minor changes to the building and locations of hotel rooms and permanent vacation rental units are being proposed. Some parties to the development agreement have changed and this amendment will be reflective of the current parties involved in the agreement. The applicant in this instance is asking that the development agreement reflect 12 vested rights that are associated with the Hawks Cay DRI to be allowed to be transferred and built at this proposed development. That is not a ROGO exemption and is reflected in the language of this amendment. Mr. Haberman explained the initial development agreement approved up to five hotel rooms, the conditional use approved four, but the new boundary survey including the additional parcels allows for 17 hotel rooms if approved. The initial application asked for 78 units and the applicant proposed a 79th unit after the advertisement. That will be

reviewed later because that may be able to be approved administratively through a deviation. The Commissioners today will be considering 78 units.

Commissioner Miller asked if ROGOs are needed for the 12 TDRs from Hawks Cay. Mr. Haberman explained the applicant needs TDRs and TREs. The TDRs get them from one density allowance to the next, and the applicant currently has two applications being processed for TDRs. They also need the TREs, which are the actual ROGO units. They have five associated with the site that they have an application in to transfer in. The 12 vested rights they are asking for from Hawks Cay are not considered a transfer of ROGO exemptions. A vested right comes from somebody proposing something before ROGO even existed. It did not really get allocated through

ROGO and it never really existed. It is completely different from TDRs and ROGO exemptions. The old approvals for the Hawks Cay development show that more rooms and bathrooms were contemplated than were ever built. So the applicant is asserting that those are vested rights that they have the rights to. Mr. Haberman further explained the code does not address vested rights because they are more of a legal right than necessarily a planning right. The code does not say that they are transferable or are not transferable. Mr. Williams agreed that the code is silent on that issue, so it does not tie them to a specific location. Mr. Wolfe clarified that other areas of the code have to be looked at to see whether the vested rights can be transferred. Mr. Haberman noted that the applicant could argue the vested rights can be transferred without the development agreement, but the applicant wanted it in the development agreement so it was clear this was their intent. All staff has done at this point is ensured that the units have not been built. Staff verified that 11 units were approved and never built, and the applicant acquired the rights to a 12th from another individual, and staff is anticipating receiving documentation proving that is a legitimate extra bed/bath combination. Then staff determined that if these vested rights were actual ROGO exemptions they would meet the qualifications for a transfer. Mr. Haberman explained in detail for Chair Wiatt exactly how the documentation proves the vested rights for the 11 units, although the documentation does not get into ownership of the rights.

Staff recommended approval with the minor changes noted in the staff report submitted last week. Commissioner Miller pointed out he received the staff report Monday of this week. Mr. Haberman stated the second memo submitted can be disregarded by the Commissioners. Mr. Haberman clarified he is recommending approval with the first memo containing all the conditions and that Condition 1 and Condition 2 have been satisfied with the revised site plan. One new condition relates to the new tiki hut being accessory and limited to the guests of the resort. Another new condition relates to the parking totals on the site plan being incorrect as listed. The applicant has adequate parking to satisfy this proposed development, but the numbers on the site plan do not match staff's numbers and for bookkeeping purposes they need to match up. The traffic study has to be approved, but it is highly unlikely that the minor changes made would affect the findings of the traffic study in a real way. The remaining conditions were already approved as part of the last amendment. Chair Wiatt voiced concern that the agreement could be construed too loosely concerning for-hire vessels versus not-for-hire commercial fishing vessels. Mr. Haberman will review the development agreement of another recent proposed development where this language was tightened up as a reference.

The applicant, Pritam Singh, was sworn in by Mr. Wolfe. Mr. Singh explained he originally had 14 vested rights at Hawks Cay. Three of them were transferred a number of years ago to owners who were going to build additions onto their units at Hawks Cay and one is being sold back to Mr. Singh. Mr. Singh then explained the different entities that encompass Hawk's Cay: The hotel and amenities, two condominium buildings, and Mr. Singh's development. A development of regional impact (DRI) was done in 1986, long before ROGO. Mr. Singh signed an agreement in 1996 to buy and develop the rest of the property other than the hotel and condominium buildings, which he eventually did buy, to build townhouses encompassing 614 bedrooms and 626 bathrooms. Mr. Singh kept track of every single building and every single number of bathrooms and bedrooms. At the end of building there were some extra bedrooms and extra bathrooms left unbuilt. These extra bedrooms and extra bathrooms were in "storage" as vested rights. They were counted in the hurricane evacuation model. Mr. Singh clarified for Chair Wiatt his development at Hawk's Cay consists of villas, not hotel rooms, but every owner is in a rental program and there are restrictions against owners living there.

Chair Wiatt asked about the commercial fishing vessels previously discussed. Mr. Singh stated the intent of the language meant commercial fishing vessels, including both charter fishermen and people commercially fishing for food. Chair Wiatt is concerned the language leaves a potential for limiting it to for-hire commercial charter fishing only. Mr. Singh stressed that is not the intent. Chair Wiatt suggested limiting the number of recreational charter vessels in order to preserve dockage for some percentage of not-for-hire non-recreational commercial vessels. Mr. Singh replied even though he would like to have non-recreational commercial vessels, the marketplace changes all the time and he does not want to have to force that situation with a possible negative outcome. When the property was purchased there were no non-recreational commercial vessels at this property. They were specifically invited to dock on the property, but are now leaving because they do not want to be around a construction site. Chair Wiatt asked about the rental boat scenario previously discussed, to which Mr. Singh replied that would be a disingenuous use of that space and would be happy to clarify the language to alleviate that concern. Commissioner Miller stated that his main concern is to ensure these places are open to the public. Mr. Haberman clarified that, compared to the Long Stock development where the magnitude of dockage is very different, in this case there are a lot of slips, but the developers only control 15 of them. Also in the Long Stock development, the location of the most appropriate spot for commercial not-for-hire vessels was chosen. Mr. Haberman further clarified there is a definition of "commercial fishing" in the code. Chair Wiatt noted that he now sees a big difference between this development and the Long Stock development, which clearly had working waterfront and non-recreational commercial fishing. Mr. Singh described how this area was once the leading sport-fishing marina in the Florida Keys for many years. Mr. Singh again agreed to limit the three slips to charter fishermen.

Chair Wiatt asked for public comment.

Alicia Putney, No Name Key resident, was sworn in by Mr. Wolfe. Ms. Putney pointed out that eight dock spaces, as noted in the staff report, were not lawfully established. Ms. Putney asked, if they are going to be used, to have all of those reserved for the commercial fishermen. Ms. Putney then pointed out that a certain number of square feet supposed to be set aside for the working waterfront was counted in dock walkways. Ms. Putney is concerned that the facilities

for the commercial fishermen will in the future end up being short-term rentals. Ms. Putney distributed the affordable housing incentive program from the code, which she said expresses the County's preference for transfer of ROGO exemptions to single-family lots and parcels with the intent to protect the affordable housing and to reduce the number of IS buildable lots. Ms. Putney then commented that her understanding of vested rights is it is a site-specific determination and asked the County attorneys to comment on the intent of the Code's silence in this regard.

Deb Curlee, Cudjoe Key resident, was sworn in by Mr. Wolfe. Ms. Curlee voiced her concern that little by little the truly affordable housing for service industry people are being taken away and transferred to other places. Ms. Curlee then asked the Commissioners to consider the infrastructure that will be needed to support such a large development.

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

Mr. Haberman addressed Ms. Putney's comments. Mr. Haberman explained that as part of this process all the docks will be permitted, including the eight that were there but never permitted and the seven new ones. They will all get the approvals that they need through the permit process and they will all be lawful. Mr. Haberman then addressed the percentage of land set aside for working waterfront and reminded the commissioners that only applies to the maritime industry district, not the mixed use district. So that percentage of upland required for the last marina development the Planning Commissioner reviewed is not required by the comp plan in this case, although it could be a condition of the agreement. Mr. Haberman then explained that the County defines "multifamily" as an apartment building, which this development is not, so "multifamily" would not have applied in this case. That cannot be changed in this particular development agreement at this point because it is being proposed as an amendment. Staff is looking at ways to change the language to make it more clear and reflect what staff wanted to change as part of the update process of the LDC. This is why single-family attached units were decided on for this project, but it was openly discussed and considered throughout the process. Commissioner Miller pointed out that it says "or multifamily" and discusses the waterfront properties. Mr. Haberman replied this particular marina has not always been commercial working waterfront, but for the most part been a functional marina to store boats. This is the reason a certain percentage did not have to be preserved for working waterfront. In this case they were always zoned mixed use with a mixed use/commercial FLUM. They never had to change their FLUM.

Chair Wiatt is concerned that transferring vested rights for basically vacation rental privately-owned facilities to a hotel room could be used as some sort of precedent in the future. Mr. Haberman pointed out that some of the Hawks Cay development was approved as hotel rooms in a lot of the cases and some may have been approved as vacation rentals. Commissioner Werling stated her belief was that vested rights could not be transferred. Mr. Haberman explained that every vested right is a bit unique. In this case the applicant is asserting that the vested right was given to the individual, not to the site, which is a case-by-case analysis. These vested rights were established by a DRI. Mr. Haberman stated there are not a lot of vested rights out there in terms of ROGO because ROGO was established in 1992, over 20 years ago. Mr. Singh agreed that this is a very unique situation because this was part of a DRI, which is a very complex process.

Approving this amendment would not set a precedent because there are no other DRIs that have any rights left in the county.

Chair Wiatt asked about the three vested rights Mr. Singh previously sold. Mr. Singh explained that they were sold to Hawks Cay, but never utilized. Commissioner Miller voiced his concern that transferring these vested rights moves more development further down the island chain, which affects hurricane evacuation. Mr. Singh pointed out the statistic that the Hawks Cay units were used an average of ten days a year, which makes them effectively transient, and these proposed units are transient. Mr. Haberman clarified for Commissioner Miller that these vested rights are considered an equivalent to a ROGO based on the fact the DRI clearly allowed more bedroom/bath combinations at the Hawks Cay development which were not built and the DRI did not have an expiration date attached to them. The latest approval for that DRI was in the late '90s, which further enforces that they are equivalent to a ROGO because ROGO was created in 1992. Commissioner Werling asked if the allotted units could be used to expand on the Hawks Cay development. Mr. Haberman responded they would have to go through the conditional use process and meet the current code and density. If those vested rights were not able to be used at Hawks Cay, they would have to go through ROGO to get allocations if the moratorium is lifted. They would either have to wait until the moratorium expired or transfer them onto the site from another development. Mr. Singh disagreed with Mr. Haberman's explanation.

Chair Wiatt asked Legal staff to comment on Hawks Cay's rights to these vested rights transferred to Stock Island. Mr. Williams replied staff is confident that the units are there and present, they are not being utilized at this time, and it is the applicant's decision to transfer transient to transient from Hawks Cay south. Nobody has challenged the applicant's ownership of those vested rights as of this point. The DRI was not issued to Hawks Cay, but to Village of Hawks Cay, which is owned by Mr. Singh.

Motion: Commissioner Werling made a motion to approve staff's recommendation to the Board of County Commissioners to adopt the development agreement at the December 10, 2014, BOCC meeting in Key West at 3 p.m. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.

Mr. Wolfe clarified that the presentation as part of the record for Item 2 and all discussion and public comment pertaining to Item 2 are part of the record on Item 5.

Chair Wiatt asked for public comment on Item 5. There was none. Public comment was closed.

A recess was held from 11:45 a.m. to 11:53 a.m.

Mr. Williams clarified that Item 5 is not a recommendation, but a determination for the Commissioners on amending the major conditional use. Chair Wiatt asked that Number 16 recognize that includes both for-hire fishing vessels and not-for-hire commercial fishing vessels. Commissioner Werling asked that Number 3 correct the parking provided in the table.

Motion: Commissioner Werling made a motion to approve Item 5 with the parking correction on Number 3. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

3.A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR JULY 15, 2014, THROUGH OCTOBER 14, 2014, ROGO (1st QUARTER YEAR 23). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. (File 2014-153)

(11:57 a.m.) Ms. Stankiewicz presented the staff report. Ms. Stankiewicz reported that this is the report for residential allocations. Ms. Stankiewicz recommended approval for the Lower Keys market rate Applicants 1 through 14, Big Pine Applicant 1, Upper Keys Applicants 1 through 11. There were no affordable housing applicants. Applicant 2 in the Big Pine Key sub-area is to be deferred as recommended in the report.

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

Ms. Stankiewicz confirmed for Commissioner Miller that all of the Tier I allocations have been made for this year.

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

4.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 101-1, DEFINITIONS; AMENDING MONROE COUNTY CODE SECTION 130-186, MINIMUM YARDS; AMENDING MONROE COUNTY CODE SECTION 130-189, APPLICABILITY OF REQUIRED YARDS; ESTABLISHING SETBACK REQUIREMENTS FOR THE RECREATIONAL VEHICLE (RV) LAND USE DISTRICT; MODIFYING THE SETBACK REQUIREMENTS FOR THE AIRPORT (AD) AND PARK AND REFUGE (PR) LAND USE DISTRICTS; MODIFYING THE SETBACK REQUIREMENTS FOR CORNER LOTS; MODIFYING THE APPLICABILITY OF REQUIRED YARDS FOR ACCESSORY WALKWAYS AND DRIVEWAYS; CLARIFYING THE SETBACK REQUIREMENTS FOR SIDE YARDS; 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 2014-144)

(12:00 p.m.) Mr. Haberman presented the staff report. Mr. Haberman explained that this amendment started because a BOCC member asked staff to look into the corner lot issue because of the number of variances for recurring issues reviewed lately. Staff feels it is imperative to address these sections of the code now as opposed to waiting for the LDR update being finalized in 2016. This ordinance is consistent with what has been done with the comp plan, although the comp plan is not very detailed regarding setbacks and variances to setbacks. Mr. Haberman

stated that in Section 101-1 generally obsolete definitions will be deleted from the code to streamline finding definitions, as well as eliminating possible conflicts. The definition of “double frontage” will be revised to make it more clear what a double frontage lot is. “Setback” provides the clarifying terms currently used. All of the yard definitions will be revised to match what staff is currently doing. Those definitions will be used again in the change to the setback section.

Mr. Haberman reported that Section 130-186, which provides the setbacks themselves, has proposals for quite a few changes. Staff is recommending that setbacks for the Conservation and RV districts be established. The setbacks for Conservation should be the same as Native Area, which is a very similar zoning category. The setbacks for the RV district should be the same as for the SC and Commercial 1 district, which are similar in nature and under the same future land use category. The setback requirements for the Airport district are currently 200 feet. The problem is the County does not have large airports and none of them meet the 200-foot requirement. The Key West Airport and Marathon Airport are under County jurisdiction and both have development within 200 feet of the airports. Staff proposes reducing the setback to 25 feet so that applications can be processed without a variance. Any change at the Key West and Marathon Airports will require deviations on amendments that are conditional uses. The Park and Refuge district has 50-foot setbacks, which makes it impossible to build anything in the smaller parks. Staff is proposing to reduce those setbacks to something more consistent with the SC and Commercial 1 districts. Mr. Haberman pointed out almost all of the parks are under public ownership.

Mr. Haberman then addressed the corner lot setbacks. Mr. Haberman explained that back in 2005 all corner lots had to have two front yard setback requirements in order to eliminate interference with line of sight and community character. This generally affects IS and URM subdivisions, where the average lot width is 40 to 50 feet. Taking out 25 feet on one side and ten or five on the other does not leave enough space to build a functional house that meets Building Code. As a result of that a lot of variances for corner lots have been applied for. Since 2006 over 70 variances for five to ten feet have been reviewed and every single one of them have been approved because they met the code. Consequently staff is recommending creating two front yard setbacks, one being the primary front and the other the secondary front. Whichever way the house is orientated is the primary front, which keeps the 25-foot setback. The secondary front would be ten feet less than the primary front in most zoning categories. Mr. Haberman stated although this is not a perfect solution, it will take care of most situations. Commissioner Werling pointed out that a corner lot on the “T” in the road choosing one side to be the lesser frontage takes away from the ingress and egress to other lots in the “T.” Mr. Haberman stated this is more geared towards the corner lots than the other unique frontage lots. Mr. Haberman suggested that “T” turn-arounds be looked at more closely to consider the impact of this. Chair Wiatt believes this ordinance will really help. Mr. Haberman then explained that how the side yard setbacks are presented in the column as 10/15 should be written as ten and five, splitting out the primary side and secondary side.

Mr. Haberman then reported that the changes to Section 130-189 include explaining how the primary and the secondary front and sides would be applied. Also, this clearly allows driveways. Walkways and other things below six inches in height will be expressly allowed in side yard

setbacks up to the property line, or close to the property line. Commissioner Miller questioned how the 60 percent number was decided on in the side yard setback. Mr. Haberman explained the 60 percent is currently used for rear yard setbacks. This is to ensure there are pockets of open space. The 60 percent is probably arbitrary and could possibly be changed to a higher number if the Commission wants that. Commissioner Miller noted the 60 percent would be a problem in URM where there is a five-foot setback. Mr. Haberman agreed and then proposed the percentage requirement can be removed altogether in side yards to make it easier for staff to review the permit. Mr. Haberman also believes changing it to 80 percent would take care of the problem in most cases. Commissioner Miller agreed with 80 percent for side yards specifically in URM. Discussion was had regarding the history of how and why the previous changes were made years ago.

Commissioner Miller asked that shoreline setbacks of ten feet be reconsidered for a possible change back to 20 feet. Mr. Haberman explained today's ordinance was specifically advertised for non-shoreline, but a subsequent amendment can be processed to address shoreline setbacks. Commissioner Miller then stated he would prefer going into the 20-foot setback only for balconies instead of walls so as not to obstruct water views. Mr. Williams emphasized a right to a view does not exist in the State of Florida. Mr. Haberman commented that specific section can be reviewed during the update to the LDRs. Commissioner Miller then asked why the rear yard setback for Sparsely Settled is less than the IS lots. Mr. Haberman replied that he did not want to make things more restrictive as part of this amendment. Mr. Haberman noted that Sparsely Settled is a very rare zoning district and the density is unique, also. Mr. Haberman then explained the setbacks for all the other districts have been reorganized to be alphabetical so they are easier to find.

Chair Wiatt asked for public comment.

Joe Grobarek, Key Haven resident, was sworn in by Mr. Wolfe. Mr. Grobarek stated his side yard is 50 feet long and between 20 and 25 feet wide. The current setbacks make it impossible to do anything without a variance and makes that part of the parcel useless.

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

Motion: Commissioner Miller made a motion to accept the changes recommended by staff and allow for occupying no more than 80 percent of the side yard as opposed to 60 percent. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

A brief recess was held from 12:40 p.m. to 12:43 p.m.

1.Grobarek Residence, 2 Cypress Terrace, Raccoon Key (aka Key Haven), mile marker 5:

A public hearing concerning a request for a Variance of 20 feet to the required 25-foot front yard non-shoreline setback which is adjacent to the Cypress Terrace right-of-way. Approval would result in a setback of 5 feet. The requested variance is required for the development of a proposed accessory tiki hut. The subject property is legally described as Block 3, Lot 21, Key

Haven 8th Addition subdivision (Plat Book 5, Page 61), Raccoon Key, Monroe County, Florida, having real estate number 00138970.000000.
(File 2014-078)

(12:43 p.m.) Mr. Wolfe announced that the applicant is asking for a continuance to the January 28, 2015, Planning Commission meeting, which will be after the BOCC meeting where this proposed ordinance in Item 4 will be voted on.

Motion: Commissioner Werling made a motion to grant the continuance of Item 1 to the January 28, 2015, Planning Commission meeting. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

BOARD DISCUSSION

Mr. Wolfe stated staff prefers to look at the calendar to determine when a new chairman and Vice Chair need to be elected. Staff also prefers to elect a Vice Chair when a full Planning Commission will be present. Mr. Williams pointed out how important it will be that Chair Wiatt is present at the next meeting since there is currently no Vice Chair. Chair Wiatt assured staff he would be present at the next meeting.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 12:47 p.m.