

PLANNING COMMISSION
February 26, 2018
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Monday, February 26, 2018**, beginning at 10:14 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT

Mr. Wolfe announced that with only four Planning Commissioners present, most items would need three affirmative votes. Applicants have the right to request a continuance when there is not a full board. There were no requests for a continuance.

ROLL CALL by Ilze Aguila

PLANNING COMMISSION MEMBERS

Denise Werling	Present
William Wiatt, Chair	Present
Teri Johnston	Absent
Ron Miller	Present
Beth Ramsay-Vickrey	Present

STAFF

Steve Williams, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Kevin Bond, Acting Assistant Planning Director & Development Review Manager	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Tiffany Stankiewicz, Development Administrator	Present
Janene Sclafani, Sr. Planner	Present
Ilze Aguila, Sr. Planning Commission Coordinator	Present

COUNTY RESOLUTION 131-92 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

Ms. Aguila confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff members were sworn in by Mr. Wolfe.

CHANGES TO THE AGENDA

Ms. Ilze Aguila reported that Agenda Item 4 had requested a continuance to the April 25, 2018 Planning Commission Meeting.

Motion: Commissioner Miller made a motion to approve the continuance. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

APPROVAL OF MINUTES

Motion: Commissioner Ramsay-Vickrey made a motion to approve the January 31, 2018, meeting minutes. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

1. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR JULY 13, 2017, THROUGH JANUARY 12, 2018, ROGO (Quarters 1 and 2, Year 26). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. (2017-140)

(10:17 a.m.) Ms. Tiffany Stankiewicz, Development Administrator, presented the staff report for the residential dwelling unit allocations, market rate. The Planning Department recommended approval of the following market rate allocations: Lower Keys applicants ranked 1 through 28; Big Pine applicants ranked 1 through 4, subject to mitigation availability at the time of permitting; and Upper Keys applicants ranked 1 through 30. There were no affordable housing applicants.

Chair Werling asked for public comment. There was none. Public comment was closed. There were no comments by the Commission.

Motion: Commissioner Miller made a motion to approve. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

2. FINKEY HOLDINGS, LLC OFFICE-RESIDENCE, 103301 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 103.3 OCEAN SIDE: A PUBLIC HEARING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT FOR THE PROPOSED REDEVELOPMENT, SUBSTANTIAL IMPROVEMENT OR REESTABLISHMENT OF THE EXISTING NONCONFORMING OFFICE USE IN THE IMPROVED SUBDIVISION (IS) LAND USE (ZONING) DISTRICT PURSUANT TO SECTION 130-83(E)(1) OF THE MONROE COUNTY LAND DEVELOPMENT CODE. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS LOTS 17 AND 18, BLOCK 12, LARGO SOUND PARK (PLAT BOOK 3, PAGE 111), MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00472800-000000 AND 00472810-000000. (FILE 2016-200)

(10:18 a.m.) Mr. Kevin Bond presented the staff report and a slide presentation. Commissioner Miller asked if there was an affidavit and photograph of the posting in the backup documents. Ms. Aguila responded that it could be found in the packet. Mr. Bond explained that this item was for a Major Conditional Use Permit for an office and residence project located near Mile Marker 103 on the ocean side of U.S. 1 in Key Largo, adding that the agent, Krissy Lynn, and the architect for the project were also present today. The proposal involves the renovation of the existing building which had originally been a dance studio back in the eighties, had evolved over time and was last a bail bonds building prior to it being used for medical office functions on the top floor.

Mr. Bond explained that the reason this project was in front of the Commission is because the property, located in the Improved Subdivision District, no longer allows new office uses to be established, but does allow redevelopment of existing nonconforming office uses with a Major Conditional Use Permit, assuming it meets certain criteria. This proposal would renovate the building, enclosing the first floor for the medical office, and the second floor would be converted to a residential unit. The proposal includes eight off-street parking spaces, one reduced-size loading space, and an egress driveway to the unimproved rear alley which the applicant would pave, assuming they get a County permit to do so. Mr. Bond then showed that the project location was across from Pink Plaza on U.S. 1 in Key Largo, noting that the area fronting U.S. 1 on the ocean side was all within the IS District. Mr. Bond elaborated that there are a lot of old commercial uses that were established under the pre '86 code that are still located in the IS District in this area. A closer view was presented showing the property and the unimproved 15-foot alley on the right-hand side of the property outlined in yellow on the slide. The site plan indicated that the ingress would be from Marlin Avenue onto the property, there would be a row of parallel spaces to the left and some 90-degree parking spaces towards the north end of the property. Traffic would exit onto the alley and then back out onto Marlin Avenue. A small portion of the building would be removed on one side to bring the property more into compliance with setbacks, but for the most part, the building footprint would remain the same. A garbage enclosure would be added to the front right corner of the building. The proposed landscape plan had been reviewed and was found compliant with the landscaping standards having all required buffer yards and parking lot landscaping. A diagram was presented to show what the finished building would look like, along with the front and rear elevations of the building.

Mr. Bond stated staff found that the proposal meets the criteria for Major Conditional Use approval and is recommending approval with the conditions outlined in the memo. There were no conditions to highlight other than the approval of the modified loading space, everything else being standard. Mr. Bond indicated he was available for questions.

Commissioner Miller asked if this property required a ROGO for the upstairs residential unit. Mr. Bond responded it would require one ROGO allocation for the new unit and that was all that would be allowed.

Chair Werling asked if there were any other questions. There were none. Chair Werling asked if the applicant would like to speak. Mr. Erik Myers indicated he did not need to but would be available for questions. Chair Werling then asked for public comment.

Mr. Ed Handte of Key Largo, after being sworn in, explained that he had owned the commercial property one block north of this building since 1980. This subdivision, when originally platted, was deed restricted for residential use only. At the time of the first land use zoning it had been re-zoned on the highway to BU-1 which was light business. The new land use plan recognized that this subdivision had been deed restricted for single-family residences only, with the caveat that you could have boarding houses on the lots on the highway. Since that time, these properties had gone up and originally had a wood fence behind them, now disintegrated, to protect the residential from the commercial. To now put this alley by the residential properties would cause a noise problem. The alleyway had originally been for utilities, had never been used, and served as a buffer between the residential and commercial uses. One block north a man named Brucado (phonetic) had used the alley in violation of County Code, and the County had allowed him to have double-doors in the rear which he had turned into a loading ramp. This was after the implementation of the new land use plan and has caused a contentious situation for him because he owns both the commercial on the highway and the residential property behind it. Mr. Handte is concerned this project will add to the traffic going up and down the alley to the detriment of the residential uses behind it. As to the addition of the residence, Mr. Handte then asked whether the property owner would lose the right for a residence because they have unified the title between Lots 17 and 18. At one time, Lot 17 had a sign on it advertising for the bail bonds, but that it had been damaged and removed. Lot 17 was also used for parking. Mr. Handte questioned whether this lot could still have a residential use on it.

Commissioner Miller noted the density was limited to one and that the notes show that one of the two lots is developed with a nonconforming office use which would make that lot's allocated density unavailable. Mr. Bond added that he was unaware of the two lots having a unity of title, but whether it did or did not, would not affect the status of the ROGO density. Mr. Handte indicated he was not satisfied with that answer as given by County personnel and believed a declaratory judgment from a judge would be needed. Mr. Handte continued that paving the alley for vehicles to run up and down it on the opposing side of the buffer zone left the residential lot with no buffer.

Commissioner Wiatt commented that the diagram appeared to show that about 50 feet of the alley, at most, would be used, and that the residential property was in a pie shape but he did not think the alley use would be pushed back into that heavy angle. Mr. Handte interjected that any contentious relationships could be eliminated by not having an alley paved and just utilizing the 20 feet of setbacks in the rear, leaving the alleyway as the buffer. Commissioner Wiatt and Mr. Handte continued discussing the setbacks, the alley and the landscape buffer. Mr. Handte feared allowing this use of the alleyway would set precedent and other property owners would want to use the alleyway in the future. Commissioner Wiatt asked for staff input as to the alley and Mr. Handte insisted he had been on the property since 1980 whereas staff had not. Mr. Bond explained that the alley was 15 feet wide and was County property, so anyone wanting to use the alley in the future would also need a County right-of-way permit.

Commissioner Miller asked if that meant that the Planning Commission was not approving the use of the alleyway and that this would be done via a separate permit. Mr. Bond confirmed that

was correct. Commissioner Wiatt noted that without the right-of-way permit, the traffic flow pattern and parking would likely not work for this project. Mr. Bond confirmed that to be correct, explaining that if the right-of-way permit were not issued, the applicant would be required to go back to the drawing board. Commissioner Miller expressed that he believed the buffer would be better located in the right-of-way between the alley and the residential property and asked whether that 15 feet could be split using half or part of it for the buffer. Both Mr. Wolfe and Mr. Williams explained that the property was platted that way and it could not be changed without a re-platting. Commissioner Ramsay-Vickrey asked for the aerial photograph to be put back up to get a good visual of the property and the neighbor behind it.

Mr. Erik Myers, on behalf of the applicant, addressed the questions that had arisen. He explained that the alleyway would not be paved with asphalt, but would be graveled. The applicant had held a community outreach meeting where the local residents were allowed to come and discuss the project and there were no complaints by any of the adjacent residents. Mr. Bond had also been in attendance at that meeting. The applicant had expressed that if the adjacent resident wanted to add a buffer on their property, the applicant would willingly assist with providing them landscaping on their property and would work with them. Mr. Myers indicated that as the Board had said earlier, the only way to make this project work was with the use of the alley. Mr. Myers added that the alley currently exists with overgrowth though much had been thinned out from the recent hurricane. Commissioner Miller reiterated that he felt the buffer was being moved and put between the parking and the alleyway rather than between the commercial and residential entities. Mr. Myers explained that they had worked within the limits they were allowed. Mr. Bond added that the County could not require the adjacent property owner to add a landscape buffer. Commissioner Wiatt, referencing the landscape plan, understood the dilemma but stated that this was the only way the adjacent property owner would at least have some buffer. Commissioner Wiatt inquired of staff to confirm that the owner of Lot 19 had been notified and asked if they had responded either positively or negatively. Both Mr. Bond and Mr. Myers indicated they had not. Commissioner Wiatt believed if the adjacent property owner had been concerned about a handful of cars going up and down the alley, then they would have stepped forward and made those concerns known. Without that, he did not see a whole lot of impact on Lot 19. Commissioner Ramsay-Vickrey agreed.

Mr. Handte reiterated his concerns, adding that the access could be put within the 20-foot setback leaving the alleyway as the buffer. Additionally, Mr. Handte noted that the garbage trucks would have a hard time making the turn into the commercial property and that the cars would likely be parking in the easements. The fact that there is not a requirement for a buffer between IS-zoned properties would be fine providing commercial entities were not allowed on IS lots. Mr. Handte continued that the precedent of allowing the alley at one end could result in, one day, the alley becoming a total alley through to the other end. Commissioner Wiatt noted that it was probably originally designed for that and it was much better than adding another exit point directly onto U.S. 1. Mr. Handte added that the reason for having land use planning was to prevent things from happening “down the road.” Commissioner Miller agreed. Chair Werling reminded Mr. Handte there were other members of the public waiting to speak.

Ms. Dottie Moses of Key Largo, after being sworn in, stated that it was interesting that there was no unity of title on these two lots and thought it should be required. Otherwise, if the lot were sold “down the road” then somebody could come along and try and put a house there. Ms. Moses also asked if the entire 15 foot width of the alley was going to be used. Mr. Bond responded that the entire 15 foot would be graveled and used. Ms. Moses indicated she was not opposed to this project but had been curious as to why the two lots were not combined.

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

Chair Werling stated that with Lots 14, 15 and 16 all having highway access, she could not foresee those properties availing themselves of the alley in back. Mr. Bond interjected that if they ever wanted to, they would need to request a County right-of-way permit just like this applicant was doing. Commissioner Miller reiterated that the alleyway was not within the Board’s purview. Mr. Wolfe wanted the Commission to note that the right-of-way permit was a condition of this project going forward. Commissioner Wiatt believed this proposal did provide some buffer to the adjacent property owner who had not objected to this project. Commissioner Ramsay-Vickrey agreed with Commissioner Wiatt, adding that if Lot 19 hadn’t objected, the Commission should not be objecting for them.

Motion: Commissioner Wiatt made a motion to approve. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. Motion passed unanimously.

3. QUARRY PARTNERS, LLC, VACANT LAND, BIG COPPITT KEY, MILE MARKER 9.5 GULF SIDE: A PUBLIC HEARING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT FOR THE PROPOSED DEVELOPMENT OF 208 ATTACHED RESIDENTIAL DWELLING UNITS DESIGNATED AS AFFORDABLE HOUSING UNITS. THE SUBJECT PROPERTY IS DESCRIBED AS A PARCEL OF LAND IN SECTION 21, TOWNSHIP 67 SOUTH, RANGE 26 EAST, BIG COPPITT KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00120940-000100, 00120940-000201 AND 00120940-000302.
(FILE 2017-083)

(11:05 a.m.) Mr. Kevin Bond presented the staff report. This is the Conditional Use Permit application for the Quarry Partners affordable housing project on Big Coppitt Key, located at Mile Marker 9.5 gulf side. The 208 attached residential dwelling units will be designated as affordable housing and when finished, the density will be 17.3 units per buildable acre using maximum net density. The proposal includes 474 off-street parking spaces, a clubhouse and pool. There are designated wetland and conservation areas, and the project did need to get approval of the ingress and egress between the property and U.S. 1 which is addressed primarily in the associated Development Agreement. The property is officially part of Big Coppitt Key but is actually in between Big Coppitt and Rockland Keys. This Development Agreement was reviewed in December and was approved by the BOCC this past month. As part of that approval there were some slight tweaks to the number of units and the different income levels. The table shows the approved income levels which is broken into the first 50 years of increased affordability numbers consisting of 73 very low and low income units and 21 median income

units. The remaining 49 years would go back to the affordable levels as outlined in the ROGO reservation approved by the BOCC.

The ingress and egress approved in the Development Agreement was the Rockland access route so with this plan, there is no access through Big Coppitt Key as that would not have met the level of service standards for Big Coppitt and the County roads. The agreement has a two-pronged approach. The developer intends to obtain the access running south, parallel to Calle Dos, on a private easement. The developer is trying to obtain an additional easement to another private property that fronts on U.S. 1 so that access to the property would be directly provided to U.S. 1 without the use of any County right-of-way. Per the Development Agreement, this access will be dedicated to the County as a public road and it would be required to be built to County standards. This will be contingent on getting FDOT permits and the easement from the private property owner. In the event that does not happen, an access is approved to Calle Uno and Calle Dos, which would necessitate the developer creating separate right and left-turn lanes from Calle Uno onto U.S. 1, which is Plan B. There is no ingress and egress along the utility easement. Mr. Bond presented diagrams for both options. Staff is recommending approval with conditions and Mr. Bond highlighted some of those conditions and some minor corrections.

Commissioner Miller asked for clarification as to when condition one would be in effect. Mr. Bond explained that it would be in effect as soon as it is signed. Mr. Wolfe clarified that it has already been approved by the County and they are waiting for approval by the State. Commissioner Miller asked for the meaning of the word “effective.” Mr. Wolfe explained that it’s already been through the whole approval process and has been signed. Prior to the County rendering it to the Department of Economic Opportunity to see if the State wants to appeal, it needs to be recorded. Once the recorded copy is submitted to the DEO, they have 30 days to appeal. If they don’t appeal, then it becomes effective. Commissioner Miller wanted to make sure that it was okay for the Planning Commission to vote on this if the documents say it will be in effect before a Major Conditional Use can be approved. Mr. Wolfe stated that in his opinion, this was a poor choice of words and suggested putting a period after the word “effective” in that condition, to which Mr. Bond agreed that it would be okay to do so.

Mr. Bond continued, Conditions 2, 3, 4 and 5 were minor plan corrections. Conditions 6, 7 and 8 had some changes to timing as to when different things were needed prior to issuance of the first Certificate of Occupancy. Condition 6 refers to the access road which is being built, regardless of whether going through Calle Dos or the direct connection. Condition 7 refers to creating separate left and right turn lanes if the direct connection through the easement is not received in time. Condition 8 refers to the direct connection and the timing of when certain things would be needed on the County’s side. One of those the changes had to do with making sure if they have the approval to build the direct connection but it’s not finished, which would require the Calle Uno and Dos turn lanes be finished prior to the first CO being issued. Mr. Bond concluded stating that the remaining conditions were fairly typical and that he was available for questions. There were no questions at this point.

Mr. Bart Smith then spoke on behalf of the applicant and presented a 3D depiction of the development, summarizing that the project consists of 208 units of workforce housing with 56 one-bedroom units, 128 two-bedroom units and the remainder would be three-bedroom units.

The breakdown during the first 50-year period will be 11 very low, which is 25 percent of the median income. For example, a two-bedroom, 1000 square-foot unit at very low will rent for \$512. The 62 low units will be at 60 percent of the County's low level income and would rent for \$1,550 for that same unit. There will be 21 median units and 114 moderate units. The project consists of nine uniform buildings with 24 units each with a mix of one, two and three bedrooms. Access will be through U.S. 1. The policy in question is 107.1.6 which states that a Development Agreement shall be required as part of any development. This Development Agreement was approved and by the BOCC in January. It needs to be recorded and sent to DEO. If DEO does not appeal it, it will then be effective. It is not a condition precedent to the Conditional Use approval but both of these things must be accomplished in order for the development to proceed forward and for a building permit to be obtained.

Commissioner Miller stated that his point was if DEO says, no, you have to do this, that and the other, would the Major Conditional Use need to be redone. Mr. Wolfe stated it would not if the issues were worked out. If it's not effective, then the Conditional Use would die. Commissioner Miller felt it made sense that if there were changes, the Planning Commission should know them. Mr. Smith stated there are certain aspects of the Development Agreement that are within the purview of DEO such as density, intensity, access, level of service and things of that nature. There are a lot of things in the Development Agreement that do not relate to the Planning Commission functions having to do with allocation of funds for building roadways. Realistically, as both of these will be in front of the DEO at the same time, if there is an issue with one which is a land development control, it would be the same issue with both, and both would need to be resolved with DEO prior to them both being effective. Mr. Wolfe added that the BOCC would have to approve any changes to the Development Agreement. Mr. Smith indicated he was available for questions.

Chair Werling asked for Mr. Smith to go over the dollar amounts for the different income levels. Mr. Smith had the figures for the low and very low. The 11 very low are \$512 per unit. There are 62 low but they are actually at 60 percent, not 80 percent, of AMI. The actual number is \$1,554. There are 21 at median which is approximately \$2,100 per month on a two-two. A three bedroom would be more and a one bedroom would be less. The 114 moderate are just under \$2,500 per month for a two-two. Commissioner Miller asked about affordable housing going into the Velocity Zone. Mr. Smith stated this had been contemplated a long time ago. The County's Comp Plan policies do discourage affordable development in VE Zones but the justification is because the affordable ROGOs are in a non-competitive system. To address that, the Development Agreement does not provide that the ROGOs are utilized for the two buildings in the VE Zone. Attachment 4, which is the executed Development Agreement, page 2 of 15 under paragraph H indicates that what was utilized was the City of Key West affordable housing units and refers to Exhibit A. For today, the allocation of ROGOs is not part of the Conditional Use approval as they have already been allocated. Commissioner Miller asked why the County Code does not apply. Mr. Williams responded that today's hearing is for a Conditional Use and not the Development Agreement as approved by the BOCC at their last meeting which incorporated these buildings at these locations. Secondly, these are the ROGOs provided by the City of Key West and are being utilized under the rules provided by the City and have been incorporated into the Development Agreement. Commissioner Miller believes they are being used illegally when looking at the Land Development Code at 139.1(F)(9)(G), the last sentence,

“All allocations made available to a jurisdiction must meet the applicable affordable housing requirements of the receiving jurisdiction’s Land Development Regulations and affordable housing ordinances.” Mr. Smith stated that applied when the County allocates ROGOs to either the City of Marathon or the Village. Commissioner Miller disagreed. Mr. Smith explained that the entire paragraph needs to be read as it’s the Florida Keys Area of Critical Concern. Commissioner Miller then read the entire paragraph. Mr. Smith then pointed out that this had been a 380 Agreement, not an interlocal agreement. Commissioner Miller asked if these are special ROGOs that can go in a VE Zone. Mr. Smith responded that that’s exactly what had happened and that the State had already signed off on this 380 Agreement. Mr. Smith did not understand why this already-approved agreement was being brought up at this meeting. Commissioner Miller stated that he just now had become aware of what happened here and referred to it as “a nice piece of work.”

Commissioner Wiatt commented that building affordable housing in a VE Zone had been a topic with the Affordable Housing Committee and that most of the members felt given the new building requirements in Monroe County of 180 mph wind loads, there was no viable reason not to build affordable housing in a VE Zone. Commissioner Miller asked if this was since Hurricane Irma. Commissioner Wiatt responded that it was not, but the reason those strict building requirements were in place was so they could withstand Hurricane Irma and he has seen that structures completed under the new building code had fared very well in Irma and his opinion has not changed much since Hurricane Irma. Additionally, the new V-Zone maps are coming soon and this will be even more of an issue for construction of affordable housing, which is why the County has these building codes. He doesn’t see much difference.

Chair Werling asked about the AICUZ. Mr. Smith responded that all of the buildings are in the 65 to 69 which is where residential is permitted, and these buildings are sound attenuated to the 25 db level. They will all be concrete block construction with impact windows which is over a 35 decibel reduction. Chair Werling stated that is what she lives in and she can still hear the planes. Mr. Smith agreed there is no question that jets flying overhead can be heard. There were no further questions.

Chair Werling then asked for public comment.

Ms. Jan Edelstein of Cudjoe Key was sworn in and stated that for the Commission to grant this Conditional Use permit, the project must be found to be consistent with the community character and that the design would minimize the adverse effects of the proposed use including visual impacts. Staff has recommended that there be additional requirements to minimize any artificial light trespass onto adjacent properties, but no such requirements are included in the draft permit and it relies only on the outdoor lighting code. Ms. Edelstein gave a power point presentation to show how and why the County’s lighting ordinance is not sufficient. It is possible that Quarry Partners will present a lighting plan that is appropriate for this rural, residential neighborhood but it hasn’t been produced yet and they may offer a plan that achieves the maximum lighting allowed. If the BOCC ends up approving this Conditional Use permit as proposed today they will have lost the authority to say “no” to too much lighting.

Ms. Edelstein continued, there are well-documented modern lighting design specifications that can be added to protect the residents and neighbors without reinventing the wheel. The Illuminating Engineering Society in collaboration with the International Dark Sky Association spent seven years developing a detailed model exterior lighting ordinance providing specific guidance which could be used here. The IES is the national standard-setting body for lighting engineers. Also, the U.S. Green Building Counsel has an energy and environmental design program which somewhat follows the model lighting code but goes even further in restricting lighting, along with the FWC's responsible lighting practices. Ms. Edelstein stated she had some specific suggestions and presented photographs of two local examples; Little Torch Cottages on Little Torch Key with Kiki's Sandbar Restaurant next door, and the Sea Base Camp on Summerland showing how they are lit up at night indicating Sea Base had unnecessary lighting. Ms. Edelstein also presented photographs of the newly-renovated Winn Dixie on Big Pine Key to demonstrate what is allowed by the lighting code. Ms. Edelstein explained that Dark Skies is not about dark but rather putting light on the ground when you need it rather than 35 feet above or shining into space. Nesting turtles need to be protected from bright lights and there are also adverse impacts of glare on older drivers and of light pollution on human health causing a risk factor in obesity, depression, and breast and prostate cancers.

Ms. Edelstein then discussed the lighting codes. A one-size lighting code works for dense hotel development and rural residential or lighting zones can be used based on the type of lighting environments that the jurisdiction seeks to achieve. She presented a chart with five model codes which are more restrictive and gave multiple examples. A chart was presented comparing the recommended maximum illumination levels from the County's ordinance and from the model ordinance standard to show the difference between one-size-fits-all and something tailored to this use, and then presented more photographic examples. The FWC responsible lighting practices require keeping the lighting low, shielded, with a longer wave length for all wildlife, even though this area does not have nesting turtles.

Commissioner Miller asked what she was proposing for this development. Ms. Edelstein suggested the Conditional Use permit require the plan to adhere to the Illuminating Engineering Society's Model Code for Lighting Zone 1. Table C has numbers associated with maximum allowable backlight, up-lighting and glare, and use the maximum illumination at the point on the perimeter they recommend of .1 foot candle and that it will also conform to FWC practices.

Commissioner Wiatt asked if there was anything in the Lighting Zone 1 requirements that would conflict with the current code. Mr. Edelstein indicated it would not. Commissioner Wiatt asked staff if they agreed with that answer. Mr. Bond indicated he had not seen it so he could not answer that question.

Ms. Edelstein continued that she had also noticed in meeting the direction of the Commission that there was to be no vehicular access into the adjoining neighborhood and that the plans had a fence running the length of the property. She assumes the segregation of pedestrians and bicycles from the Big Coppitt Park was unintentional and she wanted to bring that to the their attention. Ms. Edelstein also indicated that the developer would be amenable to putting in a pedestrian access between the two as there is a park, a church and a mini-mart all nearby. Chair Werling stated that she did not believe there would be any problem with that.

Ms. Dottie Moses of Key Largo stated that while it's important to provide affordable housing for the community, the Comp Plan and LDRs should be followed when doing so. She is not opposed to this development but has two concerns which were not addressed in the backup, though some were discussed. The letter of map revision for FEMA shows that Buildings 8 and 9 would be in a V Zone. The flood zones on the property were changed, but the letter of map revision for FEMA which revised the flood maps for the property still show a section with VE-12 and VE-14 flood zones and there are 40 affordable housing ROGO units in those zones. According to the site plans, Building 8 will have 24 units in VE-12, and Building 9 will have 16 units in VE-17. Policy 601.1.5 of the Monroe County Comp Plan states that if Monroe County funding is to be used for an affordable housing project, sites located within a V Zone, an offshore island or within a CBRS unit shall be avoided. In LDR Section 138.24(C)(3) states no affordable housing allocation shall be awarded to applicants located in a V Zone. So the County is contributing \$950,000 toward construction of the road, another \$615,000-plus to the permits, and \$936,000 towards wastewater capacity reservation fees which equates to over \$2.5 million in Monroe County funding in apparent violation of our Comp Plan. She has found nothing in the backup to address this. It has been suggested that because these buildings that are in a V Zone were awarded to a Key West ROGO allocation by way of a 380 Agreement, they are somehow exempt from County regulations, but Section 139-1 does say that the housing requirements of the receiving jurisdiction's LDRs and affordable housing ordinances must be maintained. Ms. Moses does not agree that the Key West ROGOs somehow get a pass on the County regulations.

Ms. Moses' second concern is that this property appears to be in a Coastal Barrier Resource System unit, and she presented a map showing property lines and boundaries of the CBRS and the Refuge. Commissioner Ramsay-Vickrey interjected that the CBRS is marked in red on these maps and that she has spent a great deal of time looking up CBRS areas online and does not recall this being in a CBRS area. Using Google Earth with the CBRS overlay will show in red. Ms. Moses stated the map she was presenting came from the FEMA letter. Commissioner Ramsay-Vickrey indicated she was quite sure these buildings were not in the CBRS. Ms. Moses stated that there was nothing in the backup indicating a determination having been made as to whether they were or were not in the CBRS. Ms. Moses cited Objective 102.7 in the Code and Policies 102.7.2 and 102.7.5. Commissioner Ramsay-Vickrey stated that even if the two buildings were on CBRS areas, which she does not believe they are, the rest of the property most certainly is not. Ms. Moses clarified that it was only this area of the project she was speaking on. Ms. Moses insisted that the purpose of the Federal CBRS Act was to discourage further development in certain undeveloped portions of coastal barriers, and to limit new federal expenditures and financial assistance, including flood insurance. Going back, 601.1.5 also says Monroe County funding cannot be used for any affordable housing project within a V Zone or CBRS. Ms. Moses asked the Commission and staff to consider her concerns as the Planning Commission has final authority over the site plan.

Commissioner Miller asked where Ms. Moses was reading from. Ms. Moses said it was Section L of the Development Agreement. She emphatically disagreed that Key West ROGOs should be allowed to not follow the Monroe County Comp Plan.

Mr. Bill Hunter of Sugarloaf Key was sworn in and stated that it was a pleasure to be in front of the Commission in support of an affordable housing project which is close to an employment center. Though there are still details to be worked out such as traffic, wherever density is put where it didn't exist before, there is a burden on the roadway infrastructure. The ingress and egress for this project has been an issue since the beginning and has been changed all the way up until today. His concern is that as this evolved, there has been concern about vehicles coming out at Bobolu's through Big Coppitt which is a dangerous intersection during the rush hour. His understanding was that the ingress and egress would be along Calle Dos, but the staff report indicates a lack of specificity as to how the ingress and egress is going to work and refers to the Development Agreement, which refers to the site plan, which refers to an easement. The easement is really an operating agreement which contemplates a north road and a south road. The south road is the road everyone thinks this project will use, but it also envisions a road going into Big Coppitt. Mr. Hunter is asking for the MCU to include a condition that the road into Big Coppitt will not be built as the people of Big Coppitt believe and are expecting that that road will not be built.

Ms. Joyce Newman of Big Pine was sworn in, and agreed that affordable housing is extremely important in the Lower Keys, especially after Hurricane Irma. However, she believes this MCU application remains incomplete, despite the fact that the project has been in the pipeline since 2016. Ms. Newman asked for this item to be continued to the March meeting as too many conditions are unresolved. There are incomplete elements relating to access to U.S. 1, traffic, and the location in the CBRS and V Zones. Additionally, there are many inconsistencies in the data relating to numbers of units in very low and low. Ms. Newman has personal concerns about using Calle Uno for access as it is too close to the Big Coppitt Bridge and cannot accommodate the increased traffic. The tentative approval given the applicant gives them a choice of using Calle Uno possibly in perpetuity, or they have the option of acquiring additional property to the west for a new north-south access road. The latter option should be a requirement to lessen danger both to the new residents of that area and those that presently make that trip. Ms. Newman believes that no federal money can be used within a CBRS for development, whether affordable housing or otherwise.

Commissioner Ramsay-Vickrey interjected that new federal funds are restricted, not prohibited, in CBRS areas, which is different. Ms. Newman thanked her for the clarification. Ms. Newman understands that this development will be relying on subsidies from federal funds. She is also concerned that the manager of record in the documentation is based in Jacksonville and questions how affordable housing restrictions will be monitored and maintained after the screening of the initial residents. For all of these reasons, she asked that this item to be continued until March.

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

Mr. Bart Smith on behalf of the applicant wanted to address the comments. As to lighting, the project exceeds the lighting standards, but it can't be definitively stated by how much the project exceeds it at this juncture. Because this is a private roadway, more lighting is desired on the roadway area than the residential buildings. Different lighting is utilized at different spaces, but it all exceeds the code significantly.

As to the CBRS zone, none of the property is located in a CBRS zone. A portion is in what's called an otherwise protected area which is the Great Heron Wildlife Refuge. Private properties within the boundaries of the Refuge are not subject to any standards of the Refuge, other than being identified as property that the government may, at some point, try to buy that property. In this case, because of the otherwise protected area, there are requirements to qualify for financing, government funding, tax credits and flood insurance, and the applicant had to confirm that the otherwise protected area was not in CBRS. Flood insurance is able to be obtained even in the VE Zone because the units are elevated significantly above flood level. Everything is in place for this project to proceed forward as a residential development.

As to the roadway, there is a progression. To get the project off the ground, ingress and egress had to be identified. It started with three ingress and egress points, one being Porta Drive, another being Barcelona on Big Coppitt, and the third being to U.S. 1, not knowing what would be the identified access point. Through the zoning process, Porta Drive was eliminated and is no longer subject to this development. Then Barcelona was identified as not being an optimal method to be used. Bringing access directly to U.S. 1 is the optimal direction. The site where the easements have been obtained that has access to Barcelona is an industrial site. Quarry Partners agrees that the residential traffic will not utilize that dirt road, but they are not the owner of it. The owners' utilization of it is something beyond what Quarry Partners can agree to. Quarry Partners is going to utilize the U.S. 1 direct access. As to the conditions and some seeming to be not set at this point, all are fairly routine building permit conditions such as getting FDOT right-of-way permits prior to Certificate of Occupancy, et cetera.

Commissioner Miller asked when the road that has direct access to U.S. 1 versus not through the other neighborhood would be built. Mr. Smith stated that one of the conditions is that it's required to be built and ready for use prior to the first CO of any of the buildings. Commissioner Miller stated that was not exactly what would protect the neighborhoods for the construction traffic. Mr. Smith stated there is already a bridge there to get into the project and the road does not go in until the construction is finished because the heavy machinery will destroy the road. The road which will be used during construction is a dirt road. Commissioner Miller would like to see the residential area not be burdened by the traffic during construction. Mr. Smith understood, but stated that any construction project needs to utilize a dirt road. Use of this dirt road should not impact the residential areas any more than it's being impacted now. There is already heavy machinery going into this area which will continue regardless what occurs.

Chair Werling commented that Commissioner Miller's point is that the residential neighborhood that would be affected is the one that enters by Bobalu's, and he wants to ensure that area would not be used during construction or after. Mr. Smith stated it would not be used after construction, but during construction, because of the machinery that would have to get in, at certain points, it may be utilized by trucks. Once the machinery is brought to the property, it would remain there for quite some time before leaving the property. As with any construction site, during construction, there is machinery but it will primarily be located on site.

Mr. Smith then clarified the percentages of low and very low. The first 50 years has an additional deed restriction at 45 percent, and then it goes to 35 percent afterwards. As to the property manager being from Jacksonville, this company has done over 3,000 tax credit units

throughout the southeast and they are based out of Jacksonville. The U.S. Government requires extensive background, income and financial statements for everyone that occupies a unit and it must be done every year. If a manager of a project fails to do this, the company's ability to apply for tax credits can be removed. So a company that does this is ultimately the best company to have as all they do is manage properties subject to tax credits. There will also be management on site and a company that reviews the financials. Mr. Smith stated he was available for further questions but would respectfully request approval as outlined by staff.

Commissioner Miller asked about the report where staff had recommended additional setbacks, landscaping and screening and wanted to know what that amounted to. Mr. Smith responded that at the public meeting, it had been discussed to add more trees for further shielding, but the universal response was not to do it because they then wouldn't be able to see the water or sunsets. Commissioner Miller asked for the definition of universal. Mr. Smith stated this had been at the meeting with the neighbors where 15 to 20 people were present, though not all were from the adjacent neighborhood. Commissioner Miller feels plants never hurt anyone. Mr. Smith agreed, with the exception of views, reiterating that the community was concerned about maintaining water and sunset views. Mr. Bond added that there is a 10-foot Class C Buffer required along that property line. Commissioner Miller asked what that consisted of and why staff had recommended it. Mr. Bond stated it was a suggestion of staff and was mainly about the garbage collection areas, and also confirmed that those present at the community meeting had indicated they did not want more landscaping than what is required. Mr. Smith added that vegetation could certainly be increased around the waste receptacle areas and a condition could be added to provide sufficient landscaping to conceal the waste receptacles.

Commissioner Wiatt asked staff if they could confirm that this project was not in CBRS. Mr. Bond responded that he had been trying to look that up but the wi-fi wasn't working. However, normally if a property is in a CBRS area, it would be noted in the staff report. As far as he is aware, it is not. Mr. Bond confirmed that the otherwise protected area is not the same as being within a CBRS zone. Commissioner Wiatt asked if, hypothetically, part of this was in a CBRS, what affect that would have on the project. Mr. Bond responded that he wasn't sure on the fly, but there are policies in the Comp Plan and Land Development Codes that affect development within CBRS zones. Commissioner Wiatt asked if the applicant was willing to have the project conditional on whether or not the project is in CBRS. Mr. Smith stated he is wholly confident it is in an otherwise protected area, not in a Coastal Barrier Resource System. The Code delineates between CBRS and OPAs and that is the distinction. They are all within the FEMA designations on the FEMA maps. The OPAs do not have the financial restrictions that CBRS does. Commissioner Wiatt stated that the Commission limiting it as to CBRS would be prudent at this point in time. Commissioner Wiatt then asked legal staff if they were sure about using Key West allocated affordable housing on this property in a way that is not in conflict with our own Code. Mr. Williams stated this had already been done in the Development Agreement and the 380 Agreement and Tallahassee has already blessed it twice over. The degree of scrutiny this Development Agreement had makes twice over an understatement. Commissioner Miller asked if a 380 Agreement was not the same as an interlocal agreement. Mr. Williams responded that a 380 Agreement is a statutory creation pursuant to Section 380 of the Florida Statutes and is not synonymous with an interlocal agreement.

Commissioner Ramsay-Vickrey asked if staff recommendation number one should be changed from approval of the Major Conditional Use to issuance of building permits or should it be stopped further up with just a period on the wording. Chair Werling thought it had been stopped at the period. Mr. Williams thought that ending it where Mr. Wolfe had suggested earlier would not be a problem and would allow them both to travel simultaneously, that it's a concurrent versus consecutive argument and he has no problem with concurrent. Chair Werling asked for clarification about the road and whether the applicant is now precluded from allowing the traffic to be taken back out through Bobalu's if the other plan does not work out. Mr. Smith stated that Calle Uno is a public right-of-way as is, so they can access through there. The language could be used that the project shall not utilize the access through Barcelona Drive, providing that it's clarified to say residential traffic because during construction, there would be some use. Chair Werling agreed she was referring to once the project was completed that the thoroughfare will not come through there as this was a huge issue with the neighborhood. Mr. Smith suggested the following language: Upon completion of the project and COs being issued, that no residential traffic shall utilize Barcelona Drive. Commissioner Miller asked if all questions had been answered by the County Engineer. Mr. Smith stated that the project's engineer had coordinated with Judy Clarke and all conditions must be met for the building permit to be issued and are capable of being met. Chair Werling added that she is happy that this development is towards Key West. Commissioner Ramsay-Vickrey agreed, adding it's only a mile from where it turns into two lanes.

Commissioner Wiatt asked about lighting. Commissioner Ramsay-Vickrey asked if lighting was really an issue with the project already exceeding the County's regulations on lighting. Commissioner Miller asked if Mr. Smith had drugged the neighboring residents or flattened all of their tires as none were present today. Commissioner Wiatt stated that normally a landlord uses the minimal amount of lighting possible because it's cheaper that way so in this case, eliminating illuminating pollution actually saves money. Commissioner Ramsay-Vickrey believes this has already been addressed since the lighting plan exceeds the County's lighting requirements and suggested that if Ms. Edelstein was concerned about lighting, this would be something that could be addressed in the future with a Comp Plan change as private citizens are heard when updating the Comp Plan. For this project, Commissioner Ramsay-Vickrey is satisfied that the applicant has exceeded what was asked of them and they have not heard this from the neighbors. She also recalled with the No Name electrification debate that it was stated there would be light pollution with everyone turning on their lights, yet it still is dark and quiet and people don't turn on outside lights. Chair Werling interjected that that wasn't true for her neighborhood. Commissioner Ramsay-Vickrey responded that there is only so much that can be done without stepping on people, but she is confident that the applicant has gone above and beyond by exceeding the lighting codes. She is also confident that this project is not in CBRS. Language in item one is being changed so everything tracks, and there will also be a stipulation about Barcelona and the traffic and plants around the trash cans.

Commissioner Wiatt thought the motion should also include a condition that no lands within this project are within a designated CBRS area. Mr. Smith agreed providing it is stated "as of today's date" as things could be changed in the future.

Motion: Commissioner Wiatt made a motion to approve with the conditions identified by staff, adding that no lands within this project are designated as CBRS as of today's date, moving the period on condition number one to after the word "effective," and eliminating the remainder of the sentence, that residential use of Barcelona for ingress and egress after CO would be prohibited, and adding additional plants around waste receptacles. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. Motion passed unanimously.

BOARD DISCUSSION

There was no board discussion.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 12:45 p.m.