

PLANNING COMMISSION
May 30, 2018
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, May 30, 2018**, beginning at 10:00 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL by Steve Williams

PLANNING COMMISSION MEMBERS

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

STAFF

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| Emily Schemper, Acting Sr. Director of Planning and Environmental Resources | Present |
| Steve Williams, Assistant County Attorney | Present |
| Derek Howard, Assistant County Attorney | Present |
| Thomas Wright, Planning Commission Counsel | Present |
| Mike Roberts, Sr. Administrator, Environmental Resources | Present |
| Bradley Stein, Development Review Manager | Present |
| Tiffany Stankiewicz, Development Administrator | Present |
| Devin Rains, Principal Planner | Present |
| Cheryl Cioffari, Principal Planner | Present |
| Janene Sclafani, Sr. Planner | Present |
| Devin Tolpin, Planner | Present |
| Ryan Vandenburg, 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. Wright.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Aguila confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff members and members of the public planning to speak were sworn in by Mr. Wright.

CHANGES TO THE AGENDA

Ms. Ilze Aguila reported that there were no requested changes to the agenda. Chair Werling proposed that Item 6 and 7 be heard first and second as they are very short and Items 1 through 5 were much longer.

Motion: Commissioner Ramsay-Vickrey made a motion to change the agenda as suggested. Commissioner Johnston seconded the motion. There was no opposition. The motion passed unanimously.

APPROVAL OF MINUTES

Motion: Commissioner Ramsay-Vickrey made a motion to approve the April 25, 2018, meeting minutes. Commissioner Johnston seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

6. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE NON-RESIDENTIAL ALLOCATION SYSTEM FOR JANUARY 13, 2018, THROUGH APRIL 12, 2018, ROGO (Quarter 3, Year 26). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. Pursuant to Monroe County Code Section 138-53(e)(14), the Planning and Environmental Resources Department is providing a notification to the general public of the NROGO account balances. (Balances listed in the agenda.) (File 2017-139)

(10:05 a.m.) Ms. Tiffany Stankiewicz, Development Administrator, presented the staff report. The Planning Department is recommending approval for the one Lower Keys applicant for NROGO.

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

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

7. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR JANUARY 13, 2018, THROUGH APRIL 12, 2018, ROGO (Quarter 3, Year 26). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. (File 2017-140)

(10:06 a.m.) Ms. Tiffany Stankiewicz, Development Administrator, presented the staff report. This is for the residential allocations for Lower and Upper Keys sub-areas and Big Pine and No Name Key sub-areas. The Planning Department is recommending approval for allocation awards of the following market-rate rankings: Lower Keys applicants ranked 1-14; Big Pine and

No Name Key applicants ranked 1 and 2 subject to mitigation availability at the time of permitting; and, Upper Keys applicants ranked 1-15. There were no affordable housing applicants.

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

Commissioner Wiatt noted that page 8 of 9, at the end of paragraph B, talked about the Planning Commission being able to amend the ratios for affordable housing during any ROGO quarter and that the actual numbers now are 212 for very low, low and medium versus 356 for moderate. Sometime in the near future, he would like to consider changing that ratio to see far more very low, low and medium, than moderate. Right now there is a three-to-one in favor of moderate. When looking at the rental rate figures, moderate is really market rate and he believes this is the wrong direction and needs to be looked at. Commissioners Miller and Johnston both agreed. Commissioner Miller asked for staff to look at what is feasible in that direction for the next meeting. Ms. Emily Schemper asked for clarification. Commissioner Miller asked if it was possible to do zero moderate and have that researched. Commissioner Wiatt suggested that to make sure there were no unintended consequences, staff be given a couple months. Chair Werling suggested the July or August meeting. Commissioner Johnston added that zero moderate would take it out of the realm of possibility for most developers. Mr. Tom Wright asked if the Commission wanting this on the July meeting agenda for discussion. Mr. Steven Williams stated that staff would not get that turned around in a month. The Commission agreed a couple of months would be fine. Ms. Schemper reminded the Commission that staff was presently working on amendments for some post-hurricane incentives for workforce housing, as directed by the Board, which would interact with this, and would prefer to not set a hard deadline today. Commissioner Wiatt added that projects in the pipeline would also need to be considered.

Motion: Commissioner Johnston made a motion to approve Item 7. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

Continued Items:

5. WAYNE AND KAREN HOWARD, VACANT LAND ON LAGOON DR., SUMMERLAND KEY, MILE MARKER 2 OCEAN SIDE: A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE OF 15 FEET TO THE REQUIRED 25 FOOT PRIMARY FRONT YARD SETBACK, WHICH IS ADJACENT TO THE LAGOON DRIVE RIGHT-OF-WAY. APPROVAL OF THE VARIANCE WOULD RESULT IN A 10 FOOT PRIMARY FRONT YARD SETBACK. THE VARIANCE IS REQUESTED FOR THE DEVELOPMENT OF A PROPOSED SINGLE FAMILY RESIDENCE. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS LOT 4, BLOCK 2, SUMMERLAND COVE ISLES – BLOCK NO. 2 & 3 (PLAT BOOK 6, PAGE 67) MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00198932-000400. (FILE # 2017-015).

(10:12 a.m.) Ms. Janene Sclafani, Senior Planner, presented the staff report and indicated that Christopher Waldera, agent for the applicant Mr. Howard, was also present. This is a request for

a variance of 15 feet from the required 25-foot primary front yard setback along Lagoon Drive for development of a single-family residence. The result would be a setback of 10 feet. Ms. Sclafani presented a proposed site plan showing the portion of the property affected by the variance. Maps of three other existing properties located on Lagoon Drive were shown to be non-compliant with the primary front-yard setback. Staff is recommending approval with conditions.

Chair Werling asked for questions. There were none. Chair Werling asked if the applicant wanted to speak. Mr. Chris Waldera responded that he was available for any questions. Chair Werling asked for public comment. There was none. Public comment was closed. Commissioner Miller noted he that he had also not seen any comments from the neighbors.

Motion: Commissioner Ramsay-Vickrey made a motion to approve with conditions set forth by staff. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

2. BRADLEY M. LEVINE and MELISSA A. FRIEDMAN-LEVINE, 68 TARPON AVENUE, KEY LARGO FLORIDA: AN APPEAL, PURSUANT TO SECTION 102-185 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, BY THE PROPERTY OWNERS TO THE PLANNING COMMISSION CONCERNING THE JUNE 9, 2017, DENIAL OF A REQUEST FOR AN EXEMPTION TO A SPECIAL VACATION RENTAL PERMIT. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS REVISED AMENDED PLAT OF RIVIERA VILLAGE PB2-80 KEY LARGO RESERVED TR 2 G57-181 OR395-170-171 OR449-968 OR806-608 OR1188-1256AFF OR1639-1604 OR2513-1453/54, HAVING REAL ESTATE NUMBERS 00511770-000000. (File 2017-095)

(10:16 a.m.) Mr. Devin Rains, Principal Planner, presented the staff report. This application is for an appeal to the decision by the Senior Director of Planning, Mayte Santamaria, relating to a denial and inability to grant the request for a special vacation rental exemption on this parcel located in the Improved Subdivision Land Use District. Complete information related to review of the application is found in appellee's response to appellant's statement of the basis for appeal to the Planning Commission prepared by Mr. Derek Howard, Assistant County Attorney. Staff recommends that the Senior Planning Director's decision be upheld pursuant to Code Section 134-1(b)(1).

Chair Werling asked for questions. There were none. Chair Werling asked if the applicant would like to speak.

Mr. John Jabro spoke on behalf of the applicant, Mr. Levine who also presented blowup photographs of the property and testified. Mr. Levine pointed out the location of the property on the blowups, showing a mangrove conservation area on one side, a community park in front, and one house on the other side. Mr. Levine described this as a very isolated, private piece of property, having a six-foot high concrete fence surrounding the property on two sides with a gate, and the other two sides being inaccessible via the mangrove conservation area and the Blackwater Sound. Mr. Jabro read Section 134-1(b)(1) into the record which stated that a vacation rental permit was not required for a dwelling located within a controlled access, gated

community with a homeowners or property owners association to manage vacation rental uses. Mr. Levin stated he matched this description exactly. Commissioner Miller asked if the subdivision was gated. Mr. Jabro clarified it was only this home, and that “community” and “gated community” are not defined in the Code so the statutory interpretation was required to be used. Commissioner Miller asked Mr. Levine if he paid the association dues to himself, and Mr. Levine responded that he paid them to the property association to manage the property, that technically, it was the community’s association since anyone could join. Commissioner Miller stated that he found this interesting. Commissioner Ramsay-Vickrey noted that it was a community of one.

Mr. Jabro explained that the application had been ultimately denied by Ms. Mayte Santamaria on June 9, 2017, where she opined that the term “gated community” could not be satisfied by a gated area containing only one residence. Ms. Santamaria had used a planning dictionary to determine what “gated community” means, which Mr. Jabro contended was not commonly used and he provided a list of definitions from other internet dictionaries. The term “community” does not relate to the number of dwellings or buildings, but rather to people. Mr. Jabro then read definitions from the Oxford English Dictionary and the Random House Dictionary in support of the term “community” relating to people. Commissioner Miller asked Mr. Jabro if he had heard the term, “No man is an island.” Mr. Jabro indicated he had been there and the family living here was an extended family and not just one person. Chair Werling asked if the family presently resides on the property. Mr. Jabro responded they were not there all the time, adding that this property would be rented on a less-than-28-day basis. Mr. Jabro then read another definition of “gated community” as, “In its modern form, a gated community is a form of residential community or housing estate containing strictly-controlled entrances for pedestrians, bicycles and automobiles and often characterized by closed perimeters, with walls and fences, “ adding that this is exactly what is present on this property.

Mr. Jabro then called Donald Horton as a witness. Mr. Horton, a licensed contractor and consultant in land use issues, and a retired building official from Monroe County and Islamorada, was familiar with this property and explained that another property in the neighborhood was in the process of getting vacation rental approval. Though the other property has different zoning, it is less isolated than the Levine property. Commissioner Miller asked for staff to comment on the comparable property. Ms. Schemper responded that she had been unable to see the map and was not sure what property was being referred to. Commissioner Miller asked if this comparable property had been included in the original application. Mr. Jabro responded that it had been brought up in the December 2017 mediation. Mr. Derek Howard interjected that this argument was not made in the original application, but that the argument made no difference one way or the other; the question is whether this is a gated community with controlled access and a homeowners association, not the effects of what a vacation rental would bring to the neighborhood.

Mr. Jabro continued, explaining that Ms. Santamaria had opined that a single residence in an IS subdivision did not allow a short-term rental exemption. Mr. Jabro acquiesced that Ms. Santamaria has the ability to interpret the Monroe County Code but that rules of statutory

interpretation must be applied. Mr. Jabro cited a case, *Mandelstam vs. City Commission of South Miami*, where the Third District Court of Appeals had set guidelines for interpreting and finding definitions for terms not defined in the statute and read from the case. “Courts and other governmental bodies are prohibited from inserting words and phrases into a municipal ordinance to express intentions that do not appear.” Additionally, “Permitted uses must be interpreted broadly, prohibited uses strictly, so that doubts are resolved in the property owner’s favor. Zoning laws are in derogation of the common law and, as a general rule, are subject to strict instruction in favor of the right of the property owner to the unrestricted use of his property.” In this referenced case, definitions were cited from Webster’s, Random House and the Oxford English Dictionary and were approved by the Third District Court of Appeals as dictionaries in common use. The definitions cited indicate the parcel of land at 86 Tarpon does meet the criteria of “gated community” as set forth in the dictionary. Ms. Santamaria cannot avoid the rules of statutory construction with regard to this terminology.

Mr. Jabro added that since the hurricane, tourist units available for rent are down 30 to 40 percent which has had a significant severe impact on the economy. The granting of this application may not be an instant fix, but would provide an avenue for some people to provide a service to the community, due to the lack of housing, for people to come down and stay. Commissioner Miller asked if this was sort of a humanitarian effort. Mr. Jabro then presented the vacation rental policy of the association requiring tenants to not bother the neighbors and abide by the County’s noise ordinance, adding that the property is also under camera surveillance. The County’s vacation rental ordinance could not be changed or the County would lose the grandfathered status under the State’s law of preempt, but this application should be granted based on the common definition of “gated community.”

Chair Werling then asked for public comment.

Ms. Suzanne Guyette, a resident of Riveria Village, informed the Commission that approximately 40 letters had been submitted opposing this. This property being next to the park is an issue as it is a very busy park and weekly rentals would make it worse. If anyone who has a gate can say they are a gated community, this will open Pandora’s Box and she hopes the Commission goes along with staff’s recommendation to deny this.

Ms. Dottie Moses, of Key Largo, spoke on behalf of the Island of Key Largo Federation of Homeowners’ Association. This would destroy the neighborhoods. Many subdivisions have fenced, gated homes that could carve themselves a separate space and become a vacation rental. The vacation rental ordinance was written by the County specifically to keep commercial enterprises out of residential areas. Ms. Moses suggested that if the Levines want to service the economy, they should rent their house to a County employee or police officer.

Ms. Mary Bondy, a resident of Riveria Village since 2000, is opposed to the vacation rental idea in this quiet, relatively crime-free neighborhood. People on vacation have an on-vacation mentality which would disturb the whole equilibrium of the neighborhood.

Mr. Stuart Schaffer of the Sugarloaf Shores Property Owners’ Association believes approval of this exemption would set a terrible precedent throughout the County. Sugarloaf Shores POA

strongly supports the County's efforts to strictly construct these vacation rental rules. Residents are already troubled by illegal vacation rentals and strict construction here is certainly justified. He sees no reasonable reading of these rules which would allow a single residence to be treated as a gated community. This is a single residence, not a community, and he would ask the Commission to enforce that.

There was no further public comment. Public comment was closed.

Commissioner Wiatt commented that 20-some-odd years ago he had worked with Marlene Conaway on this issue and the words of this ordinance were chosen very, very carefully with the intent to prohibit vacation rentals from single-family residences especially in IS Zoning Districts. Chair Werling added that the applicant would also not be barred from the 30-day County requirement.

Motion: Commissioner Ramsay-Vickrey made a motion to uphold staff's denial. Commissioner Johnston seconded the motion. There was no opposition. The motion passed unanimously.

3. FAMILY DOLLAR STORES OF FLORIDA, LLC, 105660 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 105.5 BAY SIDE: A PUBLIC HEARING CONCERNING THE REQUEST FOR A 2APS ALCOHOLIC BEVERAGE USE PERMIT, WHICH WOULD ALLOW FOR BEER AND WINE, PACKAGE SALES FOR OFF PREMISES CONSUMPTION. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS LOTS 6 AND 12 AND THE SOUTHWESTERLY 67 FEET OF LOTS 5 AND 13, ALL IN BLOCK 15 SEXTON COVE ESTATES ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGE 30, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE #00532701-042500. (FILE 2017-137)

(10:49 a.m.) Mr. Devin Rains, Principal Planner, presented the staff report. The applicant is requesting a 2APS alcoholic beverage use permit which would allow for beer and wine package sales for off-premises consumption at 105660 Overseas Highway in Key Largo. The property is located in the Suburban Commercial Land Use District. The commercial retail space was originally constructed as commercial retail for Eckard Drugs which did have a 1APS alcoholic beverage use permit allowing beer sales for off-premises consumption. That license was not renewed at time of expiration on 3/31/96. Staff finds the use to be consistent with commercial retail sales and that the site is sufficient for parking, driveway access, et cetera. Staff recommends approval with conditions. Valid objections found to adversely affect surrounding property owners would allow for the Department to reevaluate this recommendation. These permits run with the property if the property transfers ownership. The sales and consumption shall occur only in the areas allowed. In the event the holder's license by the State of Florida DBPR lapses, then this special use permit shall be null and void.

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

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

4. L.J. GATOR, L.C. DBA BOONDOCKS GRILLE & DRAFT HOUSE & MINIATURE GOLF, 27205 OVERSEAS HIGHWAY, RAMROD KEY: A PUBLIC HEARING CONCERNING A REQUEST FOR A SIGN VARIANCE TO MAXIMUM SIGN ALLOWANCES IN CHAPTER 142 OF THE MONROE COUNTY LAND DEVELOPMENT CODE (LDC). APPROVAL OF THE SIGN VARIANCE WOULD RESULT IN ONE (1) ADDITIONAL GROUND MOUNTED SIGN, FOR A TOTAL OF TWO (2) GROUND MOUNTED SIGNS TO BE LOCATED ON THE SUBJECT PROPERTY WITHIN THE SUBURBAN COMMERCIAL (SC) LAND USE DISTRICT. THE SIGN VARIANCE IS REQUESTED FOR A PROPOSED 116 SQUARE FEET GROUND MOUNTED SIGN HAVING TWO FACES FOR A TOTAL FACE AREA OF 232 SQUARE FEET, LOCATED ON A PARCEL COMMONLY KNOWN AS BOONDOCKS GRILLE & DRAFT HOUSE. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS PARCELS OF LAND IN SECTIONS 29 AND 32, TOWNSHIP 66 SOUTH, RANGE 29 EAST, RAMROD KEY, MONROE COUNTY, FLORIDA HAVING REAL ESTATE NUMBER 00114030-000500. (File 2018-026)

(10:52 a.m.) Mr. Devin Rains, Principal Planner, presented the staff report on behalf of Ms. Devin Tolpin, Planner, who presented this item last month. This application is to allow for a second ground-level sign. The applicant had brought in additional content related to the application which is contained in the supplemental memo of the staff report prepared for this meeting. The information provides a streamlined graphic to cut to the chase of the request for two ground-mounted signs. Mr. Rains presented photographs of the existing sign and the proposed location for the second sign. The existing sign contains content related to the two different businesses on the parcel. The applicant will reduce the area and content of the existing sign. The second sign would be of the same size with content related to the other business located on the parcel. Staff is recommending approval.

Commissioner Johnston asked what the proposed modification was on the existing sign. Mr. Rains explained the size would be reduced to match the size of the proposed sign. The content would be modified to represent only the bar and restaurant business. Commissioner Johnston asked if the bottom panel of the existing sign would be eliminated. Mr. Rains responded that it would.

Commissioner Wiatt asked about condition four which states, "The variance approval did not waive or reduce any other sign allowances nor waive the required sign allowances for any future development." Commissioner Wiatt asked if that was where the County is saying that the signs have to be constructed per the code, particularly regarding lighting. Mr. Rains responded that this would apply to all aspects of signage on the site, including lighting. This also affects building face signage. All signage would need to be reviewed and comply with the Code. Mr. Wiatt wanted to make it clear that this was not allowing a variance for any lighting requirements.

Chair Werling asked for applicant comment, who indicated his availability for questions. Chair Werling asked for public comment. There was none. Public comment was closed. Commissioner Miller noted this had been basically a technical glitch from the prior meeting.

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

5. SUMMERLAND KEY MARINA, 24326 OVERSEAS HIGHWAY, SUMMERLAND KEY, MILE MARKER 24.5 OCEAN SIDE: A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE OF 18 OFF-STREET PARKING SPACES FROM THE REQUIRED 35 OFF-STREET PARKING SPACES PURSUANT TO CHAPTER 114, ARTICLE III. APPROVAL OF THE VARIANCE WOULD RESULT IN A TOTAL OF 17 OFF-STREET PARKING SPACES ON THE SITE. THE VARIANCE IS REQUIRED FOR THE PROPOSED DEVELOPMENT OF FOUR (4) EMPLOYEE HOUSING UNITS ON A PROPERTY WITH AN EXISTING MARINA AND ONE (1) COMMERCIAL APARTMENT. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS LOTS 9, 10, 11, 12, AND 13, BLOCK 2, SUMMERLAND KEY COVE ADDITION 2 (PLAT BOOK 4, PAGE 100), SUMMERLAND KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00190830-000000. (File 2018-037).

(10:57 a.m.) Ms. Janene Sclafani, Senior Planner, presented the staff report. The request is for a variance to the parking requirements, for a reduction of 18 off-street parking spaces from the required 35 off-street parking spaces. The approval of this variance would result in a total of 17 parking spaces. The variance is for the proposed development of four employee housing units on the property which has an existing marina and one existing market-rate unit. Ms. Sclafani presented a site plan of the subject property. Based on current parking regulations, the number of required parking spaces without shared parking calculations based on the current uses would be 41. Using shared parking calculations, the total parking required would be 35. An aerial view of the proposed site plan was presented showing where the parking spaces would be located. On September 8, 2010, the Planning Commission had approved Resolution P19-10, which granted a variance to Summerland Key Marina for the reduction of 16 off-street parking spaces from the required 33. The next County action was September 21, 2011 where the BOCC approved Ordinance 013-2011 which amended the County Code Section 114-67C which revised the minimum required parking of off-street parking spaces for multi-family dwelling units from 1.5 per unit to the current standards. On September 30, 2015, the Planning Commission approved Resolution P20-15 granting a request of the neighboring property to the west, Mote Marine, for a variance of off-street parking requirements. Staff is recommending approval of the requested variance with conditions.

Commissioner Wiatt asked about page 4 of 6, item three on the staff report where it states that granting the variance will not result in an increase to public expenses, create a threat to public health, safety, cause a nuisance or cause fraud or victimization of the public. As to public nuisance, it further states that staff does not anticipate that granting this request would create a public nuisance, but he does not see any justification or further explanation as to why. Ms. Emily Schemper responded that she believes staff is saying that this level of reduction in parking should still be sufficient for the uses on the site. Commissioner Wiatt asked if staff took high-use periods into consideration such as mini season. Ms. Schemper stated that mini season was not considered specifically and, if every parking lot were planned according to mini season, there would be too much parking. Commissioner Miller noted that cutting the parking from 35 to 16 was not a reduction of two spaces. This is a huge reduction and why have Land Development

Regulations if it doesn't matter. Commissioner Wiatt added that that was done prior to this Commission and right now, it was only being cut an additional one, though he agrees it went too far in the past and they are now being asked to go one step further. Chair Werling stated that she drives by this site frequently and it always looks crowded. There's a myriad of businesses in this location and it appears to be overflowing its boundaries presently. Commissioner Johnston asked if there was a reasonable location in the vicinity where overflow cars could park if necessary. Ms. Schemper stated that staff had not done that analysis and asked Ms. Sclafani if the development proposed was already in progress. Ms. Sclafani stated the proposed employee housing was not yet under development, that it must be done through a Conditional Use Permit which will be heard at the next meeting, which is dependent upon this variance. All of these were previously approved. Commissioner Johnston asked what the ramifications would be if this parking variance was approved and then the employee housing doesn't go through. Mr. Williams responded that it would just be an unfulfilled variance, but there would be no adverse impacts to the County. Commissioner Miller asked if this was all being done in anticipation of the affordable housing. Ms. Sclafani confirmed that to be correct. Ms. Schemper clarified that it is a Major Conditional Use that would come back before the Board, but that the applicant needed to obtain the variance before they could possibly get approved for the CUP so it is being done in sequence. The applicant had previous approval which expired and they are now trying to get the approval again. Meanwhile, the parking requirements in the Land Development Code changed so the old variance doesn't work anymore and they need one more space.

Chair Werling noted that she likes the idea of residential over commercial. She thought there had been apartments above this business years ago. Commissioner Miller asked if the units were going into an existing building, why the parking spaces would go away. Ms. Schemper responded that the parking spaces don't exist and they don't have room to add as many additional spaces as they would need to add the four employee units on top. Commissioner Miller asked how many spaces would be required for the four units. Ms. Schemper explained that the calculations are based on the entire development on the site, so what is existing plus what is proposed, using shared parking calculations between the mix of different uses on the site.

Commissioner Johnston added that affordable housing had been discussed for months and this applicant is asking for one additional parking spot variance in order to make that happen which she believes sounds very reasonable. Commissioner Miller agreed, when put in that context. Chair Werling added that the applicant can't be held to what happened before. Commissioner Wiatt also agreed when put in that context, but believes the Code should be complied with and the Code says a public nuisance cannot be created, indicating he will hold his vote on this until he hears from the public. Chair Werling stated they would first hear from the applicant.

Mr. Rick Milelli of Meridian Engineering in Key West spoke on behalf of the applicant. The variance had been originally received in 2010 and then the Code changed. The reason the variance had expired is because the owner had been waiting for the sewer system to go through prior to developing as the existing sewer system was not sufficient. The owner does want to proceed with development, as having affordable housing over commercial space makes sense. Right now it's empty space. They are not building anything extra.

Chair Werling then asked for public comment.

Mr. Bob Fletcher of Summerland Key first complimented staff and the Board for the denial of the Levine request. As to this proposal, it is a disaster. The pictures presented do not represent what the building looks like. He lives across the street and sees it. Trust is important and the owner has not done what he said he would do since 2010 so why would anyone expect him to do it now. To put affordable housing in this facility where children would live and play would be a disaster and a safety factor. It's important to have housing, but it needs to be in a safe place.

Mr. Tom Muller of Summerland Key agreed with Mr. Fletcher, adding that there is a lot of commercial activity going on in this space which he does not believe is being accounted for in the parking. The site is often very congested and to reduce the parking would be a disaster.

Ms. Michelle Chambers of Summerland Key stated she is opposed to all levels of this request, starting with the variance. She walks and bikes around the area and there is already a large amount of traffic. It is presently very dangerous to cross the highway to get to the bike path. There is a large amount of cars and probably ten different signs promoting a lot of different activities and businesses offered on that property. Space allocated for parking is very small and is currently filled with boats. It's already an over-capacity space and would be a hazard for residents of a nice, quiet community. Within a mile is the Boy Scout camp and adding more traffic and cars would be inappropriate. They are not complying with the safety hazards of boat bottom painting and the sewer regulations of the possible live-aboard boats in the marina on the canal. She paddle boards around this section of the canal and it is clearly more polluted than the other sections around Summerland. Adding more people, more congestion and more pollution from one property is not to the benefit or safety of Summerland Key. She appreciates the Commission having already noticed that cutting the number of spaces in half is not appropriate.

Ms. Dottie Moses of Key Largo stated she did not know this area that well, but she remembers Mote Marine was given a parking variance and had said they didn't need the parking because they were bringing everyone in by bus. But every time she drives by Mote Marine there are cars parked all along the FDOT right-of-way and outside of the fence. A similar situation occurred in Key Largo where retail was below affordable housing under the old parking rules and today, that place is full of cars overflowing into the DOT and County right-of-way, parked everywhere and totally out of control. She has asked staff about it and she was told the problem was fixed because now more parking is required and that will never happen again, but here we are and here it's happening again.

There was no further public comment. Public comment was closed.

Commissioner Wiatt asked staff if under the proposed plan there would be any net reduction or net increase of activity on the site when it's redeveloped, anything that would have an impact on parking compared to what's currently happening on the site today. It seems there are already parking issues and he wants to get a feel if those would be exacerbated. Ms. Sclafani responded that under the original Major Conditional Use that had been approved, boat racks were added at that time. What's being proposed for the new MCU is the four affordable housing one-bedroom units and associated site work, no added uses. Chair Werling asked about the several existing businesses on the property and there being nothing that says those can't change. If one of those

changes, a bigger issue could be caused than is there now. Ms. Schemper responded that the occupants could change, but not the uses. Commissioner Ramsay-Vickrey compared the parking map to the photo, pointing out that where the 14 parking spots would be put is presently full of boats. Chair Werling agreed, adding it is usually more filled than what was shown in the photo. Commissioner Ramsay-Vickrey asked if that area would be restricted to only the parking spaces and if everything else happening in that quadrant would stop. Ms. Schemper stated that's what the approval would be for and if they were not complying with their approved site plan it would be a code violation. Commissioner Ramsay-Vickrey further stated that she is struggling with this as she drives by this building a lot and it is usually overflowing and has almost a junkyard-like look to it which concerns her. Everyone is concerned about employee housing right now, but the owner would need to put a better foot forward and get this cleaned up. Chair Werling interjected that the building is not in very good repair. Commissioner Ramsay-Vickrey agreed, adding that the letters they had received from neighbors should have been directed to Code Compliance which implies that perhaps this owner has not been the best neighbor. Commissioner Johnston also commented that the owner needed to do some work on the good-neighbor policy. If a major development plan is coming before the Board, the community will be heard from which will weigh heavily on the Board's decision.

Ms. Schemper explained that this variance does not authorize permits to add any uses to the site. The MCUP is tentatively scheduled for next month which will lay out all of the proposed uses and the full site plan with the landscaping buffer. Commissioner Wiatt asked if live-aboard vessels were allowed now and whether they would be allowed in the future. Ms. Schemper responded that she would have to look but she didn't believe so. Commissioner Johnston asked for clarification that this was employee and not affordable housing. Ms. Schemper responded that employee housing is affordable, but has the added restriction that 70 percent of the occupant's income must be earned in the County. Chair Werling asked if the four units included the existing one or added to the existing one. Ms. Sclafani stated the total would be five units. Commissioner Ramsay-Vickrey asked if there would be any changes to the height. Ms. Sclafani responded the additions would be to the interior of an existing building. Chair Werling asked if the number were reduced by one, would the variance be required. Ms. Schemper explained that they would have to put it back through the shared parking calculation and they couldn't do the math that quickly. Commissioner Wiatt added that he's worried about a lot of things, but a lot of what he's worried about has been baked in for a long time. Commissioner Johnston noted this would be back in front of the Board next month. Commissioner Wiatt mentioned the safety of children. Commissioner Johnston added that Sunset Marina in Key West had both affordable and market-rate units already built and is a fully functioning marina in Key West. Chair Werling stated that this is a compact area and everything would be going on while the people are living there. She likes housing overtop of commercial, but more so 9 to 5 commercial where the businesses close up and the residential is in a little less industrial area with welding going on and bottom painting on boats, and this is not her favorite combination.

Commissioner Ramsay-Vickrey wanted clarification that if this was allowed through today, would it give the Board the opportunity to discuss the four potential units next month. Chair Werling asked if they could modify the number of units or remove something else. Mr. Williams added they could add the parking spot back in. Commissioner Ramsay-Vickrey asked if that was the contention, that on this whole big piece of property they could not find one more spot. Ms.

Schemper explained that the applicant had a previous parking variance which was a reduction of 16 spaces from the required 33. Today they are asking for a reduction of 18 spaces. If this is not approved today, their old variance would still apply, the reduction of 16 from the required 33, and if one dwelling unit were reduced, the requirement may become 33, but she would need to make sure. Commissioner Johnston asked if the applicant would be willing to modify the project to comply with the existing variance. Commissioner Ramsay-Vickrey noted that across from parking space 14 there was an open space. Ms. Sclafani responded that it was in a drive path. Commissioner Miller asked about page 2 of 6 where it said the amendment expired in 2013, and whether right now there was no resolution that supports four employee housing units on this property. Ms. Schemper responded that there was a parking variance written to contemplate four units on the site, but the conditional use approval has expired. Commissioner Miller stated that this could be taken back to square one.

Mr. Williams interjected that variances run with the land and the applicant already has an existing variance. The variance is in existence, they want it bigger, but the CUP has expired. Commissioner Miller stated he did not have a warm, fuzzy feeling about the development on this property as it is already 10 pounds in the proverbial 5-pound bag. Commissioner Wiatt added that he would rather talk about this at the same time as the conditional use. Ms. Schemper interjected that this could be continued to the next meeting and the Board could consider them both at the same time.

Motion: Commissioner Miller made a motion to continue this item to the next meeting. Commissioner Johnston seconded the motion. There was no opposition. Motion passed unanimously.

New Items Resumed:

8. MANLEY-DEBOER LUMBER COMPANY / COMO OIL COMPANY OF FLORIDA, 177 INDUSTRIAL ROAD, BIG PINE KEY, MILE MARKER 31 OCEAN SIDE: A PUBLIC HEARING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT FOR THE PROPOSED DEVELOPMENT OF A HEAVY INDUSTRIAL USE CONSISTING OF BULK PETROLEUM STORAGE IN THE FORM OF TWO 30,000-GALLON ABOVE-GROUND LIQUID PETROLEUM GAS TANKS AT THE EXISTING LUMBERYARD. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS A PARCEL OF LAND IN SECTION 25, TOWNSHIP 66 SOUTH, RANGE 29 EAST, BIG PINE KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00110830-000303. (FILE # 2017-070)

(11:37 a.m.) Ms. Janene Sclafani, Senior Planner, presented the staff report. This request is for a Major Conditional Use Permit for Manley-DeBoer Lumber Company located at 177 Industrial Road, Big Pine Key, for the proposed development of a heavy industrial use consisting of bulk petroleum storage tanks in the form of two 30,000 gallon above-ground liquid petroleum gas tanks at an existing lumberyard on property in an Industrial Land Use District. The proposed site plan was presented showing the proposed tanks to be at the east side of the property, the proposed ingress, egress and circulation around the property with a one-way entrance/exit. The proposed landscape plan and drainage plan were presented. Staff recommends approval with

conditions which have been revised. A supplemental handout was presented with the revised conditions and two attachments of an email from the County's transportation consultant and the most recent comments from fire. Comments have been addressed, plans have been revised and several things have come into compliance. Prior to approval, the traffic impact study report needs to be revised to address all comments, the photometric plan is required upon submittal of plans, drainage and utility stormwater must be formally approved. Standard MCU approval for certain development and public works and scope of work has not been reviewed.

Commissioner Miller asked what the industry standard is for this kind of bulk storage as far as distance from residential and if there was any residential nearby. Ms. Sclafani presented the site map and indicated there were no homes in the area. Commissioner Miller asked how tall the units are and whether they were visible off site. Ms. Sclafani indicated they were not visible and were not very tall. Ms. Schemper responded they were about 20 feet tall.

Chair Werling asked for questions. There were none. Chair Werling then asked if the applicant would like to speak.

Mr. Donald Craig, agent for the applicant, presented his resume to the Board and indicated that Mr. Eric DeBoer, Mr. Mike Grimstead and Mr. Aaron Younger of Como Oil were all present. Mr. Craig thanked Ms. Sclafani and indicated she had been a pleasure to work with. This proposed use was created to serve the community up and down the Keys in recognition of the fact that one of the things most needed after the hurricane was gas for businesses and residents that could not obtain it due to damages to other facilities in the community. The project meets all the requirements of the Land Development Regulations and therefore deserves approval.

Commissioner Johnston asked where Como Oil was located prior. Mr. Craig responded that their closest facility outside of Monroe County is in Florida City. Commissioner Wiatt asked whether this site has spill prevention, control and countermeasures plans. Mr. Craig indicated it did and that Mr. Grimstead could respond to any questions on that topic. Commissioner Wiatt asked if the biologist could look at that plan as part of the conditions. Mr. Craig responded that any part of the safety plan and operational plan that anyone wants to see, they are more than welcome to it, and Mr. Grimstead would be available at any time to answer any questions.

Mr. Mike Grimstead, area manager for Como Keys Propane, stated that they have to comply with the State as far as fire safety analysis which should address all concerns as far as spill prevention. Commissioner Wiatt asked what would be stored in the 30,000 gallon tanks. Mr. Grimstead indicated it would be propane. Mr. Craig asked for the ability to respond to any questions or concerns by the public.

Chair Werling asked for public comment.

Mr. Juan Caram from Eco Brand Sales indicated his property is located next to this property. He has 22 employees that go in and out and his biggest concern would be the safety issue of human error. Everything else was approved by the State and County so that is his only concern.

Mr. Bobby Keber, Sr., who lives at 77 Industrial Road, had one of the first buildings in this area. Currently, he has one propane facility within 100 feet of his building. If the wind is out of the south, he can smell propane in his building constantly. There have been two major mishaps. One, a line was broken while it was being hooked up and it literally scalded the operator's arm before it was shut off. Across Industrial Road on the west side there was a break where propane came out for two days. After the second day, they lit it, so it took 2.5 days for the tank to empty. Currently, Mr. DeBoer has 20 large tanks sitting by his building on the ground. Mr. Keber and his son own the majority of the property east, south and north of this site consisting of 10 acres all together. He has a residence above his building and has been there since the early eighties. He is opposed to this project. He thinks it will devalue his property and inquired, if it does, will he get an adjustment on his taxes. Commissioner Miller asked if his property was zoned Industrial. Mr. Keber responded that it was zoned Heavy Industrial. He had a junkyard there for over 30 years and his son turned it into high-end storage, a very clean, sanitary operation.

Commissioner Ramsay-Vickrey commented that this is located well off of U.S. 1 in an industrial area and is a much more appropriate place than Suburban Propane's location on U.S. 1. Manley-DeBoer has been a good Big Pine neighbor for a long, long time. They were seriously hurt during Irma and even so, they were helping their neighbors. She will make a motion to approve this. Chair Werling asked for clarification about the existing tanks that were mentioned.

Mr. Eric DeBoer responded that there were brand new empty propane cylinders on the site which are stored under a storage building permit issued last year. The largest of those tanks is 1,000 gallons. None have ever contained propane. They are the ones that end up behind people houses.

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

9. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 139-1, AFFORDABLE AND EMPLOYEE HOUSING; ADMINISTRATION, TO SPECIFY THAT WHEN CALCULATING DENSITY, AFFORDABLE HOUSING DENSITY SHALL BE EXCLUDED FROM CALCULATIONS OF CUMULATIVE HOTEL/MOTEL DENSITY ON A PARCEL (OPERATING AS A DENSITY BONUS FOR THE DEVELOPMENT OF AFFORDABLE/EMPLOYEE HOUSING ON PROPERTIES WITH A HOTEL/MOTEL); 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 CODE; PROVIDING FOR AN EFFECTIVE DATE. (File 2017-075)

(11:59 a.m.) Ms. Cheryl Cioffari, Principal Planner, presented the staff report. This application has been brought by Smith Hawks on behalf of Longstock II, to amend subsection 139-1(8)(5) of the Monroe County Land Development Code to exclude affordable housing density from cumulative density intensity calculations for hotel-motel development on site. This section already excludes affordable housing density from the cumulative density intensity calculations

for non-residential development on the site. The applicant states the proposed text amendment will encourage the provision of severely-needed affordable housing by increasing the effective density of hotel and motel parcels where affordable housing may be developed on site. The full explanation and justification is attached as Exhibit 1 to the staff report.

Staff agrees that inadequate availability of affordable housing is currently a primary issue facing permanent residents of unincorporated Monroe County. Following the impacts of Hurricane Irma, the BOCC has acknowledged that the preexisting affordable housing issues facing the County are even greater and more immediate now due to storm-related losses. Significant damage has occurred to the housing stock which is largely the lower-cost housing options for members of the workforce. On June 28, 2017, a concept meeting was held with the applicant regarding the proposed amendment as required by the Land Development Code and it was determined that the proposed text amendment would have a County-wide impact as it would apply to affordable housing and hotel-motel development throughout the entire unincorporated County. On December 26, 2017, the applicant held a community meeting and on January 17, 2018, at a regular public meeting, the BOCC held an impact meeting where issues were addressed but the actual proposal was not decided upon. On April 24, 2018, the DRC reviewed the proposed amendment at a regular-scheduled meeting. The proposed amendment is one mechanism that the County could utilize to incentivize both the development and redevelopment of hotel and motel facilities with the development of employee or affordable housing. The existing regulations require that maximum net density calculations are cumulative. So hotel-motel rooms, affordable units and market-rate units are all combined when determining the development potential for density purposes. Only non-residential floor area is not counted against affordable housing units and that is done to incentivize mixed-use projects and different projects that would contain components of affordable housing. The proposed amendment would require only a cumulative calculation between affordable and market-rate dwelling units, and a cumulative calculation of density intensity between non-residential square footage, hotel-motel units and market-rate dwelling units. The hotel and motels, like non-residential floor area, would not be counted against affordable dwelling units on a parcel.

Staff finds the proposed amendment is consistent with the goals, objectives and policies of the Monroe County 2030 Comprehensive Plan and furthers the Principles for Guiding Development and, as required Code Section 102-58(d)(7)(b), the amendment is based on changed assumptions, new issues, changed projections and will not result in any adverse impact to the community. Staff is recommending approval. Ms. Cioffari and Nick Batty on behalf of the applicant would both be available for questions.

Mr. Nick Batty, attorney at Smith Hawks, spoke on behalf of the applicant. This amendment would basically treat hotel and motel density the same as commercial density for purposes of calculating affordable. This will be a great incentive, especially for existing motels that are at or near their maximum density from a hotel perspective but have space to add infill development which can help the sorely needed affordable housing problem. Additionally, this may provide some incentive for those existing hotel owners as identified in the 2012 DAR to have a new use and new source to be able to get funding to bring those units back into repair.

Commissioner Johnston asked if the new units were figured into the required off-street parking spots. Mr. Batty indicated they would be and in a scenario where there wasn't enough space, they would have to come before the Planning Commission for a variance. In every scenario, each impact would need to be addressed. Commissioner Wiatt asked if the primary recipient of this type of housing would be employees of perhaps the hotel, resort or certainly employee housing. Mr. Batty responded that the reason it is drafted in terms of affordable housing is because every property is different; but obviously, the intent of this is that the first people the hotels are going to look to build units for are their employees. Commissioner Wiatt believed that could be helped out by the Commission restricting this to employee-housing only. Mr. Batty indicated that with every property being different the economics may not work for some properties. He would prefer not to be hamstrung and leave it open so that, as those projects arise, those parameters can be determined. Ms. Emily Schemper interjected that if the Commission did decide to do that, they needed to be clear on what term and definition they were using. Mr. Batty added that he believed the intent and the first offer in most cases would be for employer housing.

Commissioner Wiatt stated that if concessions on density were going to be made then he wants those concessions to go to where the need is, which is in employee housing and very low and low income levels, which he believes the majority of hotel employees would in fact be very low and low. Commissioner Johnston noted that there was not one applicant for low and very low on this morning's Items 1 and 2. And although this may be the biggest need, if no one is stepping up and applying for these units, then the Commission hasn't done anything. Commissioner Wiatt responded that if the Commission continues to allow median and moderate affordable housing, then what is being added is market-rate housing. Commissioner Johnston believes people already in very low and low would be moving into that next level. Commissioner Wiatt reiterated that when you get to the median and moderate rents, you are very close to market rate and he sees no reason to be burning affordable housing units on market-rate housing. He would rather save them for the time when there is a hotel that runs numbers and are so desperate for people that they go ahead and build on-site affordable housing. The rent for a single-bedroom home in low is \$1394 per month and anything more expensive than that is not realistic. He believes that Irma is being used as an excuse to build more moderate and median-income affordable housing when it's really market rate. Chair Werling added that this song has been sung and she hasn't seen anybody step up to the plate to do anything heroic. Commissioner Ramsay-Vickrey kind of agreed with Commissioner Johnston that if no one is stepping up, then the ball is not moving forward, while completely understanding what Commissioner Wiatt is saying.

Commissioner Ramsay-Vickrey asked Ms. Schemper if the 1300 affordable workforce housing units would be available for this type of situation and thus there would be no danger of running out of ROGOs for the new affordable workforce housing. Ms. Schemper responded that she could not say if and when the County would run out of anything. Commissioner Wiatt interjected that they would run out a lot faster if moderate and median were included. He believes the Commission should stick to their guns and hold out for the right projects that can actually be truly affordable housing. Median and moderate shouldn't even have the term affordable linked to it. Commissioner Ramsay-Vickrey added that these hotels already have the land and the density that can absorb this housing. Commissioner Wiatt stated that it is a great

thing and on-site employee housing is the way to go, and he believes those projects have a much better chance to move forward in low-income rates because they have some economy of scale, are already a developed site, and are already incentivized by the fact that they need employees. He is just opposed to making it easier to build non-affordable affordable housing.

Mr. Batty added that having a density bonus or having buildable density on a property is a right to build. He believes this broad stroke can give the most flexibility and as the projects come before the Commission, that can be the policy direction taken by them. Commissioner Miller asked how many people it would take to run a 100-room hotel. Mr. Batty could not answer that question. Commissioner Miller asked if Mr. Batty was representing something for the lodging industry. Mr. Batty responded this was for individuals in the County requiring housing. Commissioner Miller stated that it's for hotel and motel redevelopment and asked what the public benefit would be for having this associated with new hotel and motel development. Mr. Batty responded that there would be the density availability to build additional affordable units with a new hotel. Commissioner Miller stated that would satisfy the new hotel, but not the existing problem with affordable housing if they were being used for the new development. He does not know why the Commission would want to incentivize new development when there are transient allocations. There is an existing problem, but prefers using the density increases to assuage the existing problem, not associated with new development. This is where he has a problem with this text amendment. Mr. Batty stated it's kind of a zero-sum game. Commissioner Miller disagreed and said if he's talking about a zero-sum game then there is nothing to offer. Mr. Batty clarified that it's a zero-sum game with regard to transient units as there are a finite number of transient ROGOs that exist in Monroe County at this time. Commissioner Johnston noted that in the report, 70 percent of the hotel rooms in the Upper Keys are in a state of disarray which would be redeveloped and adding affordable housing to those units. Commissioner Miller asked if Mr. Batty would have a problem with the Commission deleting anything referring to new allocations and new development, where this would only be applied to existing allocations as of this date. Mr. Batty asked staff if there was a possibility of additional transient ROGOs being issued. Ms. Schemper responded that she has no knowledge of that. Commissioner Miller continued that he does not want to incentivize more development that does not assuage the problem that the County already has.

Commissioner Wiatt added that six months ago everyone would have been saying the exact same thing about residential ROGOs but no one is saying it right now. Mr. Batty stated that if additional transient ROGOs would be issued, he does not see what the downside would be for providing additional density for affordable housing in that development scenario. Commissioner Miller responded that the incentive is being created to use more density, which doesn't balance out with the problem getting up and down the highway. The whole golden goose must be looked at, not just the lodging industry. Mr. Batty responded that each one of these projects would have to meet local service standards or receive variances for those standards.

Chair Werling opened public comment.

Mr. Donald Craig stated that he is familiar with these amendments and has represented five affordable housing projects that are going to be coming out and he has some background in resort development and affordable housing. History speaks volumes for what actually occurs in

the Keys. Despite the fact that the Governor is trying to be generous with affordable housing, there has been a moratorium on new transient development since 1992. That is a very long time. One way for hotelier's to protect their occupancy rates is to ensure that there is a limited supply. This should also be considered in conjunction with the knowledge that there are hotel operators having a very difficult time finding and keeping good-quality employees because they cannot find housing. This amendment would allow a creative developer or owner of existing hotels to put that housing on site. If it's put on site, they don't get on the road to get to their place of work. Commissioner Miller reiterated that the Commission was incentivizing more transient allocations and he doesn't want to go in that direction of increasing density. Mr. Craig responded that if the history continues into the future then allowing the additional density on existing hotel properties allows those owners to do the right thing which is, as an employer, provide housing for the employees on site, reduce automobile trips, and also not have those same employees out competing for the affordable housing that would otherwise be built. Commissioner Miller agreed, adding that he would like to see this modified for just redevelopment and there would be no harm in saying no new transient allocations.

Mr. Bill Hunter of Summerland Key, who did not bring a resume, hoped the Commission had read the letter he sent. He wanted to reemphasize affordable employee-employer, noting that Mr. Craig had pointed out that the occupants of this housing would actually work on the site which does reduce the impact on the community. The fear he has is that the Commission may feel they have the ability to control this as projects come forward, but the reality is once it's in the Code, it's in the Code, and there is very little ability to control it. The other thing he has learned is if it's in the Code, it will be done sooner or later. Of all the people in the County who can understand the impacts of this, it's the Planning Commission. The ability to limit it to just employer is a real advantage because when you look at the impact of these four words across the County and all of the different Zoning Districts that it applies to, there are some Zoning Districts where this has an incredible impact. Right now, the difference between commercial and affordable is the parking lot is empty at night, but when it's a hotel the parking lot is full at night. Hotels and affordable have residential impacts to the community so impacts are being accumulated. He would like to ensure that it is employer housing and the employees live on the site limiting traffic impact. Also, without some way of limiting this, there are one or two Land Use Districts where a greater density would be allowed than any density in the city. The highest density allowed right now is the College Road development where density was upped to 40 and that's the highest anywhere.

As to employer housing, Commissioner Wiatt added that there is already a lot of language associated with commercial apartments with strict definitions. The language associated with commercial apartments should possibly be used in conjunction with this to make sure the County gets what it wants. Employer and employee housing which is truly affordable, back to low income, would benefit the employer, employee and the community. Ms. Schemper interjected that though it's not used very often, there is already a definition of employer-owned rental housing in Section 101-1 under affordable housing, item 12. "Employer-owned rental housing means an attached or detached dwelling unit owned by a firm, business educational institution, non-governmental or governmental agency, corporation or other entity that is intended to serve as affordable permanent housing for its employees. This category of employee housing shall be located on the same parcel of land as the non-residential use." This definition has been there, but

the term is not used very much in the Code. It is not listed as a specific permanent use but is already defined. Commissioner Wiatt noted that it is a good starting point. Chair Werling added that she really likes the employee housing thing. Her only concern is when you lose your job, you lose where you live so it's basically indentured servitude with housing. Commissioner Ramsay-Vickrey took it one step further adding, now you retire next year and you are no longer gaining 70 percent of your income from employment in the County so you lose your workforce housing. Commissioner Wiatt agreed that it would work that way anyway on the retirement side.

Mr. Nick Batty added that the intent of this and first and foremost the way that it will be utilized is for existing hotels to place employees on the property which would fit the definition of employee housing. The problem they are attempting to solve is broader than employer housing, the levels of affordable housing and what's beneficial for the community can be discussed at length. He believes another tool should be given, not taken away, in the private market's toolbox to be able to develop those units. If as an employer, you only need 10 or 20 units for employees, why would the Commission want to limit them to 10 or 20 if additional affordable units could be added? Commissioner Wiatt said that he didn't believe anyone would be opposed to building more truly affordable housing, but the numbers are not likely going to work with the low income, though it may be fine for moderate because that's pretty much market rate. If he were a hotel owner, he'd want to build as many of those as he could because the rents are high. Chair Werling asked if outside affordable tenants with no association to the hotel would be desired. Commissioner Wiatt added that numerous tools have been given to businesses to incentivize building affordable housing including giving property away. Unfortunately, that has not worked as well as planned. He has no problem with doing what the applicant is suggesting as long as the need is being addressed and it doesn't morph into something that can actually make more money. Mr. Batty thought an applicant would have a difficult time coming to the Commission for a conditional use permit if they wanted to build 50 additional moderate affordable units and none to service employees on site. So those controls are in place on a project-by-project basis. Chair Werling noted that it then becomes an enforcement problem. Commissioner Wiatt added that another problem with increasing density is it makes meeting the other requirements achievable. If density is given up under the guise of approving affordable housing, the next request will be for the parking requirements to be given up as was asked for earlier today. So where does it stop. He does not want to lose sight of the big picture.

Commissioner Ramsay-Vickrey asked Ms. Schemper for a copy of the definition she had read earlier. She believes everyone is striving for affordable workforce housing and would like to hear the definition again. Commissioner Wiatt added that he was sure staff had a handle on what the Commission was asking for and perhaps they could come up with some proposed text amendments to get them where they want to be. Ms. Schemper asked if he was suggesting this item be continued to a later date for staff to bring back some proposals to meet what's been discussed. Commissioner Wiatt indicated affirmatively. Commissioner Miller's concern was someone in the future arguing that they were not affecting hurricane evacuation by the increased density because they are on that site, emphasizing he was speaking of new development as the County is maxed out. Commissioner Ramsay-Vickrey asked for clarification, whether he was asking about existing hotels that want to add new employee housing. Commissioner Miller responded, new transient allocations. Mr. Batty indicated that he did not believe the applicant would have an issue with that language being added if it refers to additional. Transient ROGOs

aren't currently in existence in Monroe County or recognized pursuant to the LDRD process. Commissioner Wiatt didn't think anyone would have a problem with adding that safeguard. Commissioner Ramsay-Vickrey thought that the definition Ms. Schemper had given the Commission brought them very close to something. Chair Werling reminded them that there were more public speakers.

Mr. Stuart Schaffer of Sugarloaf stated that he believed the Commission was hitting all of the issues in their discussion. He believes this proposal started out with someone's client, a hotel, wanting to put a little more employer-provided housing on the side of their hotel which sounded pretty good, but that's not what is now being considered. This is much broader and would apply to any affordable housing project located on a parcel that also includes a hotel or motel. This is much broader than people walking across the parking lot to go to work in the proposal as written. The argument for approving a broad version of this proposal seems to be, it's not fair that non-residential projects are treated different from hotel-motels and those are just non-residential projects too, but they are completely different when it comes to driving patterns and traffic flows as everyone is leaving at the same time whether in a hotel room or residential housing. So the reason why the bonus was first added for commercial, and added more broadly than people just living above the store, is that there was a recognition that traffic patterns aren't completely overlapping and will spread out over the course of a day. Staff has recommended this proposal because they don't see adverse impact on the community as a whole, but he sure sees it. As an example, he lives across the highway from Sugarloaf Lodge. Right now, they are sitting there with 20 decrepit hotel rooms and a lot of land. They could build a hundred affordable housing units on that property right now if this proposal were approved and that traffic load may be wildly inappropriate for that site. But if the Code is amended to allow this, when they are back here presenting conditional uses, they will be saying this is a property right they had when they bought the Sugarloaf Lodge. Mr. Schaffer is asking the Commission to please limit this to employer-provided on-site housing.

Ms. Dottie Moses of Key Largo stated that this seems to be affordable housing at all costs, no matter the impact to the community, no matter the adverse effects. Ideally, we do want to provide for housing and have been asking for inclusionary housing on hotel/motels, but this seems a little extreme. There are no stop marks on it. It's just you can have what you have now and you can double it. That is very concerning. The Upper Keys has a lot of these old hotels/motels that could take advantage of this and they are all right next to each other in a very congested area. There are already impacts from what they have now. People are parking along the right-of-way already now. She would advocate strongly that if these increased densities are allowed, that there be no variances. This was actually discussed at the BOCC and was not considered beyond the pale. There is a situation now at Playa Largo where they gave them parking variances and they put the density in place. They were supposed to build a commercial apartment. They built a beach house instead. So they came back to the County after the fact and were given the right to transfer three of their hotel units to the beach house and turn the units into a commercial apartment. That commercial apartment is embedded in the hotel and there is no way to identify the hotel room from the commercial apartment. Who would do the enforcement on this? There should be a fee imposed if these densities are given out so the County can have staff to do the monitoring required. This is not being done now on a lot of affordable housing cases and there is some abuse going on. She is very concerned about the long-term effects of

this. The density is very high in some cases so that should be looked at where, in certain cases, you can't go beyond a certain calculation. If it's true that these hotels have extra capacity, they shouldn't need the variances. The variances are important to the community, we like the landscape buffers, we like the open spaces and it helps keep things from becoming a nuisance or concern to the rest of the community. We see this happening in some of the older non-conforming developments already and hopefully, we don't create this as we move forward.

Commissioner Wiatt mentioned that he had seen something about a cap and he thinks that is also necessary. There needs to be some kind of cap to make sure we don't get into a situation where a specific property is really high density.

Chair Werling closed public comment.

Commissioner Miller asked if this text amendment specified that the units would be built on site, which was confirmed.

Chair Werling stated she would like to see this item tabled as it is much too big of an item to hash out right now. Commissioner Wiatt agreed that this needs to be done right and the cap hadn't really been discussed. At this point, he believes staff has a pretty good idea of what the Commission is looking for. Commissioner Ramsay-Vickrey thought the staff should be provided some direction. Commissioner Johnston asked if the Commission could ask staff to meet with the applicant, having heard all of the Commission's concerns, and come back with a revised proposal considering the comments that were discussed today. Commissioner Wiatt added that he is good with the definition that was read by Ms. Schemper as written. Commissioner Johnston added that this should be applied to redevelopment only. Commissioner Wiatt reiterated that this needs to be for low and very low income if for no other reason, the mass majority of people working in this industry for these employers are not going to meet the definition of moderate and median income. Why give a further incentive to the hotels and resorts to do something that wouldn't be in conformance with the requirements because they could make extra money. Commissioner Miller agreed, and does not want more density just to house managers of hotels. Commissioner Ramsay-Vickrey agreed with the low income and suggested that 10 percent be given to moderate so that the managers are included. Commissioner Miller stated he would agree to something not as high as 10 percent. Commissioner Ramsay-Vickrey agreed. Commissioner Wiatt agreed.

Chair Werling asked about tracking. Commissioner Miller added that there are some real horror stories regarding affordable in this County which is concerning. Commissioner Wiatt described a similar issue the EPA had with enforcing water treatment and they made the lead supervisor of any operation sign off on being in compliance. The penalties were extreme, including going to jail. The EPA used that because they realized the majority of people with these type of permits aren't owners, they are employees and managers, but they are not the person who is likely to want to go to jail for someone else. Though he's not sure it could be incorporated into this, it has teeth and has proven to work in other venues. Chair Werling added that she always believes there's more than meets the eye when someone is proposing something, i.e., say you have a half a dozen family members that need a place to live that you put down as employees.

Commissioner Ramsay-Vickrey said she is always amazed at what people try to get away with. Maybe you have a fence and suddenly you're your own homeowners' association.

The Board recapped the issues they were concerned about and wanted staff to look at. Mr. Batty agreed there was some work to be done. Commissioner Ramsay-Vickrey told Mr. Batty that if there's something being discussed which is a non-starter for him, they need to know now. Mr. Batty responded that a lot of these new ideas being thrown around would need to be discussed with his client. Ms. Schemper asked regarding the cap, whether it would be a maximum affordable housing density number regardless of zoning or a maximum percentage of the normal affordable housing density for all of the categories. Commissioner Wiatt stated he would go with regardless of zoning and perhaps look at the worse-case scenario. Chair Werling added that this is all about density so where would they go regarding parking variances. Commissioner Wiatt thought that keeping that on a case-by-case basis may be a good thing. Mr. Williams added that the Commission could not outright kill variances. Commissioner Ramsay-Vickrey told Ms. Schemper that if she had two different proposals on the cap issue, that would be okay.

Ms. Schemper summarized: Employer housing definition; very low and low income, with a small percentage, possibly five percent median; a potential cap on an absolute number on total housing density, meaning the number of hotel rooms plus the number of affordable housing units; and, redevelopment only, meaning existing ROGO exemptions or allocations only. Mr. Williams suggested with the five percent cap, you may want to add a minimum of one because you would need 20 units to get any at five percent.

Motion: Commissioner Johnston made a motion to table the item. Commissioner Miller 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 1:00 p.m.