

PLANNING COMMISSION
August 22, 2018
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, August 22, 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 Debra Roberts

PLANNING COMMISSION MEMBERS

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

STAFF

Emily Schemper, Acting Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Bradley Stein, Development Review Manager	Present
Tiffany Stankiewicz, Development Administrator	Present
Cheryl Cioffari, Comprehensive Planning Manager	Present
Janene Sclafani, Sr. Planner	Present
Debra Roberts, Planning 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. Debra Roberts confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff members were sworn in by Mr. Wolfe.

Commissioner Ron Miller interjected a comment stating that he would like to change his vote on last month's Agenda Item 8, stating that he understood there was a procedure to change a vote at the following meeting. Mr. Steve Williams responded that it would take some research as he has never come across this experience. Commissioner Miller stated he had seen the County

Commissioners to this. Mr. Williams stated that it was not something he was familiar with. Mr. John Wolfe added that he had not looked into this and was not aware of it. Mr. Williams announced that he would go to his office to examine a copy of Robert's Rules and be back in a few minutes. Meanwhile, the meeting proceeded.

CHANGES TO THE AGENDA

Ms. Emily Schemper requested that Items 5 and 6 be read together and reported that both Items 3 and 4 had requested a continuance. Chair Werling indicated that the continuance requests would be addressed at the time those agenda items were reached.

APPROVAL OF MINUTES

Motion: Commissioner Wiatt made a motion to approve the July 25, 2018, meeting minutes. Commissioner Ramsay-Vickrey 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 APRIL 13, 2018, THROUGH JULY 12, 2018, ROGO (Quarter 4, Year 26). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. (File 2017-140)

Ms. Tiffany Stankiewicz, Development Administrator, presented the staff report for the residential ranking reservations, noting that staff had provided the revision to the rankings which included corrections to real estate numbers under affordable housing applications reflecting the Upper Keys applicant rankings had been corrected. Lower Keys applicants ranked 1 through 15 are recommended for allocations with market rate. Big Pine and No Name Key applicants 1 through 2, subject to mitigation availability at the time of permitting, are recommended for allocation award. Upper Keys applicants ranked 1 through 16 are recommended for allocation award. Applicants in the Big Pine/No Name Key Subarea for applicants 1 through 4 in the very low, low and median income category are recommended for allocation award subject to mitigation availability at the time of permitting. And, Big Pine/No Name Key affordable housing applicants 1 through 8 in the moderate income category are recommended for allocation award subject to mitigation availability. No other applicants for affordable housing were recommended approval.

Chair Werling asked for public comment.

Mr. Bill Hunter of Sugarloaf Key, after being sworn in by Mr. Wolfe, inquired about the affordable housing allocations on Big Pine and expressed confusion as to the Florida Keys Community Land Trust which had just deed restricted four homes. He is not sure whether those were new affordable housing allocations that were used or whether they were using the market rate to deed restrict what's in place and wanted clarification. Ms. Emily Schemper responded

that the properties he was referring to had market rate ROGO exemptions that are being deed restricted. They have not been allocated new affordable allocations.

Mr. Hunter then stated that somewhere in the pending applications, there is an application from a gentleman named Beal (phonetic) for Caya Place Two, and there is controversy over how many allocations remain if the 12 highlighted in the chart were being awarded today, and asked where Beal was in the overall scheme of things. Ms. Schemper responded that based on the balances as of today, these were the 12 that are remaining, which is why 12 and not more were awarded. Some ROGO on Big Pine could be subject to change as the balance sometimes adjust up or down based on permit approvals that expire so staff is not able to definitively say today that there are no more ROGOs available. The information is public in terms of what the balances are and which permits they are associated with. Mr. Hunter continued that his question then is why Longstock gets them and Beal doesn't. Ms. Schemper responded that Beal has not applied for them. Beal has applied for a Conditional Use Permit for development on his property and has a number of steps to go through before he would qualify to apply. In order to apply for a ROGO, he could ask for a reservation beforehand or go through the entire building permit process where everything is approved and ready to issue, and then the ROGO allocation is applied for and it is awarded by the Planning Commission. Once that approval is in effect, a building permit can be picked up. Mr. Hunter asked if these were reservations. Ms. Schemper responded that these were actual awards.

Mr. Hunter then asked for some indulgence as he had other questions but didn't want to hold up the meeting, so requested that he be allowed to ask these questions at the end. Chair Werling responded that that would be fine. There was no further public comment. Public comment was closed.

Commissioner Wiatt noted that under the recommendations section there was a breakdown of how many very low, low and median income ROGO allocations versus moderate were awarded and at this point, there are substantially more moderate allocations. He believes the ratio proportions need to be modified, either now or in the near future. Commissioner Miller asked if that could also be discussed at the end of the meeting. Commissioner Wiatt agreed. Chair Werling added that it may also tie in with Mr. Hunter's questions.

Motion: Commissioner Wiatt made a motion to approve staff recommendations for Item 1. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

2. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE NON-RESIDENTIAL ALLOCATION SYSTEM FOR APRIL 13, 2018, THROUGH JULY 12, 2018, ROGO (Quarter 4, 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.

(File 2017-139)

Ms. Stankiewicz presented the staff report for the NROGO indicating that staff was recommending approval of the two applications.

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

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

3. ROBERT HOLLADAY, 830 CRANE BOULEVARD, SUGARLOAF KEY, MILE MARKER 19.3: AN APPEAL, PURSUANT TO SECTION 102-185 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, BY AN AGGRIEVED OR ADVERSELY AFFECTED PERSON, AS DEFINED BY F.S. SECTION 163.3215(2), TO THE PLANNING COMMISSION, CONCERNING ISSUANCE OF BUILDING PERMIT #17104591, DATED APRIL 16, 2018, APPROVING A 68-FOOT MONOPOLE COMMUNICATIONS TOWER. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS LOT 4, BLOCK 1, NORTH SUGARLOAF ACRES, SECTION 1 (OR407-695), UPPER SUGARLOAF KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00117510-000400. (FILE 2018-100) *REQUEST FOR CONTINUANCE*

Motion: Commissioner Ramsay-Vickrey made a motion to approve the continuance to the next meeting where there is a supermajority present. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

4. VAN D. FISHER, 1251 CRANE BOULEVARD, SUGARLOAF KEY, MILE MARKER 19.1: AN APPEAL BY THE PROPERTY OWNER TO THE PLANNING COMMISSION, CONCERNING A MEMO FROM THE BUILDING OFFICIAL, DATED MAY 31, 2018, PLACING A HOLD ON BUILDING PERMIT #18101345, ISSUED FOR REPAIRS TO A BOARDWALK AND DOCK. THE SUBJECT PROPERTY IS DESCRIBED AS THE EAST HALF OF LOT 3, BLOCK 16, NORTH SUGARLOAF ACRES, SECTION 2 (OR427-1049), UPPER SUGARLOAF KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00117490-001800. (File 2017-132)

Mr. Steven Williams stated that Item 4 should not be on the agenda as both sides had agreed to a continuance. Mr. Bart Smith, on behalf of the applicant, asked that the item be continued to the next meeting in hopes that it could be worked out.

Motion: Commissioner Ramsay-Vickrey made a motion to approve the continuance to the next meeting of September 26, 2018. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

Mr. John Wolfe then reminded the Commission that Items 5 and 6 would be read together.

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM MIXED USE / COMMERCIAL (MC) TO RECREATION (R), FOR PROPERTY

LOCATED AT 104550 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATELY MILE MARKER 104.5, LEGALLY DESCRIBED AS TRACTS 1 AND 2, HIGHLAND SHORES, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 39 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING REAL ESTATE # 00508200-000000 AND 00508210-000000; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE #2017-153)

6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE (ZONING) DISTRICT MAP FROM SUBURBAN COMMERCIAL (SC) TO PARK AND REFUGE (PR) FOR PROPERTY LOCATED AT 104550 OVERSEAS HIGHWAY, KEY LARGO, APPROXIMATELY MILE MARKER 104.5, LEGALLY DESCRIBED AS TRACTS 1 AND 2, HIGHLAND SHORES, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 39 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING REAL ESTATE # 00508200-000000 AND 00508210-000000; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE. (File #2017-154)

Ms. Cheryl Cioffari, Comprehensive Planning Manager, presented the staff report. This is both a Future Land Use Map Amendment and a Land Use District Zoning Map Amendment for a property formerly known as Rowell's Marina and now known as Rowell's Park. The Planning Department received the application on November 29, 2017, on behalf of the Public Works Department. The proposal is to change the FLUM from Mixed Use Commercial to Recreation. The property currently has a Zoning District designation of Suburban Commercial. It was historically used as a marina but was purchased for the purpose of a park. The reason for the proposed Text Amendment is to develop a park. Under the existing Zoning Category, a park is a conditional use and would require a Conditional Use Permit. Under the proposed Zoning of Park and Refuge and the corresponding FLUM Category of Recreation, a park would be an as-of-right use, which is the reason for the change. A community meeting was held for both items on July 2, 2018 at the property, and both items were considered by the DRC on July 24, 2018, providing opportunities for public comment.

As shown in the blue portion of the table on page four of the FLUM Amendment staff report, this amendment would result in a decrease of 50 units of permanent allocated residential potential, a decrease of 120 units of maximum net density residential potential for market rate units with use of TDRs, a decrease of 120 units in affordable residential development potential, a decrease of 109 rooms or spaces for transient units, and a decrease in non-residential development of 145,998 square feet. The proposed amendment has been found to be in

compliance with the concurrency requirements set forth in Comp Plan, Policy 101.1.1, and is not anticipated to adversely impact the community character of the surrounding area. The proposal is consistent with the 2030 Comp Plan, the Key Largo CommuniKeys Plan, Florida Statutes and the Principles for Guiding Development. Staff is recommending approval of the proposed FLUM Amendment from Mixed Use Commercial to Recreation.

For the Zoning Map Amendment, the proposal is to change the Zoning to Park and Refuge which would permit the park as of right. The proposed Zoning Amendment would result in a decrease of 25 units in permanent allocated residential potential, a decrease of 40 units in max net density potential with the use of TDRs, a decrease of 120 units of affordable residential development, a decrease of 67 rooms or spaces for transient units, and a decrease of residential development potential of 72,999 square feet. Staff finds the proposed amendment is consistent with the 2030 Comp Plan, the Key Largo CommuniKeys Plan and the Land Development Code. As required in Section 102-158(d)(5)(b), the proposed change is based on new issues and change projections, the new issue being the proposal to have a park that is built as of right. Once the FLUM Amendment becomes effective, a corresponding Zoning District must match up with that. Staff is recommending approval of the Land Use District Amendment.

Commissioner Miller asked for the date the County had purchased this property, as he believed it had been approximately five years ago, and why it has taken this long to bring this forward. Ms. Schemper responded that it was not within the Planning Department's jurisdiction. Commissioner Miller asked if this could not have been used prior to the Zoning change. Ms. Cioffari explained that a park is a conditional use under the existing Zoning, but requires going through an extra step. Presently, there is an approved temporary use which allows the park to be utilized. Ms. Schemper added that Public Works had applied for a Conditional Use Permit on this property and while getting plans together and after speaking with Planning Staff, they came up with an alternate proposal to change the Zoning which is more appropriate if the property is going to be a park. The hurricane had also delayed things, but Pubic Works had been communicating with Planning regularly over the last couple of years. There are also permits in the works to put some facilities on the property with some grant money. Mr. Steven Williams responded to Commissioner Miller's first question that the property and been purchased by the County in November of 2013.

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

Motion: Commissioner Wiatt made a motion to approve Item 5. Commissioner Ramsey-Vickrey seconded the motion. There was no opposition. Motion passed unanimously.

Motion: Commissioner Wiatt made a motion to approve Item 6. Commissioner Ramsey-Vickrey seconded the motion. There was no opposition. Motion passed unanimously.

BOARD DISCUSSION

Commissioner Ramsay-Vickrey began with the subject of maintenance dredging that had been approved for Duck Key some time back. At that time, the Board had discussed not allowing this maintenance dredging for only one area, but making it County-wide. People who live on canals bought their properties knowing they had boating access. When the mouths of these canals get

choked off, the reason people live there becomes choked off. A lot of commercial and sports fishermen also live on canals and when the mouths of these canals become choked off, their livelihoods become choked off. This is something Commissioner Ramsay-Vickrey has been very passionate about and began pushing for during the Comp Plan update process. Before leaving the Planning Commission, Commissioner Ramsay-Vickrey wants to see this expanded County-wide. Ms. Schemper confirmed that Duck Key had almost completed their project. The Comp Plan Amendment became effective though the Land Development portion of the amendment had a few days left. This item is queued up as a BOCC agenda item so staff can ask the BOCC as to processing these amendments. It would require an amendment to both the Comp Plan and the Code, so staff needs Board direction to do this. Commissioner Ramsay-Vickrey stated that the Planning Commission can indicate Land Development Code changes but not Comp Plan changes. Obviously, these go together and it appears that Ms. Schemper is on it. Commissioner Ramsay-Vickrey then asked for the Commission to give staff an idea of how everyone feels on the issue.

Commissioner Wiatt stated that what was done for Duck Key was reasonable and it would be unreasonable not to do the same for other islands in the archipelago. Chair Werling agreed. Commissioner Miller stated that he would rather be unreasonable about it and limit this to one property at a time. To make a blueprint and then have people come in and start talking about dredging their property would be a threat to the environment. Instead of making this general, he would prefer to see the specifics of each proposal. Dredging is not allowed now, is taboo, and has been for a long time. Science supports not doing this kind of thing. Therefore, it should be site specific. Commissioner Ramsay-Vickrey pointed out that, at this point in time, if the County wants to pay for it, there is a process for them to be allowed to do it. The problem is the County doesn't have the money to pay for the maintenance dredging of the mouths of all of the canals throughout the County which are being choked off and there is no process to allow homeowners in a community to get together and pay for it. This would not be writing a blank check, rather giving property owners a process to go through the EPA and County regulations to get it done. Right now, there is not even an opportunity to apply for that process. Duck Key was given that privilege and the privilege should not be given to one community and not the rest of the County. Commissioner Ramsay-Vickrey encourages staff to work with Ms. Christine Hurley and the BOCC to make sure this is not a privilege provided to one, but an opportunity for canal restoration and canal access County-wide.

Chair Werling asked Ms. Schemper for confirmation as to the amount of criteria and monitoring that went along with this. Ms. Schemper responded that there were seven criteria put in regarding things like there must be shoaling or natural deposition obstruction or reasonable access reduced, mitigation, and it must be in the public interest, and not cause degradation of water quality. Commissioner Miller stated that the public interest is nebulous. Duck Key wasn't in the public interest and he could not understand why that was considered to be in the public interest. Commissioner Ramsay-Vickrey spoke about weed rack and Commissioner Miller responded that that was not dredging. Commissioner Ramsay-Vickrey asked him how else that would be removed. Commissioner Miller stated that getting rid of weed rack is not dredging that affects the reefs and water quality beyond that one area. He is referring to turbidity that would affect the offshore reefs. Commissioner Ramsay-Vickrey stated she is referring to maintenance dredging in the mouths of canals which are primarily being blocked off by weed rack and

occasionally by sedimentary buildup due to storms. Commissioner Ramsay-Vickrey reminded the Commission that she had pushed to use the term natural deposition as opposed to sedimentary so it would not be restricted to sand and would include weed rack buildup. Ms. Schemper clarified that Commissioner Ramsay-Vickrey was speaking of organic material buildup on the bottom of the canals and compost dredging. Commissioner Miller reiterated that he would like to see this written so the County doesn't go backwards when it comes to the environment by allowing this to proliferate. Ms. Schemper stated this would only apply to maintenance dredging a previously-dredged area. New dredging is not allowed. Commissioner Wiatt added that he recalled the Duck Key project was in the canal, not in the mouth of the canal, and he believes it is needed at the mouth of the canals more than anywhere else. Ms. Schemper stated that the BOCC had given direction that they would consider something like this if limited to canals, not outside of the canals and the definition of perimeter canal had been added in.

Commissioner Miller reiterated his concerns. Commissioner Ramsay-Vickrey added that when the dissolved oxygen levels of the canals start going down, they are dying and the waters are still flushing into the near shore waters. Restoring flow to the canals is beneficial. The DO level in her canal is zero. Commissioner Wiatt agreed that removing the vegetative matter was preserving, not dredging. An anaerobic environment is not natural or helpful. A hurricane or tropical storm can completely fill in a canal. It would be easier to address situations like that if there were legislation to allow this. Ms. Schemper clarified that the issue at hand with Duck Key was maintenance dredging which was only allowed if there were no resources on the bottom. Maintenance dredging is allowed as long as nothing is growing on the bottom of the canal. Commissioner Wiatt stated that was assuming permits were received prior to stuff starting to grow on the bottom. Mr. Mike Roberts added that what is protected under the Code and Comp Plan are seagrasses and benthic hard bottom communities. Corals do not start back to where they can be quantified and measured within two years. Seagrass beds move anyway, but would not be established in a canal in any appreciable time where a reasonable effort towards permitting wouldn't begin under that bar. As to the weed rack, the County is undergoing a pilot program now for canal restoration and part of that program is the evaluation of various technologies including air curtains and dredging. The purpose of these projects is to evaluate which of the technologies are feasible and effective. Mr. Roberts would prefer future legislation be held off on until the results of the pilot projects are in place. Commissioner Ramsay-Vickrey stated that Duck Key has already been allowed to do this and the rest of the County has been told they have no option unless the County wants to come in and pay for it. The privilege should not be allowed for only one area. A permitting process should be allowed for the communities to have the ability to pay for their own canal maintenance. Commissioner Miller added that the results of the pilot projects were less than spectacular and he would urge caution. Commissioner Wiatt stated that that was all the more reason to allow the communities to pay for them.

Commissioner Wiatt added that an emergency situation may be covered under the current Code except for the fact that what everyone is seeing after Irma is that things take a grindingly slow amount of time to get worked out for funding and everything else. The canals have not all been cleaned of rubbish and it's been close to a year. So if canals silt in from a hurricane, it could be three or four years before everything was pulled together to do the maintenance dredging on that, which would likely be enough time for seagrass and other things to inhabit the bottom. What happens in reality is larger vessels will go over a live bottom and tear it up. It would be better

for the environment to have dredged that so there is no interaction between the prop and the bottom.

Commissioner Ramsay-Vickrey summarized that three Commissioners think the canals should be cleaned and that Commissioner Miller thinks they should be left dirty. Commissioner Wiatt added that without addressing the mouths of canals, it may be a waste of time. Ms. Schemper asked the Commission if they wanted the comments regarding the mouths of canals to be added and sent along to the BOCC. The definition of “mouth of canal” was discussed, and the fact that the actual organic material would be completely removed. Commissioner Wiatt suggested language for the maintenance dredging of canals Keys-wide providing all criteria are met, and then do the mouth of the canal on a case-by-case basis. Some canals are out in open water marked with Coast Guard headpin markings which could be included, but this would not include the majority of the canals that are not provided with Coast Guard navigation aids. Commissioner Ramsay-Vickrey added that there may need to be a future discussion about outside the perimeter of the canal, but for now she would like to send a motion of support to the BOCC to track the same language previously approved for Duck Key to be made County-wide.

Motion: Commissioner Ramsay-Vickrey made the motion of support. Commissioner Wiatt seconded the motion. There was no opposition. Motion passed unanimously.

Mr. Steve Williams then addressed the issue of Commissioner Miller changing his vote, indicating there is a provision in Robert’s Rules for changing a vote and he read the rule aloud. However, in this situation with the Planning Commission and allowing this a month later, there has already been a staff report generated outlining the prior vote which was submitted to the BOCC. The BOCC has also voted. A month later is too far gone and too much reliance has already been placed on the vote. If the request had been made later in that meeting or prior to the BOCC consideration, then this rule could be relied upon to make the change. In this case where there was a unanimous vote that would only go down as four to one, there is no outcome affected by the vote change and it is too late to change the vote formally. In the future, if such heartburn is felt, it can be done any time prior to the final vote count being announced. Mr. Williams stated this was his response with limited time for research. Commissioner Miller added that the fact that this was a recommendation that was later acted upon, and the substantial fact of the recommendation had changed, is what his problem was. Mr. Wolfe concurred with the advice given by Mr. Williams.

Mr. Bill Hunter was then allowed an opportunity to ask his questions regarding affordable housing on Big Pine Key which had been severely hit by Hurricane Irma. A lot of the housing that was less than substantial is what was destroyed, a lot of which was the affordable housing on that island and in all of the Lower Keys, but Big Pine has the unique caveat of having a limit on growth and ROGOS. The last few affordable ROGOS have suddenly become precious as people are building and he believes there won’t be enough ROGOS County-wide but Big Pine is now out of affordable ROGOS. Mr. Hunter believes the Planning Commission is the only place in the County where as much knowledge lies about land use where this discussion could begin. The HCP limits growth and allows for transfer off of Big Pine and No Name Key, allows transfer within Big Pine Key, but ROGOS are now gone because of the H factor. Mr. Hunter is concerned that what will be rebuilt on Big Pine will not be affordable. If an affordable housing

ROGO were used to rebuild deed-restricted affordable, and then take that market rate and move it to Sugarloaf, from an HCP perspective, that would be neutral as the impact has not been increased on the environment for the Key deer. The question is can affordable housing ROGOs continue to be awarded as long as the market rate that is harvested is used outside of Big Pine Key. This would open the door to other discussions that are happening such as Longstock having moved 100 off, and the prison and some other developments where things were moved off. The Federal government and the State have opened the door to encourage the rebuilding needed, but the HCP continues to stand in the way for Big Pine Key. The Planning Commission would be the group to address this and have the power to raise the question.

Mr. Bart Smith added that he deals with 99.9 percent of the work of the Florida Keys Community Land Trust which just put in the four affordable units and the deed restriction was placed on market rate. The biggest factor that prevents someone from building a home renting for \$1,500 or \$1,600 is that it's so costly to build. It would be great to transfer off the market rate ROGO and replace it with affordable as that would offset part of the cost to build. Mr. Smith agreed with what Mr. Hunter stated, that it would not add additional residential to the island and would be a mechanism to give some monetary value to the market rate ROGO to be utilized elsewhere which may offset the cost for a not-for-profit building. Commissioner Miller asked if they were truly affordable as opposed to the Quarry. Mr. Smith stated the Quarry has 45 percent low and very low, has seven units that will rent for \$500, and 55 percent moderate which is \$2,300. 45 percent are \$1,500 and below. Units with 800 square foot with two bedrooms, renting for \$1,900 or \$1,950 in Sunset Marina, which is the median income, would be rented within the same day listed. Rent goes up over time so what it was five to ten years ago is not what it is today. For the Florida Keys Community Land Trust, there was a \$110,000 land cost and the units were another \$200,000. Adding property insurance and taxes adds up to about \$500 month that must be paid before doing anything, and mortgages add another \$1,000 a month leaving no margin for error. The only way to reduce that down is to take some of the cost out. The County had donated \$100,000 and other sources such as United Way had contributed to offset the costs. Another mechanism to help offset costs would be a market rate ROGO. The last couple of ROGOs had gone for \$60,000 and TDRs go for \$20,000 to \$25,000, varying based on demand, availability and the ability to transfer. With Big Pine being predominantly Tier 1, ROGOs can't transfer to Tier 1. Commissioner Ramsay-Vickrey added that staff would have to really think about this to prevent unintended consequences.

Commissioner Wiatt stated that when he was on the Affordable Housing Committee, the cost of construction had been discussed. One of the things the BOCC had wanted them to look at was tiny homes and it became obvious quickly that the way things were structured, no developer wanted to build a tiny home because they don't want to burn even an affordable housing ROGO on something that small because they rent ultimately by square footage. Building a larger home and getting the application of median or moderate allows renting for market rate. A two-bedroom, two-bath home at median is closer to \$2,200 than \$1,900. The study that the State of Florida and HUD did stated the average market rate two-bedroom home in the Keys was \$1,682. Giving up a median or moderate ROGO is actually giving up an affordable housing unit for market rate cost. Because everybody wants to build moderate and median, the opportunity is being lost for businesses that want to supplement the building of housing for their employees because the ROGOs are being burned up with moderate and median. This needs to stop. If

somebody comes with a really good idea for an affordable way to construct employee housing for their employees on their property, footing some of the cost, by the time that happens the County may be in a situation, and is already in the situation on Big Pine, where there are none to give. This brings up the ratio of affordable housing units in the Lower and Upper Keys combined which is on page eight of nine in Agenda Item 1. There are a total of 568 affordable housing allocations available and 356 are already identified for moderate. Commissioner Wiatt reiterated that he does not understand why the County is doing this. Commissioner Miller stated the ratio could be changed. Commissioner Wiatt wanted to know why this was being done before promoting a change to it, in case he's missing something, as the rents for moderate are above market rate.

Ms. Schemper explained that there was an existing balance in the Code in 2002 and it was divided up 50/50 between moderate and very low, low and median. This is what is remaining from that as well as anything that was already on the books prior to that set of ROGO received with the new hurricane model. It is not a simple calculation of what has been given out over the years. Things that have expired are factored in and end up back in the balance. Commissioner Ramsay-Vickrey stated that it was good news if it was 50/50 which would mean more were taken in the very low and low. Commissioner Wiatt added that it may have something to do with denying some of those and asking for 50 percent and believes this ratio should be changed for the Lower and Upper Keys so it doesn't end up in the same situation as Big Pine. There may be cases to build a moderate here and there, but it certainly needs to be less than 50/50. The first category includes median which is also above market rate. Commissioner Miller agreed the Commission should do something about it. Ms. Schemper stated she would double-check the Code and Comp Plan to be sure this can be done. Commissioner Miller stated that it is at the Commission's discretion and it could be set for the next meeting. Chair Werling asked whether it could be done without being noticed. Mr. Williams responded that some public notice would be preferred even if the Commission does have the absolute right to do it. Commissioner Wiatt added that his idea was not to bring it up for a vote today, but for discussion to take a vote in the future. Commissioner Miller agreed. Commissioner Ramsay-Vickrey preferred giving staff time to go through the Code. Chair Werling agreed. Commissioner Wiatt also suggested staff look at the concerns Mr. Hunter brought up specific to Big Pine and whether anything could be done regarding that. Chair Werling suggested it be added to the October meeting. Ms. Schemper clarified that it would be put on the agenda for October for the Commission to decide what the new ratio would be and to have a vote on it. Commissioner Ramsay-Vickrey noted that she would not be present but adding her two cents, she would leave it very low, low and median, and then moderate separate, because a certain amount of median needs to be included to make these projects work. Commissioner Wiatt stated his biggest fear is down the road, someone may actually come and be able to build at very low for their employees and there may be no ROGOs left. Ms. Schemper mentioned that the Code allowing this specifically states the ratio of very low, low and median to moderate is what may be adjusted. The lower three categories are set. Commissioner Miller asked if it could be changed each quarter. Chair Werling responded that the numbers could be adjusted. Mr. Williams interjected that prior to putting it on the October agenda, staff would take a look at it with the recent LDC and Comp Plan. Ms. Schemper clarified that it was within any ROGO quarter, but the details would need to be looked at.

Commissioner Miller stated that in light of Agenda Item 8 from the last meeting, taking a lot and zoning it from SS to SR and allowing a vacation rental needs to be looked at. Perhaps there is a better mechanism instead of changing the Zoning to SR. It is not in the public interest to take lots in this County and change them so they can become vacation rentals. Commissioner Miller then asked for a moratorium to be put in place until this issue can be addressed. Commissioner Ramsay-Vickrey asked if it would be possible to remove vacation rentals from all categories. Chair Werling stated the Commission couldn't touch that. Mr. Williams responded that Commissioner Ramsay-Vickrey's five minutes was up and he would entertain a motion to adjourn before anything else was said that would potentially endanger a statutory preemption. Commissioner Miller clarified that he was not talking about touching the vacation rental ordinance, rather of not making a Zoning change on a lot and going to SR to allow someone who had damage on their home a mechanism to rebuild what they had. He believes a misstep was made. He would like to direct staff to look at this to see what can be done to accommodate someone who wants to rebuild their home under these circumstances and not go through a Zoning change. Ms. Schemper responded that this specific Map Amendment had the stated purpose of allowing a different open space ratio. To clarify Commissioner Miller's question, is there a different mechanism to allow the different open space ratio instead of a Map Amendment which just so happened to allow vacation rentals in this situation. Commissioner Miller added that another question he had was how many Zoning changes have been processed where you go to SR. Ms. Schemper responded that she would not be able to answer that. Commissioner Ramsay-Vickrey asked how many Zones allow vacation rentals, and if new Zones could be created. Mr. Williams asked everyone to please stop talking about vacation rentals. Chair Werling clarified the question to be whether there was a different mechanism or process to accomplish the change in the open space ratio other than a Zoning change. Commissioner Wiatt added that the real issue is whether he could rebuild what he lost and this shouldn't be the most commonly used mechanism as the property owner ought to be able to do that. Code changes could be put in place to let people rebuild what they had and it shouldn't have to come before the Planning Commission as a Zoning change. What could be a little bit sketchy is what is it that people actually have and whether it was permitted and legal. Commissioner Ramsey-Vickrey added that on Big Pine and No Name it also depends on whether someone who lost a fence in the hurricane had a fence that predates 1986, so it needs to be more specific. Mr. Roberts clarified that the '86 issue goes back to whether or not a permit could be found. Commissioner Ramsay-Vickrey stated that she agrees except for Big Pine and No Name. Commissioner Wiatt stated that it seems inefficient, ineffective and ludicrous to not allow someone to rebuild what they had prior to a storm. Mr. Williams added that there is a concept of non-conforming which is being overlooked. Commissioner Miller added that this should be looked at as far as a principle residence being allowed to be rebuilt without going through a Zoning change. Ms. Schemper explained non-conformity as something that was permitted at one point in time but is not conforming to today's Code which would need to be brought into compliance with today's Code if it were more than 50 percent destroyed.

There was no further board discussion. A cake was provided for Commissioner Ramsay-Vickrey's last day on the Commission.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 11:43 a.m.