

PLANNING COMMISSION
May 27, 2020

Meeting Minutes

The Planning Commission of Monroe County conducted a virtual meeting on **Wednesday, May 27, 2020**, beginning at 10:00 a.m.

CALL TO ORDER by Chair Coward

PLEDGE OF ALLEGIANCE

ROLL CALL by Ilze Aguila

PLANNING COMMISSION MEMBERS

Tom Coward, Chair	Present
Bill Wiatt, Vice Chair	Present
Ron Demes	Present
Ron Miller	Present
Joe Scarpelli	Present

STAFF

Emily Schemper, Senior Director of Planning and Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Steve Williams, Assistant County Attorney
John Wolfe, Planning Commission Counsel
Mike Roberts, Assistant Director, Environmental Resources
Mayte Santamaria, Senior Planning Policy Advisor
Ilze Aguila, Senior Coordinator Planning Commission

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by Mr. John Wolfe.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Ilze Aguila confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff was not sworn in as Mr. Wolfe advised all items on today's agenda are legislative and not quasi-judicial.

CHANGES TO THE AGENDA

Ms. Ilze Aguila confirmed no changes to the agenda. Ms. Emily Schemper stated that Items 3 and 4 would be read together.

DISCLOSURE OF EX PARTE COMMUNICATIONS

There were no disclosures of ex parte communications as Mr. Williams advised all items on today’s agenda are legislative and not quasi-judicial.

APPROVAL OF MINUTES

Motion: Commissioner Wiatt made a motion to approve the February 26, 2020 meeting minutes. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

NEW ITEMS:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE TO AMEND SECTION 122-4(B)(4) TO ELIMINATE THE ABILITY FOR A MANUFACTURED/MOBILE HOME TO BE PLACED AT AN ELEVATION BELOW BASE FLOOD ELEVATION AND SECTION 130-53 TO AMEND THE PURPOSE OF THE URBAN RESIDENTIAL MOBILE HOME—LIMITED DISTRICT (URM-L) TO ELIMINATE PROVISION THAT PROVIDES FOR A MANUFACTURED/MOBILE HOME TO BE PLACED AT AN ELEVATION BELOW BASE FLOOD ELEVATION AND SECTION 130-100 TO ADD DETACHED DWELLINGS AS AN AS-OF-RIGHT USE WITHIN THE URBAN RESIDENTIAL MOBILE HOME—LIMITED DISTRICT (URM-L); 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 AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2020-017)

(10:03 a.m.) Ms. Mayte Santamaria, Senior Planning Policy Advisor, presented the staff report. This is to amend three sections of the Land Development Code to eliminate the ability for a mobile home to be replaced or placed at an elevation below base flood elevation, as well as to add a new permitted as-of-right use within the Urban Residential Mobile Home Land Use District. Currently, the floodplain regulations allow mobile homes to be placed and replaced on 36-inch piers within the County, specifically within URM-L zoned properties if it meets certain criteria in the Code; specifically that it’s within a park within the URM-L District, as well as contiguous to and surrounded by other mobile homes also below base flood elevation. This is regardless of the flood risk, flood zones or base flood elevation unless substantially damaged by flood. Currently, if substantially damaged by flood, the mobile home would be required to be elevated higher. Ms. Santamaria presented damage assessment photos taken by staff after Hurricane Irma of below base flood mobile homes. Due to Hurricane Irma, there were approximately 4,000 units that had either major damage or destroyed, though all weren’t mobile homes. In light of these impacts, County Staff has proposed these amendments to provide better resiliency and protection for these units.

Amendments are being proposed to Section 122-4(B)(4)(a) to eliminate the ability for mobile homes or manufactured homes to be placed, replaced or substantially improved at an elevation below base flood, removing the ability to place a mobile home on 36-inch piers. Mobile homes would meet the same building code standards as other units with this proposed amendment. Amendments are being proposed to Section 130-53 which is the purpose for the Urban Residential Mobile Home-Limited District to eliminate the ability for mobile homes to be placed or replaced at an elevation below base flood elevation. Amendments are being proposed to Section 130-100 for the Urban Residential Mobile Home-Limited Use Section to add in detached dwellings as another as-of-right use which would provide owners within these districts to have another housing option. Today, the only permanent unit allowed is mobile homes or RVs on a temporary basis. This would allow a site-built unit to be on a property. There are eight properties within the County having the URM-L Zoning District, which contain approximately 775 mobile homes. This comes from a review of building permits, aerials, and damage reports after the hurricane to best estimate what is on the sites today. Of the 775 mobile homes, approximately 219 are elevated at or above base flood; approximately 556 are below base flood; and of the 556, approximately 404 would already be required to elevate based on current Code. To qualify for the 36-inch pier, the mobile home needs to be contiguous to and surrounded by other mobile homes also below base flood. There are approximately 152 additional mobile homes affected by this amendment with the elimination of the 36-inch pier option.

Ms. Santamaria presented a color coded diagram of a portion of Venture Out to visualize the changes caused by this amendment; yellow on grade or below base flood elevation, green at or above base flood elevation, blue being an RV, and red being vacant. These are mobile homes that currently, under today's Code, could not be replaced on 36-inch piers. Ms. Santamaria pointed to a yellow-coded mobile home which was contiguous to and adjacent to an RV, explaining that because it was not surrounded and contiguous to another mobile home, this unit would need to be elevated upon replacement with a new unit. Ms. Santamaria then presented the estimated 152 additional units which would be impacted by eliminating the 36-inch elevation, and further explained the diagram. This proposed change is to provide the same level of flood elevation protection for both manufactured and non-manufactured homes, meeting the Florida Building Code Standard of BFE plus 1. The proposed change does not require immediate elevation. This would be a gradual process as owners either choose to replace or substantially improve their mobile homes or must replace them due to substantial damage. Removing the exception provides additional protection to the residents residing in the mobile homes, reducing the loss of life and property, reducing repeated impacts of flooding, and to enhance the overall health, public safety and welfare of Monroe County. By removing the 36-inch elevation exception, the County may qualify for a Community Rating System Class 4 Rating, which would increase the discounts for residents within Monroe County from a 25-percent to a 30-percent discount, equating to approximately \$6.4 million. This change is required to even meet a prerequisite to get into the potential of meeting the Class 4. The prerequisite states the community must adopt and receive credit for higher regulatory standards and must adopt and enforce at least a one-foot freeboard requirement, which is already in the Building Code and would be reflected in the Code change where a mobile home, like any other home, would have to meet the Florida Building Code of base flood elevation plus one foot. This information was

presented to the BOCC in February and staff was directed to initiate this amendment to eliminate the elevation exception. Staff recommends approval of these proposed amendments.

Commissioner Miller asked if with this legislation there would still be mobile homes in URM-L that do not have to elevate to base flood elevation plus one. Ms. Santamaria responded that they would not have to immediately. As they either chose or required to replace the unit, it would need to be elevated as required in the Building Code, but it would not be an immediate change. Commissioner Miller asked if there would still be mobile homes that are exempt from this legislation. Ms. Santamaria stated there would be no exemption.

Chair Coward asked if there were further Commission questions or comments. There were none. Chair Coward then asked for public comment. Mr. Jethon Williams, Zoom Moderator, indicated there were no raised hands on this item.

Commissioner Scarpelli asked if there would be greater elevations for a lot of homes in Venture Out. Ms. Santamaria stated that it appears the flood maps would potentially increase elevations throughout, but those flood maps are still under review and there is a potential appeal process, so the outcome is not known. Whatever flood map goes into effect in the future will impact all structures.

Chair Coward confirmed there was still no public comment, and asked the Commissioners if they had received the email from Ms. Jewel King regarding this item. Commissioners Demes and Miller had not seen the email. Chair Coward paraphrased that Ms. King was against this amendment, highlighting concerns of previous grandfathering of the District and the hardship on residents required to meet this requirement. Ms. King hoped there were other ways to achieve the Class 4 Rating. Ms. Santamaria confirmed that those were the concerns of Ms. King, but after review with the CRS reviewers, and even after providing an analysis to them showing the domino effect under the current Code indicating that over time the same result would be reached, the reviewers maintained that it was not an option. Proposing the change will provide better protection for the mobile homes.

Chair Coward closed public comment and asked for further Commission comment. Commissioner Scarpelli thought this was a struggle for all homeowners in the Keys and providing additional savings for insurance purposes is a great way to help the Keys as a whole in the long run. The closer Monroe County gets to being more compliant and ready for such storms, the economic and personal impact incurred by residents will be lessened. It's a hardship now but will be a great benefit for the future. Commissioner Wiatt added that a ground level home that's not a manufactured home that is damaged over 50 percent or that the owner wants to redevelop also has to be built above base flood, and mobile homes should not be special. Commissioner Demes noted that the rating for hurricanes is largely wind based, but his real concern from an engineering standpoint is density of water and what it does. Something like a mobile home that begins to travel into the neighborhood does unbelievable damage and has the potential to be devastating even to buildings above the flood plane when that much water is pushing it into a compliant structure; therefore, he is very much for this amendment. Some of these sites are within the military installation area of impact, and he would like to get back to a

statement along those lines of any impact it may have within the MIAI anytime something comes before the Commission. Commissioner Miller added that this should have been done a long time ago and agreed it needed to be done. Chair Coward agreed, adding that it seems to be a no-brainer, and though it will make the process go a little bit quicker, it is still a gradual process. It will bring more units into compliance and should cause some savings to the constituents.

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

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.3.1, 101.3.5, AND 101.6.8 OF THE MONROE COUNTY 2030 COMPREHENSIVE PLAN TO ALLOW THE INTERCHANGEABILITY OF MOBILE HOME AND RV USES WITHIN VENTURE OUT ON CUDJOE KEY, AND ELIMINATING THE POSSIBILITY TO TRANSFER ROGO EXEMPTIONS FROM VENTURE OUT TO OTHER LOCATIONS OUTSIDE OF THE VENTURE OUT COMMUNITY, AS PROPOSED BY SMITH/HAWKS PL ON BEHALF OF VENTURE OUT AT CUDJOE CAY CONDOMINIUM ASSOCIATION; 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; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-066)

(10:26 a.m.) Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. This item is a Comprehensive Plan Text Amendment to allow for interchangeability between mobile homes and RVs in the Venture Out community, on Cudjoe Key within the URM-L Land Use District which allows both mobile homes and RVs. Currently under the Code those uses are treated as two distinct and different uses. This proposal would allow those uses to be interchanged. The applicant proposed some text as indicated in the staff report. Staff has reviewed that text and recommends some changes noted in red ink within in the staff report. Those changes include the following: For purposes of maintaining hurricane evacuation time, occupants of all units, regardless of type, are required to evacuate at least 48 hours in advance of tropical storm winds. That would be the occupants of both mobile homes as well as RVs, and the RVs themselves would also evacuate at that 48-hour mark. Clarification is added that there is a managing entity for the evacuation to ensure that people do leave at the 48-hour mark, that recreational vehicle occupancies or tenancies over six months or more is prohibited, and all RVs must comply with Land Development Regulations including any floodplain regulations and Building Code requirements. RVs also must be road ready for highway travel and can only utilize quick-disconnect type utilities with no permanent additions. No unit from within Venture Out can be transferred to another site outside of the Venture Out community and in no case shall recreational vehicle be developed as hotel or motel units. Staff recommends approval with the recommended changes.

Commissioner Miller asked if the occupants of the RV had to leave and not the RVs. Ms. Cioffari clarified that it would be both the occupants and the RVs. Commissioner Wiatt had some concerns with respect to the language clarifying that and thought it was a bit confusing. Ms. Cioffari read in the language, “To not increase the hurricane evacuation clearance time of

permanent residents, in the event of a pending major hurricane, Category 3 to 5, a mandatory evacuation of all occupants of units within Venture Out, regardless of unit type, is required at least 48 hours in advance of tropical storm winds. Approximately 48 hours in advance of tropical storm winds, a mandatory evacuation of occupants residing in a permanent unit shall be initiated, and a mandatory evacuation of both the occupants of recreational vehicles, RVs, and the RVs, shall be initiated.” Both Chair Coward and Commissioner Wiatt believed that that language resolved their concerns. Commissioner Demes asked how this was figured into the mandatory evacuations and how would the County know this would really happen, whether anyone had any recent knowledge of past performance of Venture Out. Ms. Cioffari indicated that she did not have that answer. Commissioner Wiatt stated that he had some ideas along those lines but wanted to first hear from the applicant. Commissioner Miller asked what the philosophy is regarding hurricane evacuation and RVs because they pose a potential threat to blocking traffic during an evacuation, as a lot of things can go wrong on the highway, and would a better goal not be to have fewer RVs in the Keys instead of allowing more. Ms. Schemper responded that some could argue fewer transient uses, fewer RVs; and others would argue fewer permanent residents. If Venture Out became all permanent residents and evacuated in the later phase, that also would have implications for evacuation adding more people trying to get out in a shorter time period. Commissioner Wiatt added that if folks are actually following the rules in this amendment then the RVs would be street ready and legal and completely out of the Keys prior to the storm, though he shares the reservations of Commissioner Miller as to whether that will really happen. Ms. Schemper stated that the likelihood is increased in a situation like this because there is a property owners association and it is a more managed development.

There were no further questions for Ms. Cioffari. Chair Coward asked if there were a lot of hands raised for this item. Mr. Wolfe interjected that the applicant should respond first.

Mr. Bart Smith, representing Venture Out, responded that the association board supports the language requiring RVs to vacate adding that it gives the force of law. Venture Out wants their park to be as safe as possible during a storm. As discussed, anything that can lead to damaging other property with the force of water is a major concern, especially after Hurricane Irma. Venture Out requires the RVs to vacate, but this would be another stick to utilize for enforcement. Mr. Smith shared a presentation explaining how Venture Out has operated both historically and today. Venture Out consists of 659 lots, similar in size, and all lots are set up the same. The plat identifies all of the condominium parcels, provides all units are designated for recreational and residential living purposes, and may be used for the placement of a mobile home or RV as a dwelling or such other approved structures. The idea is that these two things will work to provide more compliance with flood regulations as structures are removed, and will allow those removing a non-compliant structure to replace it with an RV or a detached dwelling above base flood. Historically, these two uses have been interchangeable. All of the property is allowed to be used as tourist housing so vacation rentals are permitted throughout. Venture Out is unique in that all units share the same water and sewer connection, which that and the electric pedestals are owned by the association, and all have the same concrete pad. Mr. Smith presented permit listings reflecting past changes. The association is in agreement with the changes staff has made to the proposed Comp Plan Amendment and he requests a recommendation of approval.

Commissioner Wiatt was glad to hear the residents were in support of the RVs needing to be removed in the event of a mandatory evacuation, but remained skeptical. Therefore Commissioner Wiatt suggested adding the following language: Lots identified as RV lots whose RV is not evacuated during a mandatory evacuation will automatically convert into mobile home lots. The RV will have to be removed by the owner and all utilities terminated by Venture Out. So as long as the RV is being moved, everything is fine, but an owner choose not to remove the RV, at that point in time, the best recourse for the County would be to say, you've failed to comply, therefore your lot is now a mobile home lot and we will never have to worry about them moving an RV off of that lot again. Chair Coward asked whether you could change that for one person. Commissioner Wiatt believed the interchangeability could be maintained as long as the owners were in conformance, but someone with a track record of not removing the RV during a mandatory evacuation should have that privilege eliminated. If the residents are committed to doing what they say they are, then they should have no problem with it. This would give the County additional teeth to enforce the absolute need that these must be removed. Ms. Schemper clarified Commissioner Wiatt's intent, that if the site is found to have violated the rule of the RV itself being removed within the 48-hour mandatory evacuation then the site would no longer be allowed to interchange, and would only be allowed to get approval for a mobile home permanent dwelling unit, which would mean the site would be unable to be occupied by anything until a building permit is received to install an elevated mobile home.

Mr. Williams interjected that although legally he sees no prohibition to the concept, thinking solely from Code Enforcement mindset, the time to enforce this would be within that 48-hour window prior to Category 3 through 5 and the people enforcing this may also be evacuating. Commissioner Wiatt thought that from an enforcement standpoint, if the RV remained on the property throughout the process of the hurricane, the County would likely have that information. Mr. Williams agreed, but noting that the RV owner would be in violation at 36 hours before the storm. Chair Coward asked for Mr. Smith's input. Mr. Smith stated that he could not take a position and would have to speak with his client. From the president's perspective, they want to get the people off and get them removed ahead of time but the association doesn't have the right to tow an RV off of the property. Any avenue giving additional ability for Venture Out to enforce removing it would be desired, but he doesn't know if requiring the lot to be a mobile home or dwelling unit lot in perpetuity is possible, as that would penalize the next person who wasn't at fault. Venture Out does agree there needs to be a way to enforce this.

Commissioner Miller asked what the County's liability would be with the accreditation system when it comes to RVs being removed, or how it would reflect on the County's rating with the CRS and the discount. If the County fails and RVs are still sitting there, how would that influence the County's flood insurance. Ms. Schemper did not believe this was related to CRS at all and would not impact that rating, but did not have an answer. Commissioner Scarpelli asked how the County could take away an as-of-right use for that Zoning District. Ms. Schemper stated that the whole point of this amendment is to allow switching between as-of-right uses without regard to the type of ROGO allocation that they have. This amendment is already rewriting the rules for the ROGO allocations, and the requirement for everyone to evacuate early helps cancel out the impact on the ROGO system and the hurricane evacuation system. Even the

permanent units are required to evacuate earlier in order to not impact the permanent evacuation portion of the model. This recommendation could be written in, and the Planning Commission could make the recommendation of approval with this added condition. Whether or not Mr. Smith's client would be supportive of that recommendation would need to be worked out before the BOCC meeting and then address it there.

Commissioner Scarpelli thought it would put some scratch in the game for the individuals who are being given the ability to interchange at will, and now they have to buy into being responsible enough to follow these regulations. If they don't, this is what will happen. Ms. Schemper clarified that the intent was to remove the ability to interchange and require a mobile home going forward, subject to the overall rule for Venture Out that they all still must evacuate early. Commissioner Scarpelli stated that that was correct. Commissioner Wiatt added that it has nothing to do with individuals evacuating, rather to do with ensuring that the RVs are evacuated. One critical component is that the RV is not removed and it is not damaged, in which case utilities should be terminated until such time as a mobile home permit is obtained. This eliminates the options, and the RV itself must be evacuated. Commissioner Miller asked what the penalty is now if the RV does not evacuate. Ms. Schemper believed it to be a law enforcement issue. Mr. Williams added that he did not see any Code Enforcement actions against RVs that remained in place, so it would be either law enforcement or no enforcement. Commissioner Wiatt asked even if it was a Code Enforcement case, if the penalty would be a lien on the property. Mr. Williams stated that was correct. Failure to gain compliance and if the fine isn't paid along with corrective measures, then a lien would be placed on the property that would be foreclosed on the courthouse steps.

Commissioner Wiatt added that it says nothing about having no air conditioning, but Commissioner Scarpelli did not know about the ability to cut off utilities. Commissioner Miller did not think that wouldn't work. Commissioner Scarpelli thought the lien would be possible. Mr. Williams added that an RV is a vehicle under the motor vehicle guidelines, and Chapter 162 contemplates liens on real parcels and real property, so the only true asset would be the value of the pad in place. Mr. Smith interjected that the lot still would have value. Mr. Williams responded that the \$100 to \$500 per day liens would quickly usurp the value of an RV pad. Mr. Smith agreed. Commissioner Wiatt asked if Commissioner Scarpelli was correct that utilities would be out of play. Mr. Smith stated he had trepidations about that as the Public Service Commission regulates utilities. Commissioner Miller added that they would get a drop cord and hose from the neighbor. Ms. Schemper stated if this were the proposed text, then an RV lot found in violation would again be in violation for having an unpermitted RV on the lot if it was there, hooked up or not. There would be no use established on that parcel until a permit was obtained for a mobile home. Commissioner Wiatt believed this had the most teeth. If the RVs are floating around during a major hurricane, that is a worse-case scenario. Whatever can be done to ensure the RVs are moved out should be done. Mr. Smith added that though he had concerns down the road with the requirement, he would stay away from the utilities. Commissioner Miller asked if it would be better to put the onus on the people in charge of Venture Out to ensure this happens so they have the responsibility, and there would be teeth in them making sure this happens. Ms. Schemper suggested requesting that Venture Out submit an

evacuation report following a storm. If it's in their interest to get the RVs to evacuate, they could make a report to the County. Commissioner Miller suggested that be done at the beginning of the storm season, showing that the RVs are ready to leave and the management will make this happen. Mr. Smith responded that the ability to provide a report at the start of hurricane season was reasonable and could be accomplished, but Venture Out does not have the authority or ability to tow personal property off of the lots. Management could confirm the RV owners were informed of the requirement to evacuate at least 48 hours in advance, and confirm that the RV is in a road-ready condition at the start of hurricane season. Commissioner Miller suggested a \$50,000 fine be imposed on Venture Out itself if all of the RVs did not evacuate, making Venture Out responsible. Mr. Smith reiterated that Venture Out could not control the evacuation. They could be fined, but fines are set by State Statute at \$100 a day up to 10 days.

Commissioner Demes added that based on the past performance and teeth the County has had with these mandatory evacuations over the years, people blow them off and will do what they want knowing what has happened in the past. Though it is extremely important that there is teeth in this, there are also real reasons why people can't evacuate. Why punish the association for the person who had a heart attack and is in the hospital and couldn't get his RV out. These things happen. At the same time, he agreed with eliminating the right to have an RV. Though Commissioner Demes did not know how many of the 679 units are RVs, the report would be a metric that could be provided the County to then say an RV cannot be on that lot anymore. Commissioner Miller stated that this makes the point to not allow more RVs. Commissioner Wiatt thought that over time, this may very well limit the number of RVs in the Keys. Mr. Smith stated that he was comfortable with the requirement of adding the report, but forfeiting the right to utilize the lot for an RV would need to be discussed with the client, and the utilities could not be done. Commissioner Miller did not understand why, knowing all of the restrictions against enforcing this and making it happen, why more RVs would be allowed.

Chair Coward then asked for public input. Mr. Jethon Williams, Zoom moderator, confirmed there were four raised hands.

Mr. Jim Jones first stated that he is owner of Lot 398, has a mobile home eight feet above the ground, and has no direct relationship with RVs, but he would not accept this amendment. The owners should be fined for not removing their RV, whether it's \$1,000, \$2,000 or \$3,000. This amendment would create a situation where there would be five, ten, fifteen lots that are interchangeable which would be difficult to manage, and the County would probably end up in court. The easiest and most sensible way would be to fine them, put a lien on the property and charge penalties around the fine.

Mr. Mike D. stated that he also is an owner of a stilt home in Venture Out and the RV implication doesn't apply to him, but he is concerned this would be applying a rule or ordinance to a select group of people in Venture Out. There are other RVs in the Keys at either a homeowner's home or other RV parks that this would need to be applied to, causing a legal quagmire if this were applied only to Venture Out. An ordinance or rule or law should be made to apply to all RVs in the Keys.

Mr. Williams interjected that Venture Out was coming to the County for this, and not every RV park in the County. Venture Out is seeking a unique opportunity for their park and he would have no fears from a legal perspective of any implications to anyone else in the County. This could be denied to all of Venture Out and the County could say “no” and move on with the rest of their day.

Mr. Al Leone, President of Venture Out, stated that the association was looking for some teeth from the County with this ordinance to be able to get people to remove these RVs in a pending storm. Venture Out does not have the ability to tow an RV off someone’s personal property and this has been struggled with for years. The goal is to get the RVs out but there are only so many tools in the toolbox. This Comp Plan change would give some additional teeth with a County ordinance saying these things must be removed or suffer the consequences from Code Compliance with fines or whatever the County can do to help get the RVs removed. Mr. Leone would not like to see Venture Out be charged a fine for somebody’s misconduct or misuse of their property. The association can only charge up to \$1,000 annually. For that amount, somebody can do whatever they want and just leave it there, and that’s exactly what Venture Out is trying to prevent happening. Commissioner Miller stated that this is why he believes the number of RVs needs to be limited, and not allow an increase. Mr. Leone stated that he understands the position, but the entire State of Florida is driven by tourist development, and this would have an impact in the long run for the County, but he will bring whatever decision the Commission makes to the board of Venture Out. Mr. Leone asked what is done now in the case of a KOA park when people don’t evacuate, adding that Venture Out has called Code Compliance on a few different items and they won’t come out on building violations. This battle is fought all the time. Anything the Commission can do to help them get the RVs out of the park during a hurricane would be a help, but going too far won’t produce anything as there is no one to monitor this during a hurricane. Mr. Leone described a conversation he’d had with a FEMA representative about this problem. In other Counties in Florida if somebody’s property goes flying across the road and damages another’s property they are held liable, but that is not adopted in Monroe County. If somebody’s RV flies into his house and damages it, he is not allowed to hold them liable for it. Commissioner Miller reiterated that this would be an argument to not allow more RVs in Monroe County. Mr. Leone responded that someone coming down in an RV for a couple of weeks helps the economy. There are also people living in the RVs from the military because there is no housing for them.

Ms. Denise Meehan stated that she is an owner of a permanent mobile home which she lives in year round, and an RV which is currently rented to someone who is also here year round, so she has a horse in both races. Ms. Meehan believes that Venture Out is highly interested in removing these things after a storm and knows firsthand what an RV that rolls can do to somebody’s home but it is on the owner of the RV lot to ensure that removal happens. It is not fair to say, buy this property, but because the owner before you was irresponsible, we’re going to penalize you and you have to build a house on this lot. RVs are very important to the Florida Keys for affordable housing. Her tenant can afford to live in the Keys because he owns his own RV and because the RV lot is much more affordable than a house. RVs are important to the tourist industry and to help ease affordable housing. Looking at all that has been discussed,

Venture Out could prepare some kind of a list of which lots have RVs on them and need to be evacuated before a storm and provide that to the County or other authorities. If the County decided to implement this amendment with removing the right to have an RV lot, please do not take the additional step of saying that will be in perpetuity. Ms. Meehan then asked for clarification on the requirement to evacuate prior to tropical storm force winds, which is 40 miles per hour, and whether a 40 mile-per-hour wind would require evacuation.

Ms. Schemper explained to the Commission that regardless of evacuation compliance for an RV, it is not legal for someone to live in an RV year round. The code requires RVs to be moved from the site and only be occupied for six months maximum. So this should not impact the Commission's analysis of this as it is not legal for someone to live year round in an RV. Mr. Williams also interjected that this would apply to Ms. Meehan's tenant. Ms. Schemper explained that the tropical storm wind language may need to be tweaked to clarify whether this 48-hour evacuation is only in the case of called evacuations. When a hurricane is approaching, the tourist evacuation is called earlier than other evacuations. Sometimes the tourists are asked to evacuate and then the permanent residents are never asked to evacuate, so this language may need to be clarified. The Commission can discuss that or staff will try to clarify the language.

Commissioner Demes stated that his concern is that this be tied to major hurricanes and targeting those winds where the limits on the bridges for such vehicles are safe or not safe. Mr. Smith agreed with Ms. Schemper's comments, adding that Mr. Marty Senterfitt and Ms. Shannon Weiner of Emergency Management has specific language they utilize for the mandatory evacuation times and the first phase is also the ability for RVs to drive over the bridges. This language should be tied to the Emergency Management language. Ms. Schemper added that the way it is presently worded matches the Comp Plan language for evacuations. That is the wording in the event of a pending major hurricane, Category 3 to 5. It is consistent and needs to be kept as simple as possible. Mr. Smith agreed that was correct and that every storm is treated differently, but this is the shortest evacuation time frame that there would be.

Ms. Lynda Smith, an RV owner, stated that she has a lot of money invested in the property and in the RV, and does not want to be there during a hurricane. However, she does not feel it would be fair to implement the change where if someone does not evacuate due to their own stupidity and they sell their lot, that they've lost the ability to sell the lot as an RV lot. It should be able to be utilized by the new owner as an RV lot. She does not want her RV destroyed, but sometimes things break down or people are unable to get to their RV, though she would send someone to get hers.

Commissioner Wiatt interjected that there is no way to penalize a potential buyer because they haven't purchased anything yet. The only penalty would be inflicted on the owner of the lot and the RV who didn't evacuate. There is no penalty on the person looking to purchase it because they haven't purchased it yet. They would be purchasing a mobile home lot because the prior owner failed in their obligation to remove the RV from the premises during a mandatory evacuation. Commissioner Demes agreed, it's not the future owner. If the person knowingly violates the provisions, it's them losing their investment value, and so be it.

Mr. Jack Kruzich, owner of RV Lot 74, rents through the on-site realtor. During 90 percent of the hurricane season the lot is not rented and there is nobody to evacuate, but it does typically rent during lobster season for a week or two. If a renter can't get the RV off for some reason, would this mean that he could no longer come down and put his RV on his lot? And is there any way to have RVs evacuate sooner than 48 hours, like 96 hours before, to help the situation of getting them out ahead of time and not be in the way of others.

Mr. Richard Armstrong owns a park model on Lot 525 so the RV situation does not affect him, but a lot of the RV lots are rented by owners that are possibly in another state. The RV renter can be requested to leave for an evacuation and could say that they left and have not, so the control is limited. Is there a way to penalize the actual RV owner that would not be complying and not penalize the owner of the property down the road for something he may have no control over.

Mr. Harry Applegate stated that this is a simple solution, and that Commissioner Wiatt has the right idea. Penalize them for leaving the RVs here and if they bail out or don't care about it, and they're not tied down and they destroy other peoples' property, which is what happened in Hurricane Irma, then that would be the best solution. Mr. Applegate agreed 100 percent with Commissioner Wiatt.

Ms. Jan Howard owns a house above base flood level and an RV lot. Ms. Howard asked how the County can remove the ability to put an RV on a lot in an RV community. This is an RV community and always has been. Interchangeability is being allowed, but now you wouldn't be able to go back to an RV. This also assumes all of these RV lots have RVs on them 365 days out of the year and they do not. Ms. Howard's RV lot is mostly rented during the winter months, which is not hurricane season, as are the majority of the lots. Presently, most of the RV lots are empty. Nobody is here during the summertime except during the lobster sport season and the first week of lobster season in August. Ms. Howard agrees that she does not want an RV floating around knocking down her house, but she does not see how you could eliminate the ability to put an RV on an RV lot in an RV community, anymore than you could go to the KOA and say, you all left some RVs here and now you cannot have RVs on this lot anymore. Ms. Howard understands the problem but most people are conscious enough that that doesn't happen. There are a few people that live full time in RVs and they need to make sure those RVs are moveable every 60 or 90 days. They should have to move them off of the lot and put them back on the lot to make sure that they are operable if they have to be moved during a storm evacuation.

Mr. Williams asked who the people are that live in RVs full time. Ms. Howard stated there are several of them and he could drive through the park and the office could tell him those that rent the lot by the year. The people in the military that are at the base in Key West put an RV on a lot. She hasn't rented to any of them but there are people there from the military base. They can live at a reasonable rate compared to renting housing in Key West or somewhere. The office could provide the information. Mr. Williams asked Mr. Smith to get that information to him. Mr. Smith stated he would talk to the office, but noted that some of them are under the three-year window where their mobile home was destroyed and an RV is allowed for a three-year period.

Mr. Williams noted that that was only good for another three or four months. Mr. Smith stated he would get back with Mr. Williams on that.

Commissioner Demes took exception to the last speaker making a sweeping generalization inferring that the Commission is under the impression that the RVers are there all year long, and he is not. His concern is that when they are there in hurricane season or just in front of or behind it, that's when it becomes a public welfare issue. As Mr. Williams said, this is not something the County is forcing upon the homeowners' association. It has opened up an issue because they want something. It sounds like the concerns are shared about unattended RVs and the only person to hold accountable is the property owner who makes that decision and takes on the liability to rent their lot, and that is an added liability that they have to manage much closer. Commissioner Demes is very much in favor of taking that right for an RV away if the owner so chooses and is irresponsible enough to not ensure, or not capable enough to ensure the RV leaves. Commissioner Scarpelli added that it's similar to a renter renting a home in the Florida Keys and that renter decides not to put up the hurricane shutters if the owner requested them to, or even if it is in their lease, and then that home gets destroyed, the owner would be hard pressed to hold the renter accountable for that. The owner has a responsibility, and so does the renter of that lot, to make sure they are compliant with the Codes and they are prepared for a storm event if they are in fact renting in the Keys during that time.

Chair Coward closed public comment and asked for any additional comments from the Commissioners or the applicant. Mr. Smith summarized that from the applicant's perspective he is comfortable with the discussion and believes there needs to be an enforcement stick. Mr. Smith would want to meet with the board and discuss it, maybe adding, "unless good cause is shown"; i.e., the person intended to move it the week before, had a heart attack and was in the hospital in a coma. Most of these lots are vacant during hurricane season but it can be a stick. Certainly, if that's the recommendation, perhaps some language revisions can be discussed but Venture Out is very much in line with in making sure that all RVs are evacuated well in advance.

Chair Coward asked Commissioner Wiatt if this were taken to the logical conclusion that of the 659 units with the interchangeability there could potentially be 659 RV lots or 659 mobile home lots. That's one possibility, extreme but a possibility. If an RV didn't evacuate and the allowance for an RV was rescinded, would there then be 658 lots that are interchangeable and one that is not. Commissioner Wiatt agreed that sounded accurate, and that would be the penalty for not complying, along with potentially other ones. The applicant is asking for this flexibility and for it to be formalized. If they want that flexibility, they've got to play ball and can't cheat. Though it sounds like the utilities couldn't be used, he sees no problem with adding this condition into the amendment requiring folks to be responsible with their RVs, noting that owners with homes on stilts in Venture Out agreed. And to Commissioner Miller's point of concern about having RVs at all, this will take lots where people aren't managing those RVs properly off the table from being used in the future as RV lots. This could make folks more responsible and have an effect over time with the numbers.

Ms. Schemper stated that staff had been working on some language if the Commission would like to review it. The language includes the interchangeability and reporting, but does not

include anything regarding utilities. Commissioner Miller asked whether the County was allowing the creation of any new RV parks in the County. Ms. Schemper responded that there are only so many ROGO units considered transient and more of those are not issued. If somebody wanted to create a new RV lot, they would need to find a transient ROGO from somewhere else in the County and transfer it, and eliminate the transient use where it came from. Commissioner Miller added that he had been told that the County would not allow the creation of anymore RV parks, that there were already 11. Ms. Schemper stated that the URM-L Zoning District is the district that Venture Out is in, and there will be no new areas created with that Zoning. But there is another zoning category RV, that allows RV parks, and there are no restrictions in the Comp Plan or Code that specifically says new RV Zoning Districts cannot be created. There are many details that go into a zoning change, and many details that go into the approval of a new RV park, but there is not a blanket restriction. Commissioner Miller then stated that instead of penalizing people after they've put an RV on a lot and going that route, he would prefer to eliminate the ability to create more RV spaces. Until he heard the testimony today that the County was almost impotent to enforce anything, he'd had no problem with this agenda item; but, after hearing the testimony, it was all arguments against more RV lots. Ms. Schemper stated that one of the problems with Venture Out is they do not know how many lots that are legally RV lots and how many are legally mobile home lots. If Venture Out stays under the current rules regarding ROGO allocations, if a ROGO exemption determination were done for all of those parcels for all of the lots, she could not state what the outcome would be. They would not all be RV, but there would be a split between permanent and transient ROGOs. This is a proposal that has come up in lieu of that based on a number of issues. Commissioner Miller asked if despite that determination, the County allows a mobile home to go to an RV lot. Ms. Schemper responded that under the current rules, if something is determined to be a mobile home parcel it would not be allowed to switch to an RV lot unless they were able to acquire a transient ROGO allocation from somewhere else in the County and transfer it onto the property. Those ROGO allocations are not interchangeable under the current Comp Plan and Code. That is the fundamental of Venture Out's request is that regardless of the ROGO allocations that are associated with Venture Out, that we do not know the exact number at this time of transient versus permanent but regardless of that, they are asking to be able to switch back and forth between ROGO designations, but it's stated as RV versus mobile home, and the evacuation requirement is put in so that regardless of which type of unit they have chosen, they are under the strictest evacuation requirement so it does not affect the hurricane evacuation model. Commissioner Miller stated that the point is they could all become RV under this interchangeability. And Ms. Schemper responded that that was correct.

Commissioner Wiatt and Chair Coward asked to see the language. Ms. Schemper shared the preliminary language she had prepared as follows: 2. Venture Out Condominium Association shall provide an annual report to Monroe County by June 1st to identify the number of RV locations with parcel IDs and property owners, and a copy of the notification provided to the RV parcels regarding the mandatory evacuation provisions in the County and the Venture Out community. Additionally, the Venture Out Condominium Association shall provide reports to Monroe County after each major hurricane, Category 3 to 5, within 30 days of the storm event that identify the owner and parcels with RVs that did not evacuate. The Venture Out community

authorizes Monroe County to conduct all necessary site visits and inspections on the subject property. 6. Any parcel with a permitted RV on the parcel that is not removed and evacuated with a mandatory evacuation shall be restricted from having a recreational vehicle as a permitted as-of-right use, shall be required to remove the RV, and may apply for building permits for a mobile home use. The Venture Out Condominium Association shall track and annually report to Monroe County on the noncompliant properties.

Chair Coward asked if something needed to highlight the fact that it cannot participate in the interchangeability portion of this, or whether the language covered that in number six. Ms. Schemper believed number six covered it. Under the zoning, an RV is permitted as of right, so this would remove that for that parcel. Commissioner Demes asked if the homeowners would be required to provide a new baseline, if this goes through, of each of the lots' designations. Ms. Schemper responded that in some ways, this policy would eliminate the need for that other than the evacuation issue. The tracking is really done through the building permits as a building permit is required to switch the use. So there would be a permit on each lot reflecting any changes. Mr. Smith stated that if Venture Out is required to notify the County as of June 1st of every lot that is an RV lot, then the reciprocal, anyone not identified is a mobile home lot. Commissioner Demes wanted to clarify that it was for the parcel and not only the ones with an actual RV on the lot. Mr. Smith stated that it stated RV parcels. Chair Coward asked Commissioner Wiatt if this would work, and Commissioner Wiatt believed so. Ms. Schemper added one more requirement in number six to help with the issue of lots in the park that are not allowed to interchange, that the County would put a deed restriction on those properties stating such. Commissioner Wiatt believed that definitely had teeth. Commissioner Miller stated that it only had teeth if the BOCC keeps this language in the amendment. Chair Coward asked if there would be an appeal process for somebody that had a heart attack and couldn't get their RV off the lot that may have a valid cause. Mr. Williams stated that in the Code world, you can always appeal and try to make a hardship type of claim. There is some flexibility to take it into account but it would be tough. To answer bluntly, everything is ultimately appealable until you get to Washington D.C., but to try to make it more clear up front something would need to be written in. Ms. Schemper asked Mr. Williams if, for making the determination that a lot was in violation based on the report and eliminating their RV use, would the County somehow bring it through a Code Compliance procedure or whether it would be literally based on the report. Mr. Williams stated that for due process, they would need to be cited for Code and given a chance to attempt to defend themselves. Mr. Wolfe agreed. Commissioners Wiatt and Scarpelli thought that would be the better approach. Ms. Schemper asked if the Commissioners wanted the deed restriction language added. Commissioner Demes stated he would like it added and would make a motion whenever everyone was ready.

Chair Coward asked that the language be cleaned up and then someone could make a motion. Ms. Schemper read as follows: Monroe County shall execute a deed restriction for such parcels eliminating RV uses on the property. Mr. Wolfe clarified "on such parcels." Ms. Schemper then stated: "Monroe County shall execute a deed restriction eliminating RV uses on such parcels," as it is less repetitive. Mr. Wolfe added that it only applies to that particular parcel or parcels, so the repetitive version was necessary, adding apostrophe s on parcels. Commissioner Scarpelli

asked if the language needed to be added for Code Compliance and how it would be implemented. Mr. Williams stated that once it becomes rule of the County, Code Compliance is the one responsible for enforcing it, but added, “subsequent to finding a violation by the Monroe County Code Compliance Special Magistrate.” Commissioner Miller stated it would be nice to know the magnitude of what was being voted on because the number of mobile home and RV lots is unknown. Ms. Schemper asked if Ms. Cioffari or Mr. Smith had an estimate. Mr. Smith stated as a ballpark number, at this juncture, he does not believe it is over 200 that are RVs, and the majority is mobile home. There are park models that are above base flood, and some will need to either go to a mobile home above base flood or to an RV lot, and that is a significant portion of the mobile home types that are below base flood. Commissioner Miller asked if the potential is an additional 400 more RVs. Mr. Smith received a text indicating the RV count is 189 to 219. Commissioner Miller asked how that compared to the number of RV lots in the County outside of Venture Out. Ms. Schemper did not have that number. Mr. Smith stated that Sunshine Key and Siesta Key alone are almost 1,000. Commissioner Miller stated that the potential here would be to create almost 50 percent more RV lots in Monroe County. Mr. Smith stated he had not counted KOA and every other RV park, which would make it several thousand. Boyd’s is over 300, Bluewater is about 100, KOA is 213. There’s a minimum of 4,000 RV sites. This is not a significant increase in the very unlikely potential that all of these site-built homes would go in that direction. Mr. Williams pointed out that some of those would not be in the County’s jurisdiction.

Chair Coward asked Commissioner Miller if his concern was that of the 659 units, they would all change to RVs. Commissioner Miller stated that his concern is that FEMA and the government has not been encouraging more RVs in the Keys and, in fact, were trying to eliminate this problem when it comes to hurricane evacuation. To potentially add to that problem is the concern, and this language won’t guarantee that the RVs will evacuate since he does not believe the BOCC will leave that language in. While it feels good to do this right now, there are no assurances. Additionally, all of the testimony has been that the County hasn’t been able to hold people responsible. Chair Coward asked for a motion.

Motion: Commissioner Demes made a motion approve as amended. Commissioner Wiatt seconded the motion.

Roll Call: Commissioner Scarpelli, Yes; Commissioner Wiatt, Yes; Commissioner Demes, Yes; Commissioner Miller, No; Chair Coward, Yes. The motion passed 4 to 1.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM RESIDENTIAL HIGH (RH) TO INSTITUTIONAL (INS), FOR PROPERTY LOCATED AT 32 OCEAN REEF DRIVE, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING PARCEL ID 00081740-000100, AS PROPOSED BY OCEAN REEF CHAPEL, INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE

FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-220)

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM URBAN RESIDENTIAL (UR) TO SUBURBAN COMMERCIAL (SC) / INSTITUTIONAL (INS) OVERLAY, FOR PROPERTY LOCATED AT [32 OCEAN REEF DRIVE, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING PARCEL ID 00081740-000100, AS PROPOSED BY OCEAN REEF CHAPEL, INC; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-221)

(12:22 p.m.) Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. These items are two map amendments, a FLUM from Residential High to Institutional, and a Land Use Map Amendment from Urban Residential to Suburban Commercial with an Institutional overlay. The request is based on the desire to redevelop the chapel property. Currently under the RH and UR Zoning Districts there are no FAR associated with that. The residential square footage can be kept but not increased. The proposed FLUM amendment reduces the total residential density to zero, but the transient density remains at 24.52 rooms, and allows for non-residential development potential of up to 16,688 square feet. Under the proposed Zoning Amendment to SC with the Institutional overlay, the residential density is limited to zero but would allow for a transient allocated density of 3.83 rooms to 19.16 rooms or spaces. Under the SC with Institutional overlay the development potential for non-residential increases to 16,688 square feet. Staff found the proposed amendments to be consistent with the Comp Plan and Principles for Guiding Development and recommends approval of both the FLUM and Zoning change.

Chair Coward asked the Commission if there were any questions. There were none. Chair Coward asked if the applicant wished to speak. Mr. Bart Smith spoke on behalf of the Ocean Reef Chapel, stating he had a presentation but if everyone understands the item he would forego it. Commissioner Scarpelli thought it was pretty cut and dried. Chair Coward asked for public input. There was none. Public comment was closed. Chair Coward asked for a motion.

Commissioner Demes made the motion but commented that he stops in a staff report when he sees something that catches his attention. As a Board, the Commission tries to be non-partial and base decisions on facts, and he must take exception to the applicant in saying that the County errantly reduced the maximum intensity to zero as part of the Comp Plan Amendment because when someone comes to the County and asks for something, you don't present something that could be considered adversarial. Mr. Demes had spent time trying to find some positive thing about saying the County acted errantly as being part of that Comp Plan effort, which was extremely involved and staff had been dedicated in putting it together. Per the Black's Law Dictionary, to think that the County deviated from a regular or proper course, or strayed on a journey to travel as a medieval knight in the quest of adventure, but more importantly, roving and moving in an aimless manner, that is not the case in this case. Commissioner Demes had

conducted a detailed discussion with staff about this, and the rationale behind it is that this action referred to as an errant reduction was, in fact, calculated, direct and deliberate as part of the Comp Plan amendments. Commissioner Demes does not want anyone to think that the County erred in its approach at that time in their actions as brought up today. Commissioner Miller asked what the denomination of the church was. Ms. Schemper responded that it is interdenominational. There were no further comments.

Motion: Commissioner Demes made a motion to approve Item 3. Commissioner Wiatt seconded the motion. The motion passed unanimously.

Motion: Commissioner Demes made a motion to approve Item 4. Commissioner Wiatt seconded the motion. The motion passed unanimously.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 12:31 p.m.