

PLANNING COMMISSION
December 1, 2011
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Thursday, December 1, 2011**, beginning at 10:08 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL by Gail Creech

PLANNING COMMISSION MEMBERS

Denise Werling, Chairman	Present
Randy Wall, Vice Chairman	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
William Wiatt	Present
Ron Demes, Ex-Officio Member, Key West Naval Air Station	Present

STAFF

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Administrator, Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Mayte Santamaria, Assistant Planning Director	Present
Kathy Grasser, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

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

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Gail Creech confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

All staff members intending to speak were sworn in by John Wolfe.

CHANGES TO THE AGENDA

Ms. Creech announced that Item No. 10 has been withdrawn and will not be heard.

APPROVAL OF MINUTES

Motion: Vice Chair Wall made a motion to approve the minutes of the September 14, 2011 meeting. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Vice Chair Wall made a motion to approve the minutes of the September 28, 2011 meeting. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Lustberg made a motion to approve the minutes of the October 18, 2011 meeting. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

Continued Items:

1.Roy's Trailer Park, 6500 Maloney Avenue, Stock Island, Mile Marker 5: A request for approval of a development agreement between Roy's Trailer Park, Inc. and Monroe County. The development agreement would allow the property owner to transfer market-rate Rate of Growth Ordinance (ROGO) exemptions associated with 108 existing, lawfully established dwelling units to another receiver site or sites in exchange for maintaining an equal or greater number of deed-restricted affordable dwelling units on the subject property or sender site. The development agreement is required as part of an affordable housing incentive program as set forth in Section 130-161.1 of the Monroe County Code. The subject property is legally described as Lots 4-11 and 40-47, Square 46, Maloney Sub (PB1-55), Stock Island, Monroe County, Florida, having real estate number 00126090.000000.

(10:12 a.m.) Joe Haberman presented the staff report. Mr. Haberman reported that this item was continued from the last meeting so staff could provide the Commission the most updated agreement. Some general terminology errors in the development agreement were noted and agreed to by the applicant to fit Monroe County Code for consistency purposes, but the remainder of the agreement was as discussed at the last meeting. Susan Grimsley verified for Commissioner Lustberg that this new development agreement addresses the concerns listed by Ms. Grimsley in a prior e-mail. Mr. Haberman then explained to Commissioner Lustberg the rules for transferring NROGO units, and Commissioner Lustberg then inquired into adding a Tier 3 restriction on these NROGO transfers.

Owen Trepanier, a planner present on behalf of the owners, was sworn in by Mr. Wolfe. Mr. Trepanier stated that the amount of square footage of NROGO was very small, and further stated he would like to agree to the restriction just to move the project along, but in preserving his client's property rights did not want to agree to anything not required by the code. Mr. Haberman informed the Commission that the code has, in fact, been updated to include that a property must be Tier 3 to be an eligible receiver site. Mr. Wolfe then confirmed for Commissioner Lustberg that there is a Florida statute that restricts rent increases with certain conditions. Ms. Grimsley made the Commission aware that a separate vote needs to be taken on

whether more than 20 units of affordable housing are appropriate for this location, which was recommended by staff because of the history of the site. Ms. Grimsley explained to Vice Chair Wall that the County is comfortable that the tenants are appropriately protected in this agreement as much as possible. Mr. Wolfe added that this is regulated by the Mobile Home Act of the State of Florida, which has a considerable number of regulations and protections for tenants. Mr. Trepanier explained that while this process has been done before, this process has never been done under the County's own regulations and without disrupting any tenant, and that this is an opportunity to preserve 107 work force housing units, affordable housing units in the County, and then asked for the Commission's support. Mr. Trepanier further explained that the only redevelopment that is required will be that each unit that becomes deed-restricted will have to meet the life safety and hurricane standards, and if this displaces any resident, they would be relocated on site into another location.

Chair Werling asked for public comment. There was none.

Motion: Vice Chair Wall made a motion to approve the concept of more than 20 affordable housing units to be allowed on this site. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Vice Chair Wall made a motion to recommend approval of the development agreement in its November 22 format, including changes recommended by staff and agreed to by the applicant. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

Ms. Grimsley announced that the second public hearing on this will be at the Board of County Commission meeting either Wednesday, January 18, 2012, or Thursday, January 19, 2012 at 3 p.m.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE REGULATIONS PERTAINING TO SIGNAGE IN MONROE COUNTY CODE CHAPTER 142, SIGNS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(10:29 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reminded the Commission that the four main reasons for addressing this matter was: First, to address A-frame signage, which has a codified sunset date; to address the FDOT issues having to do with off-premise signage; to look at establishing some leniency in the code for sites that have multiple businesses that have to work within the same parameters as a site that has a single business; and to fix some language issues throughout this section of code. Another meeting with the Lower Keys community has taken place. Many people at the meeting stated that they do want A-frame signage to continue. Staff decided to make two changes to what is presently in the code. Staff would like to create a section of guidelines for anybody that wishes to use a multi-tenant sign. If a tenant wants a larger than normally permitted sign, it would be an automatic variance if these guidelines are followed. This would take out the exceptional hardship rule.

Mr. Schwab informed Chair Werling that there is still the issue that signs cannot be placed in FDOT's right-of-way, which is a big issue in this matter, but is something that is beyond the County. There was discussion of how few applications have been made for A-frame signs. Mr. Haberman stated that a lot more people would come in for a permit if Code Enforcement decided to go out and cite the many existing A-frames that do not have a permit. It is staff's recommendation to draft the ordinance allowing those people who obtain a permit to continue having a non-conforming sign. Vice Chair Wall feels that A-frame signs should either be stopped or allowed, and not grandfather some in. Commissioner Lustberg agreed. Commissioner Wiatt believes that if A-frames are allowed, it ought to be made easy on the public to follow the requirements and put up an A-frame sign as opposed to coming in and getting a permit. Mr. Haberman explained that the theory behind having the criteria is so a planner would have reviewed the sign, not the code compliance officer that goes to the site, and the permit number would be affixed somewhere on the sign. Commissioner Lustberg believes A-frames should not be allowed and the sunset date should sunset, giving enough time for people to deal with FDOT, to go through the permitting system and install a ground-mounted sign or multi-tenant ground-mounted sign.

Chair Werling asked for public comment.

Marney Brown, business owner in Big Pine Key, explained her compliance in having an A-frame sign and the difficulty she has had in getting a second permit. Ms. Brown stated people are waiting to see what happens with this issue before applying for a permit. Ms. Brown pleaded with the Commission to allow A-frame signage to continue. Ms. Brown then explained to Vice Chair Wall that her landlord cannot afford permanent signage. Mr. Schwab added that the FDOT right-of-way is quite extreme in the area of Ms. Brown's business and the sign on the front of the building is set so far back that its visibility is deterred because of the distance and because of the vegetation. Ms. Brown again stated she wants to continue to have a permit for her A-frame sign and explained how she has worked with FDOT for 30 years in complying with their restrictions. Mr. Haberman explained that promotional signs for events within certain parameters are permitted, most without a permit. Commissioner Lustberg commented how much more effective a ground-mounted sign would be in place of Ms. Brown's A-frame sign. Ms. Brown responded that she would never be able to afford that and discussed the costs associated with such a sign.

Dan Leslie of Key West emphasized how desperate the small business owners are to keep A-frame signs, even though they would much rather have a permanently installed sign. Mr. Leslie also spoke of the costs associated with ground-mounted signs and the cost of acquiring FDOT property. Vice Chair Wall pointed out that no matter what the Commission does, the A-frames have to be behind FDOT's property line. Mr. Leslie asked the Commission to let this go on for another couple of years until the economy starts turning around and address it later. Then Mr. Leslie asked that the permit applications be simplified. Mr. Schwab interjected that if this issue does not sunset, staff will look into it to see if there is a way to modify the application so that it would be appropriate for what the permit is for. Mr. Wolfe advised the Commission to let staff work to simplify a permitting application as opposed to the Commission including that in a motion. Mr. Haberman explained that the Building Official could possibly approve changing A-

frame applications from a building permit to a planning application, which would give Townsley Schwab complete control over what would go into that application and staff could simplify it, but that ground-mounted signs are going to require building permits. Ms. Grimsley added that this would require discussion with the Building Official with some further determination between the Planning Director and the Building Official as to who would have jurisdiction over this.

Nick Vaselak, member of the public, asked whether this agenda item pertains to signs only in front of the businesses or off-premise signs also? Commissioner Lustberg explained that this issue being addressed is for signs right in front of the business that they are advertising for.

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

Commissioner Lustberg commented that she would be happy to approve the section about the ground-mounted multi-tenant signs. Vice Chair Wall feels the case made today is worth the Commission's consideration in the interest of the individual business owners over the inconvenience or offense that some part of the public would have over these A-frame signs. Commissioner Lustberg repeated that A-frame signs are primarily useful when placed in the DOT right-of-way, where they are not allowed, and if a small A-frame sign can bring in enough business to keep a business open, a more substantial sign paid for through a bank loan would be able to bring in enough additional business to cover that on a monthly basis to make a business more economically viable. Commissioner Lustberg explained to Vice Chair Wall that the way A-frame signs seem to proliferate one on top of the other as a whole detracts from the "scenicness" of the U.S.1 corridor and also detracts from an individual's ability to see the signs and get into the businesses. Commissioner Wiatt believes taking A-frame signage from these small business owners would be a mistake, but does believe it needs to be controlled and regulated.

Mr. Haberman confirmed for Commissioner Hale that any permit applied for by December 31, 2011 would allow the signs to remain as a nonconforming sign. Commissioner Hale then said that he does not have a problem with permitted A-frame signs and understands the affordability issue of putting a ground-mounted sign up. Commissioner Wiatt reiterated his desire to keep the permitting process as simple as possible. Commissioner Lustberg repeated her belief that the Commission should allow A-frames or not allow them, but to allow some to continue and close the door on others is problematic. Commissioner Wiatt wishes to address the issue now and not put it off for another time.

Commissioner Lustberg asked if the County and FDOT would be able to come to any better agreement on the right-of-way, which could be used to come up with a better solution. Mr. Schwab replied that discussions have taken place and all they came up with is the option to acquire the property. Ms. Grimsley recalled that the intention of the A-frame sign ordinance was to only allow the signage through December 30, 2011 and it was not intended to give a permit that creates a nonconforming use on the property. How this signage issue evolved was discussed. Chair Werling then brought up the issue of the proliferation of banner-style signage on right-of-ways. Commissioner Wiatt repeated his desire to regulate the number of signs allowed per business, whether A-frame, ground-mounted, et cetera. The Commission discussed this concept further. Vice Chair Wall suggested limiting A-frame signs to properties that do not

have a ground-mounted sign as a reasonable compromise. Commissioner Lustberg voiced her concern that if the A-frame sign issue was extended would mean that anybody who came in for a multi-tenant sign would have to wait months and months until the rest of the ordinance is resolved. Mr. Haberman explained that there is still a mechanism available for people to get their signs under the existing rules even if the A-frame language sunsets.

Motion: Vice Chair Wall made a motion to continue this item to the December 21, 2011 Planning Commission meeting so that Mr. Haberman can write an ordinance limiting A-frame signs to properties that do not have a ground-mounted sign. Commissioner Wiatt seconded the motion. The roll was called with the following results: Commissioner Hale, Yes; Vice Chair Wall, Yes; Commissioner Lustberg, No; Commissioner Wiatt, Yes; and Chair Werling, Yes.

New Items:

3. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.5.4 AND 101.5.5 TO ASSIGN POINTS, UNDER ROGO AND NROGO, FOR THE DEDICATION OF PARCELS THAT CONTAIN WETLANDS OR THE DEDICATION OF PARCELS DESIGNATED AS TIER III-A (SPECIAL PROTECTION AREA) OF THE MONROE COUNTY 2010 COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(11:42 a.m.) Kathy Grasser presented the staff report. Ms. Grasser reported that Monroe County is requesting to amend the comprehensive plan by amending Policies 101.5.4 and 101.5.5 under ROGO and NROGO for the dedication of parcels that contain wetlands, as well as the dedication of Tier III-A, Special Protection Area (SPA), parcels. The proposed amendment proposes the following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant buildable lands within Tier I designated areas, Tier III-A (SPA) areas, and parcels which contain undisturbed wetlands for the purposes of conservation, resource protection, restoration or density reduction: Two points for dedication to Monroe County of one vacant legally platted lot which contains undisturbed wetlands, and two points for dedication to Monroe County of one vacant legally platted lot designated as Tier III-A of sufficient minimum lot size and containing upland area to be buildable. The proposed amendment is consistent with the goals, objectives and policies of the 2010 comprehensive plan. Staff recommended approval of these proposed amendments.

Commissioner Wiatt asked for a definition of “wetland.” Mike Roberts explained what type of wetland is available for inclusion is not defined or detailed in this ordinance. It if is defined as a wetland, it is eligible for inclusion, whether it is freshwater, saltwater marsh or mangrove. The County is mandated by state statute to use the State’s definition of “wetland.” Ms. Grasser

confirmed for Commissioner Wiatt that any size wetland on these properties automatically would be included in the giving of the additional two points.

Chair Werling asked for public comment. There was none.

Motion: Commissioner Hale made a motion to approve the proposed amendment. Vice Chair Wall seconded the motion. There was no opposition. The motion passed unanimously.

4. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LIVABLE COMMUNIKEYS PROGRAM MASTER PLAN FOR FUTURE DEVELOPMENT OF BIG PINE KEY AND NO NAME KEY, BY AMENDING THE TIER DESIGNATION AS DIRECTED BY THE BOARD OF COUNTY COMMISSIONERS IN RESOLUTION 562-2003, FOR PROPERTY OWNED BY SEACAMP, HAVING REAL ESTATE NUMBERS 00246950-000000, 00246960-000000, 00246970-000000, 00246980-000000, 00246990-000000, 00247140-000000, 00247150-000000, 00247160-000000, 00247170-000000 AND 00247180-000000 FROM TIER I TO TIER III ON FIGURE 2.1 (TIER MAP FOR BIG PINE KEY AND NO NAME KEY), AND AMENDING THE TIER DESIGNATION FOR THE SEACAMP PROPERTY, AS LISTED IN TABLE 2.7, INSTITUTIONAL USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(11:50 a.m.) Kathy Grasser presented the staff report. Ms. Grasser reported that during the fourth draft of the creation of the master plan the Board of County Commissioners (BOCC) directed staff to change the tier designation of the property known as Seacamp from Tier I to Tier III. The property owned by Seacamp is located on Big Pine Key and encompasses 13 parcels. Two parcels are submerged lands and the largest parcel has a Tier III designation within the Big Pine Key and the No Name Key LCP. To implement the direction of the BOCC, staff recommended revising Figure 2.1 and Table 2.7 in the master plan to reflect Tier III. County Biologist Mike Roberts visited this site, reviewed existing habitat data and noted that the 2009 habitat GIS layer, which labels the majority of the property as developed land, is an accurate depiction of this site. This proposed amendment is consistent with the Monroe County goals, objectives and policies of the comprehensive plan, the master plan for Big Pine Key and No Name Key, the principles for guiding development and Part 2 of Chapter 163 of the Florida Statutes. Staff recommended approval.

Chair Werling asked for public comment.

Sandy Walters, environmental and land use consultant, spoke on behalf of Seacamp. Irene Hooper, the founder and executive director and president of Seacamp, and Grace Capshaw, managing director of Seacamp, as well as Lee Williams, who is the executive assistant for Ms.

Hooper, were also present. Ms. Walters explained that because of the multiple RE numbers that encompass Seacamp, not all parcels were included in the Tier III designation during the development of the LCP due to a scrivener's error. All of the data and analysis that was done at the time found that the bases for tier designations of Big Pine Key clearly show that Seacamp is not in the areas of principal need for protection. Ms. Walters described the environmental education benefit Seacamp provides to the entire world.

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

Motion: Vice Chair Wall made a motion for approval. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.

5. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.5.4 AND 101.5.5 TO REVISE THE PERMIT ALLOCATION SCORING SYSTEMS (ROGO AND NROGO) TO ASSIGN NEGATIVE POINTS TO TIER III PARCELS THAT CONTAIN SUBMERGED LANDS AND/OR WETLANDS REQUIRING 100% OPEN SPACE PURSUANT TO POLICIES 102.1.1 AND 204.2.1 AND THAT ARE LOCATED ADJACENT TO OR CONTIGUOUS TO TIER I PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(11:58 a.m.) Mayte Santamaria presented the staff report. Ms. Santamaria reported that this is an amendment requested by Monroe County to amend the allocation system, both residential and nonresidential, to assign negative points to Tier III parcels that have wetlands that are required to have 100 percent open space pursuant to Policies 102.1.1 and Policy 204.2.1. The objective of this amendment is to take additional steps to further protect these habitats, because many property owners believe because they are a Tier III designation that they are in an appropriate area for infill even if they are wetlands. Both the Tier Designation Review Committee (TDRC) and the Department of Economic Opportunity have suggested this in terms of protecting wetlands. The proposed amendment is the same for both the residential and the nonresidential allocation systems. Staff is suggesting that if a property contains 50 percent or less of wetlands described in those two policies and they are Tier III, as well as adjacent or contiguous to Tier I properties, it would receive negative three points. If a parcel contains 50 percent or more wetlands, staff recommends negative five points.

Ms. Santamaria clarified that wetlands are not addressed in the criteria for designating tiers. Ms. Santamaria noted that on Page 8 of the resolution Section 3 is incorrectly identified as opposed to Section 2. Vice Chair Wall asked why another hurdle is being placed before property owners of parcels including wetlands. Ms. Santamaria responded that the intent of the point allocation system is to further direct growth to the most appropriate areas that do not have any resources on them versus directing them to lots that may have wetlands as well. Ms. Santamaria reiterated for Vice Chair Wall that the only reason a parcel would receive the negative points is not only

because they have a wetland and they are Tier III, but also because they are adjacent to a Tier I parcel. The theory is to protect the larger ecosystem and try to encompass the entire wetland, not just any Tier III lot with a wetland. Ms. Santamaria clarified that under Item Number 2, the criteria listed under mangrove, it excludes tidally inundated mangrove shoreline fringes. Mr. Roberts explained what triggered this amendment with the TDRC was when the tier ordinances were challenged and the administrative law judge issued his recommended order, he specified and clearly identified that wetlands were not part of the tier designation criteria. Mr. Roberts confirmed for Vice Chair Wall that it is not the intent of the amendment to include fringes of mangrove that is second growth to the establishment of a subdivision. The definition of “wetland” of the different jurisdictions was discussed. Commissioner Wiatt questioned the application of the definition of wetland regardless of the size of the wetland. Mr. Roberts clarified that the wetlands listed in the proposed amendment are already 100 percent open space wetlands in existing code and are protected from development. Ms. Grimsley pointed out that using the language “50 percent or less” and “50 percent or more” is inconsistent and should read “50 percent or less” and “more than 50 percent.”

Chair Werling asked for public comment. There was none.

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

6. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICY 101.4.5 TO AMEND THE MIXED USE/COMMERCIAL (MC) FUTURE LAND USE MAP CATEGORY DESCRIPTION AND AMENDING POLICY 101.4.21 TO ASSIGN THE MARITIME INDUSTRIES (MI) ZONING DISTRICT TO THE MC CATEGORY, TO AMEND THE MAXIMUM NET DENSITY RANGE AND THE MAXIMUM INTENSITY RANGE FOR THE MC FUTURE LAND USE MAP CATEGORY AND TO CLARIFY THE FOOTNOTES WITHIN THE TABLE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(12:20 p.m.) Mayte Santamaria presented the staff report. Ms. Santamaria reported that this is a request by Long Stock, Inc. to amend the mixed use/commercial category to assign the maritime industries zoning to the mixed use category. The applicant wants to do a variety of uses on the property that the comp plan does not provide for. State statute requires that all land development regulations be consistent with the comp plan. Because the comprehensive plan controls development and is the controlling document, the transient density assigned to the zoning category is considered zero. Monroe County is requesting to amend the density and intensity tables to change the maximum net density range from six to two to be consistent with the maritime industry zoning, as well as assign the maritime industry zoning maximum intensity. The proposed amendment as submitted by the applicant adds clarification to the mixed use/commercial category to provide for not only hotel and commercial residential, but also

commercial and working waterfront types of uses. There are currently 29 parcels in the county that have the maritime industry zoning category, which would remain industrial and remain maritime industries unless they requested a FLUM amendment. Staff recommended approval of the proposed text amendment.

Ms. Santamaria stated that staff does not believe this text amendment would be detrimental to working waterfront issues. The mixed use/commercial category allows working waterfront type uses and the maritime industry zoning allows working waterfront uses. Any listed use would be allowed in any proportion to each other.

Commissioner Wiatt questioned whether staff explored the idea of correcting the inconsistency by simply removing the transient residential component out of the maritime zoning. Ms. Santamaria responded that was discussed, but staff did not feel it was appropriate to take away rights that people assume they have with a zoning category. It was clarified for Vice Chair Wall that the density assigned for transient uses is for hotel, motel, recreational vehicle and institutional residential.

Mr. Demes reminded the Commission that his purpose in being present is to represent the military's interests in Monroe County. In this particular issue the military has met with the applicant. Mr. Demes does not recommend approval due to the fact that the action will allow an increase in residential density and it is proximal to the military installation. Any transient development would have a negative impact to the naval air station. Mr. Demes takes issue with Section 4B of the staff report, which cites Florida Statute 380.0527. Mr. Demes added that Florida Statute 163.3177 provides for the future land use plan element to include compatibility with the military installations.

Chair Werling asked for public comment.

Jason Green, of Weiler Engineering, was present on behalf of Long Stock. Mr. Green commended the Commission on their detailed involvement in this issue. Mr. Green believes that the inconsistency between the industrial future land use category and the mixed use/commercial category is easy to resolve. For example, by allowing a hotel in the mixed use category, you have now allowed a use which the zoning district already assigns to properties within that zoning district. Mr. Green pointed out the similarities between the two different zoning districts. The industrial future land use category takes uses away because of the inconsistency with the comprehensive plan. Long Stock's resolution is to allow the MI zoning district within the mixed use/commercial future land use category. Long Stock agrees with the County's additional amendments, which will create a consistency with the intensity of development, will benefit the County, not just the project in question on Stock Island, and will provide consistency for all of the residents and businesses that have these issues that they are facing.

Mr. Demes commented that this issue is not about similarities, but is more about the Florida Statutes and what they represent. Mr. Demes then reiterated that the comp plan rules and any increased transient numbers would be a concern to the military.

Sherry Popham, owner of Marathon Boatyard and Marine Center, spoke about the efforts before 2007 to protect the working waterfront. Ms. Popham stated that at face value the suggested changes the Commission is being asked to adopt today seem innocuous, but absent guidelines for the long-term working waterfront preservation or even a discussion of the potential unintended impact on that effort raises significant concerns. Ms. Popham feels the County needs to proceed with the utmost sense of urgency to put the protective measures that were being drafted back in 2005 and 2007 in place. Ms. Popham suggested that any request to change the shoreline properties, whether zoning, intensity or density, should receive significant scrutiny to ascertain the potential long-term adverse impacts on the character and the function of the County's working waterfront.

Attorney Bart Smith was present representing Robbie's Safe Harbour Marine Enterprises, KW Resort Utilities Corp., Safe Harbour Marine Enterprises, Bama One, LLC, and authorized to speak on behalf of The Island Trust Agreement, Benjamin Bernstein Estate and Safe Harbour Enterprises. Mr. Smith stated that his clients support these amendments to the comp plan based on the fact that this inconsistency has their properties in a place where they cannot move forward into the future of what working waterfront or commercial industries should be. Mr. Smith pointed out all of the mixed use parcels in the area of Long Stock and stated that mixed use/commercial is very consistent with this area.

Attorney David Van Loon was present representing 3D of Key West. Mr. Van Loon reminded the Commission that this owner, although under a different name, has previously applied for this type of change and for the building of a hotel and was approved by a prior Planning Commission, but was shot down immediately by the DCA at the state level. Mr. Van Loon believes the proposed way to solve the inconsistency seems to be counterintuitive by creating a new category in order to solve a problem that could be solved within the existing category as it is. Although staff recommended that not all parcels have to be included, that creates spot-zoning, which the comp plan discourages. If the proposed change is approved, it immediately creates an intensity conflict between the different properties. Mr. Van Loon believes his client would be the only industrial piece of property left in that section and would receive constant complaints about noise and/or dust amongst new development. Mr. Van Loon asked the Commission to deny this request and keep things as they are.

Ms. Santamaria clarified for Vice Chair Wall that this is just a text amendment at this stage to modify the category to allow additional uses and to allow an additional zoning category. Commissioner Wiatt stated that it is important to recognize that one of the goals of the comprehensive plan is to protect working waterfront, and by putting maritime industries under mixed use/commercial counters that goal. Commissioner Lustberg, Commissioner Hale and Chair Werling agreed. Ms. Grimsley read into the record from the state the definition of recreational and commercial working waterfront.

Chair Werling believes much more input is needed on this issue and a text amendment would not address the bigger picture. Commissioner Lustberg added that this should be looked at as part of a whole process as opposed to looking at one piece of property and having what somebody wants to do with one piece of property cause a change without proper analysis. Ms. Santamaria responded that the Evaluation and Appraisal Report also has strategies to consider and reevaluate

working waterfront provisions, which will be brought before this Commission, as well as the Board of County Commissioners.

Commissioner Wiatt then commented that all options to fix any inconsistency should be presented to the Commission as opposed to one option. That would let the Commission know what options are available, that those options have been researched, with some data associated with those. Commissioner Lustberg agreed that, when looking at comprehensive plan and land development regulations, the best way to address the issue should be analyzed as opposed to any proposal of an applicant. Ms. Santamaria responded that staff did not internally look at the industrial FLUM category and did not feel comfortable with adding transient uses to that category, nor potentially removing a zoning category. Vice Chair Wall pointed out that having proposals of property owners analyzed is an important right of property owners.

Mr. Green repeated that the uses allowed in maritime industrial in that zoning district are consistent with the uses that are also allowed in mixed use/commercial. Commissioner Lustberg stated that theoretically this change to allow maritime industrial under mixed use/commercial could allow uses with no specified proportionality, which could allow this entire property to be turned into hotels, is problematic.

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

Motion: Commissioner Hale made a motion to recommend against transmitting the ordinance. Commissioner Lustberg seconded the motion. The roll was called with the following results: Commissioner Hale, Yes; Vice Chair Wall, Yes; Commissioner Lustberg, Yes; Commissioner Wiatt, Yes; and Chair Werling, Yes.

7. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM INDUSTRIAL (I) TO MIXED USE COMMERCIAL (MC) FOR THREE PARCELS OF LAND ON STOCK ISLAND, HAVING REAL ESTATE NUMBERS 00123760-000200, 00123720-000100 AND 00123720-000200, LOCATED AT 7009 SHRIMP ROAD, SOUTH STOCK ISLAND; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(1:11 p.m.) Mayte Santamaria presented the staff report. Ms. Santamaria reported that this is another request by Long Stock, LLC to amend the future land use map amendment for three parcels on Stock Island to go from industrial to mixed use/commercial. The existing FLUM of the properties is industrial, the existing tier designation is Tier III, it is classified in the habitat layer as developed land and it is not identified as any habitat for protected species. Staff feels mixed use/commercial is consistent with the existing uses and the surrounding uses. Ms. Santamaria stated that many of the properties surrounding these parcels are already designated mixed use/commercial. The net change if the amendment was approved would be 61 additional

residential units, 183 additional transient units, as well as a decrease of 80,000 square feet of commercial square footage. Staff recommended approval of the requested map amendment.

Jason Green, Planning Manager for Weiler Engineering, was present on behalf of Long Stock. Mr. Green reiterated that a large percentage of the properties surrounding these parcels are mixed use/commercial, including working waterfronts, and there would be no inconsistency in changing the future land use map. Mr. Green explained that the resolution is to create consistency since the industrial FLUM and the maritime industrial zoning district share similar uses. Mr. Green then requested a recommendation of transmittal.

Attorney David Van Loon was present on behalf of 3D of Key West. Mr. Van Loon pointed out his client's property on a map and stated that his client believes this proposal is going to be for either transient or hotel units, which would have a direct impact on his client's boatyard as far as building and/or repairing boats. Mr. Van Loon asked the Commission to deny this change.

Attorney Bart Smith was present on behalf of Robbie's Safe Harbour Marine Enterprises, KW Resort Utilities Corp., Safe Harbour Marine Enterprises, Bama One, LLC, and was authorized to speak on behalf of The Island Trust Agreement, Benjamin Bernstein Estate and Safe Harbour Enterprises. Mr. Smith requested that this application be tabled and, if not tabled, objected to this application moving forward. Mr. Smith pointed out his clients' parcels on the map, which consists of 99 percent of the other parcels that are in the harbor that are zoned maritime industrial in the industrial category. Mr. Smith's clients do support a change to mixed use/commercial, however Mr. Smith believes this current application is spot-zoning and requested time for his clients to join in on this application so that it could all be heard at once. Should this be tabled, Mr. Smith requested that the application be amended to include the other property owners that would desire to have this amendment applied to their property. Mr. Smith then corrected what he believed were misstatements regarding this applicant's previous proposal. First, the Planning Commission approved the request and the DCA did not reject it, but after multiple meetings with the DCA the category of deep port harbor was crafted because of the importance of this harbor. However, there was a change in the Commission and the Commission actually rejected the changes the DCA recommended. Mr. Smith described how the uses of his clients are considered nonconforming uses and explained that a change to mixed use/commercial would actually make them conforming.

Mr. Wolfe advised the Commission that since Mr. Smith's clients are not the applicant, Mr. Smith can request the matter to be tabled, but the applicant would have to agree to that request. Mr. Smith responded that if the applicant does not agree to the tabling of the item, he would object strongly to this spot-zoning.

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

Mr. Demes stated that his comments from the previous agenda item could be attached to this agenda item, especially with regard to Florida Statute, 163.3177, as well as Florida Statute 380.0527. Mr. Demes believes this is a concern, especially after hearing that other property owners want to join in on the application, so it is going to be a bigger issue than just the one at hand.

Motion: Commissioner Hale made a motion to not recommend for transmittal. Commissioner Wiatt seconded the motion. Vice Chair Wall pointed out that both phrases “protection of the working waterfront” and “protection of public access to the waterfront” have been used today, and these proposed uses do fall under the category for working waterfront. Commissioner Wiatt countered that the FLUM designation is industrial and it is one of the goals of the comprehensive plan to protect waterfront that could be used in industrial ways, such as pulling boats, ship repair and boat repair. Commissioner Wiatt further stated that public access to the waterfront would also be limited if there are no areas where vessels could be serviced, not to mention the commercial fishermen. Chair Werling repeated that this needs to be evaluated as a whole rather than for several property owners. Commissioner Lustberg stated that both residential and commercial are allowed in the industrial FLUM, but not transient, and the densities allowed are different, and the high priority and importance of the water to Monroe County should be considered before approving a change like this. **The roll was called with the following results: Commissioner Hale, Yes; Vice Chair Wall, Yes; Commissioner Lustberg, Yes; Commissioner Wiatt, Yes; and Chair Werling, Yes.**

8. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADDRESSING THE COMPATIBILITY OF LANDS ADJACENT TO OR CLOSELY PROXIMATE TO MILITARY INSTALLATIONS IN THE FUTURE LAND USE ELEMENT IN THE 2010 MONROE COUNTY COMPREHENSIVE PLAN; CREATING GOAL 108, OBJECTIVE 108.1 POLICY 108.1.1, 108.1.2, 108.1.3, POLICY 108.1.4, POLICY 108.1.5, POLICY 108.1.6, OBJECTIVE 108.2, POLICY 108.2.1, POLICY 108.2.2, POLICY 108.2.3, POLICY 108.2.4, POLICY 108.2.5, 108.2.6, POLICY 108.2.7 AND POLICY 108.2.8; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(1:32 p.m.) Mayte Santamaria presented the staff report. Ms. Santamaria reported that this is a request by Monroe County to develop various goals, objectives and policies to create military compatibility criteria within the comprehensive plan. Florida Statutes 163.3175 and 163.3177 require local governments located near military installations to adopt compatibility strategies, including transmittal of information between the entities, transmittal of development applications, variances, and it takes into consideration private property rights. These statutes also require a member of the military installation as an ex officio member be on the Planning Commission. The adoption of these criteria into the comprehensive plan must be done by June 30th of 2012. If not adopted by June 30, 2012, mediation can be suggested for Monroe County, the military installation and other affected parties. If that is not resolved and there are no criteria by December 31, 2013, sanctions can be imposed against the County or the County could lose grant opportunities or funding sources. The objectives are to establish a frame work for communication between the County as well as the Navy, and it provides various policies for opportunities for the Navy’s involvement in terms of the comprehensive plan amendments. Another part of the amendment includes a policy that establishes the military installation area of

impact overlay to the future land use map. Ms. Santamaria then described proposed policies within the boundary of the military installation area. Ms. Santamaria provided the history on the coordination to date with the Department of Economic Opportunity, NAS Key West, the Environmental Impact Study (EIS) Oversight Committee, BOCC and the public. Staff recommended approval of the proposed policies.

Mr. Demes thanked Commissioner Wiggington for her effort in this regard. Mr. Demes stated that other than the Navy's exception to the alternate study described by Ms. Santamaria, the entire package is a great document, a great step forward, and complies with the statutes.

Donna Merritt was present representing Shark Key and Shark Key Development, one of the communities inside the proposed overlay zone that strongly supports the ordinance that the County has proposed as it is written now. Ms. Merritt voiced concern about discussions of requiring the naval base commander to approve the sales, leases, permitting as of right on privately-owned properties, as well as flagging these properties on the Property Appraiser's cards that could potentially devalue the properties. Ms. Merritt stated she hopes that the EIS studies, which are not yet completed, would encourage the Navy to consider going back to the original runways that they used in the past with the planes flying out over the water.

Attorney Bart Smith was present representing Safe Harbour Marine Enterprises, Robbie's Safe Harbour Marine Enterprises, Bama One, LLC, KW Resort Utilities Corp, and authorized to speak on behalf of Benjamin Bernstein Trust, Island Trust Agreement, Safe Harbour Properties, LLC and Key Haven Estates, LLC. Mr. Smith submitted that this entire amendment is premature because the County is in the process of updating and revising the comp plan and this amendment would prevent people from being updated by the comp plan as it moves forward. Mr. Smith stated that he also believes the boundary illustrated on the map is arbitrary and capricious because there is no completed data and analysis showing that the military installation will impact that entire area. Mr. Smith strongly objects to this amendment until there is correct data and analysis and the comp plan revisions have been completed.

Don Riggs, president of the Tamarac Park Property Owners Association on Geiger Key, Chairman of the Board of the Steering Committee of the M10 Coalition, and Citizen Member of the EIS Oversight Committee, was present. Mr. Riggs stated that those three groups strongly support recommending this to the County Commission as it is.

Nick Vaselak, resident of Geiger Key, was present and stated he supports what Mr. Riggs and Ms. Merritt have said. Mr. Vaselak described the effects the jets flying so low over private properties has on his neighborhood. Mr. Vaselak would like to see the old flight patterns over the water used again.

Owen Trepanier, planner, was present. Mr. Trepanier believes this proposal defines an arbitrary large portion of the Lower Keys and exempts it, or even prohibits it, from the normal comprehensive planning process. Mr. Trepanier sees no data and analysis that supports the definition of this area on the map. Mr. Trepanier stated this may have the bones of a great agreement, but for a comprehensive plan amendment it does not have the supporting data and analysis, and suggested the County operate under the same rule of law that it requires its citizens

to operate under and require the same standards and thresholds for its comp plan amendments for itself as it does for its citizens. Mr. Trepanier suggested, if the Commission were compelled to pass this today, striking Policies 108.2.2, 108.2.3, 108.2.4 and 108.2.5, which are the policies that freeze the uses and densities and intensities back when the last comprehensive plan was put in place.

Donna Merritt stood and countered Mr. Smith's statements. Ms. Merritt stated that the point is to keep the densities and intensities surrounding the air base as low as possible to reduce future conflicts.

Mr. Smith clarified that his presence is at the behest of Ed Swift, who is one of the managers of Key Haven Estates, LLC.

Don Riggs pointed out that the EIS is a lengthy process and is somewhat separate from this issue, but the proposed ordinance is a collaborative effort to meet the provisions of a state statute.

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

Mr. Demes clarified that the commanding officer would not be in a position to approve or not approve development, but that this is a matter of alerting a potential buyer or lessor at some point in time they are impacted by a particular aspect of noise or other type of influence. Mr. Demes then requested staff to reiterate the time sensitivity and why this is being done from the compliance perspective with the Florida Statutes. Ms. Santamaria then reiterated the time in which this is to be done and described the lengthy process this matter has to go through to be passed. Ms. Santamaria clarified that these policies are almost identical to the state statute in terms of the transmittal of information and in terms of communication and coordination with NAS Key West. The map is not being adopted in this particular amendment, but Ms. Santamaria explained that this is a generalized line to try to capture the area encompassed in various AICUZ studies to show that this is the area the County believes is impacted by the military. Mr. Demes commented that this area protects more than just noise and addresses other encroachment issues. Mr. Demes explained the Navy is not trying to suppress people's rights, and believes there are a lot of protections for property owners in these proposed policies.

Ms. Santamaria explained for Vice Chair Wall how the noise study is being conducted. Vice Chair Wall asked Ms. Santamaria to respond to Mr. Trepanier's comments on the standards for data acquisition and analysis. Ms. Santamaria responded that most of the policies in this proposal mirror exactly word for word what the statute is, and that is being used as data and analysis. Additionally, this is not a map amendment where it would require concurrency analysis or things about public facilities, but is only about meeting the statutory requirements, using the statute as the basis for doing the amendment and then trying to move forward with it. This is a new policy, but it is recognizing what already exists in the comp plan.

Commissioner Lustberg believes the need for data and analysis has more to do with the drawing of the map to be considered in the next agenda item. Commissioner Lustberg then asked if everything that goes to the Development Review Committee goes to the Navy as well, or could the language "relevant development proposals" be included in Policy 108.1.5. Mr. Demes

explained that the Navy wants the original language to remain because there are plenty of things in the County that affect the Navy. Commissioner Lustberg suggested separating Policy 108.1.6 out from the EIS so as not to put a time limit on the County working closely with the Navy and discouraging the Navy from increasing its operations at NASKW that negatively impact the surrounding community. Ms. Santamaria explained that Policy 108.1.6 was a specific policy request from the EIS committee and that other policies, goals and objectives cite that generally Monroe County will communicate and coordinate with the Navy with no end to that. Ms. Lustberg pointed out a typo in Policy 108.1.7 and suggested that should read “is impacting” as opposed to “is are impacting.” Commissioner Lustberg then asked what date would be used in the “insert date” spaces. Ms. Santamaria explained that is actually the effective date of these policies, but since the date they will be adopted and be effective is unknown, it is just a place holder for that future date of six months or more. Commissioner Lustberg then asked for an explanation of Policy 108.2.5. Ms. Grimsley explained that if the noise study does indicate that a future land use map is subject to change and goes through the process and does get changed, one of the conditions would be that the property owner indemnify the County for any possible consequences of noise or other issues that might conceivably come up because they are still in this area of impact.

Motion: Commissioner Wiatt made a motion to approve the request for transmittal. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.

9. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS CREATING AN OVERLAY TO THE FUTURE LAND USE MAP SERIES TO ESTABLISH THE MILITARY INSTALLATION AREA OF IMPACT PURSUANT TO POLICY 108.2.1 OF THE 2010 MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(2:24 p.m.) Mayte Santamaria presented the staff report. Ms. Santamaria reported that this is a request by Monroe County to create an overlay to the future land use map series to create a military installation area of impact. It is required by State law to have compatibility strategies with military installations that are located near the local government by June 30, 2012. This is contingent upon the passage of the text amendment just heard and Policy 108.2.1, which gives direction to create this overlay. A graphic was shown of the proposed military installation impact area based on a review of the various AICUZ studies and the various noise boundaries found in those studies to provide a general area which the County believes could be impacted by Navy activities. Staff is proposing to recognize existing rights that are associated within that boundary, recognize the rights in the future land use map designation, the zoning category, any development agreements and 380 agreements. The other proposal within this boundary is to not adopt additional land uses that are not already designated within those categories and it is based on not only the uses in the comprehensive plan, but the uses identified by the Navy as allowed

uses or incompatible uses. This has been a collaborative coordination effort between the state, NAS Key West, the Oversight Committee, the BOCC and staff. Staff recommended approval of the proposed military installation impact area overlay.

Petania Edwards, resident of Big Coppitt, voiced her concern about the noise of the jets. Ms. Edwards stated that changes have been proposed to the operations of the naval air station that affect people that made decisions to live in the area prior to those changes being approved. Ms. Edwards complained that background information of noise levels and proposed flight patterns could not be found on the County website. Ms. Edwards urged the Commission to ensure that the noise measurements indicated in the ordinance are done properly and urged the Navy to ensure that the jets fly far enough east before turning north on takeoff. Finally, Ms. Edwards urged the Commission to support her residential neighborhood by providing sound attenuating mitigation measurements.

Donna Merritt stated that the proposed map is a realistic depiction of the area most impacted day to day by the naval base's operations. Ms. Merritt clarified that if someone wishes to change their intensity or density of use or do future development on undeveloped land, they can do the noise studies and, if they meet them, they should be allowed to make their change, but the point here is to protect existing rights of the existing property owners in the future. Ms. Merritt asked the Commission to approve this map in its present form.

Owen Trepanier, planner, stated that specific noise studies being reflected should be acknowledged, but they are not. Mr. Trepanier believes that comprehensive plan amendments and overlay districts need to be based on studies, surveys, data and analysis, not on the County's beliefs and desires.

Attorney Bart Smith was present representing Robbie's Safe Harbour Marine Enterprises, KW Resort Utilities Corp., Safe Harbour Properties, Bama One, LLC and authorized to speak on behalf of Island Trust Agreement, Benjamin Bernstein Estate, Safe Harbour Enterprises, Inc. and Key Haven Estates, LLC at the behest of Ed Swift. Mr. Smith's clients object to this amendment based on the same statements made on the previous amendment that was approved. Mr. Smith believes this proposal shifts the burden away from the military to show that this is an incompatible use to the property owner to show that they are compatible, and also believes there must be data and analysis to show there is any justification for the circle depicted on the map.

Commissioner Lustberg asked Ms. Santamaria to elaborate on the boundary lines used. Ms. Santamaria explained that there is a 1977 AICUZ that was looked at, as well as 2004 and 2007 AICUZ studies, which two studies have not been recognized by the County. Staff did look at the AICUZ studies and the major land areas affected by Navy operations, not just noise, but crash zones and so forth, and tried to provide a generalized line that encompassed the variety of studies that are out there and released by the Navy, but did not want to recognize any particular boundary because there are disputes and the County has not directed staff to incorporate or adopt any particular AICUZ. Ms. Santamaria confirmed for Commissioner Lustberg that everything inside the circle is also within some other study's boundary, and confirmed that the County has looked at the appropriate data that exists to make this proposed boundary, but has not

incorporated that data because there are disputes about the various AICUZ reports. Mr. Demes then clarified that AICUZ reports deal with accident potential zones, clear zones and noise.

Motion: Vice Chair Wall made a motion to recommend transmitting. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

GROWTH MANAGEMENT COMMENTS

Motion: Commissioner Lustberg made a motion to approve the 2012 Planning Commission hearing schedule. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 2:45 p.m.