

PLANNING  
COMMISSION  
February 24, 2021

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Wednesday, February 24, 2021**, beginning at 1:00 p.m.

**CALL TO ORDER** by Chair Scarpelli

**PLEDGE OF ALLEGIANCE**

**ROLL CALL** by Ilze Aguila

**PLANNING COMMISSION MEMBERS**

Joe Scarpelli, Chair	Present
Bill Wiatt, Vice Chair	Present
Ron Demes	Present
George Neugent	Present
David Ritz	Present
Douglas Prior, Ex-Officio Member (MCSD)	Absent
Karen Taporco, Ex-Officio Member (NASKW)	Absent

**STAFF**

Emily Schemper, Senior Director of Planning and Environmental Resources  
Cheryl Cioffari, Assistant Director of Planning  
Mike Roberts, Assistant Director of Environmental Resources  
Bradley Stein, Development Review Manager  
Tiffany Stankiewicz, Development Administrator  
Devin Tolpin, Senior Planner  
Matthew Restaino, Senior Planner  
Kestride Estil, Planner  
Derek Howard, Assistant County Attorney  
Peter Morris, Assistant County Attorney  
Thomas Wright, Planning Commission Counsel  
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. Thomas Wright.

**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

Ms. Ilze Aguila confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

County staff was sworn in by Mr. Wright.

**CHANGES TO THE AGENDA**

Ms. Ilze Aguila requested that Item 4 be continued to the March 24, 2021, Planning Commission Meeting.

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

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

Commissioner Nugent disclosed that he had made a site visit and had spoken briefly with the agent and FKAA biological inspector regarding Item 5.

**APPROVAL OF MINUTES**

**Motion: Commissioner Wiatt made a motion to approve the December 16, 2020, meeting minutes. Commissioner Ritz seconded the motion. There was no opposition. The motion passed unanimously.**

**MEETING**

**NEW ITEM:**

**1. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR OCTOBER 14, 2020 THROUGH JANUARY 12, 2021, ROGO (Quarter 2, Year 29). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. (FILE 2020-109)**

(10:03 a.m.) Ms. Tiffiany Stankiewicz, Development Administrator, presented the staff report for the residential dwelling unit allocation for Lower, Upper Keys Sub Areas and Big Pine/No Name Key Sub Areas. The Planning Department is recommending approval for the following market rate rankings: Lower Keys applicants ranked 1 through 7; Big Pine and No Name Key applicant ranked number 1, subject to mitigation availability at the time of permitting; and, Upper Keys applicants ranked 1 through 8. All other applications roll over to the next quarter. Staff recommends approval.

Chair Scarpelli asked for public comment. There was none. Public comment was closed. Chair Scarpelli asked for any additional questions or comments from the Commission. There were none.

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

**2. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE NON-RESIDENTIAL ALLOCATION SYSTEM FOR OCTOBER 14, 2020 THROUGH JANUARY 12, 2021, NROGO (Quarter 2, Year 29). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY.**

(10:05 a.m.) Ms. Tiffiany Stankiewicz, Development Administrator, presented the staff report for the NROGO non-residential allocation. The Planning Department is recommending approval for the one application for allocation award.

Chair Scarpelli asked for public comment. There was none. Public comment was closed. Chair Scarpelli asked for any additional questions or comments from the Commission. There were none.

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

**3. 263, 267, 271, 275, 279, 283 PENINSULA WAY, KEY LARGO, MILE MARKER 100:**  
A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE TO THE FRONT YARD SETBACK REQUIREMENTS SET FORTH IN CHAPTER 131 OF THE LAND DEVELOPMENT CODE (LDC). APPROVAL WOULD RESULT IN A FIVE (5) FOOT PRIMARY FRONT YARD SETBACK AS MEASURED FROM A REQUIRED ACCESS EASEMENT FOR THE DEVELOPMENT OF FIVE (5) SINGLE FAMILY RESIDENCES. THE SUBJECT PROPERTY IS DESCRIBED AS PARCELS OF LAND LOCATED IN SECTION 33, TOWNSHIP 61 SOUTH, RANGE 39 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBERS 00500600-000000, 00500610-000000, 00500620-000000, 00500630-000000, 00500640-000000, 00500650-000000, 00500660-000000. (FILE# 2018-071)

(10:06 a.m.) Ms. Devin Tolpin, Senior Planner, presented the staff report. This is a request for a 20-foot variance of the 25-foot primary front yard setback requirement for the development of five single-family residences on the subject property, consisting of seven contiguous lots located off of Ocean Shores Drive in the Key Largo Ocean Shores Addition Subdivision. Access is provided to these lots by means of a 20-foot-wide access easement that goes from Ocean Shores Drive through Lot 19, and then adjoins to all seven of the contiguous lots. The applicant is proposing to construct one single-family residence on each of Lots 19 through 22, with one single-family residence on aggregated lots 23, 24 and 25. Without approval of the requested variance, each of these five structures will be required to be located 25 feet from the access easement road, as well as comply with a five-foot and ten-foot side yard setback, and a 30-foot open water shoreline setback. The applicant is requesting a reduction of 20 feet in order to locate each of the five structures five feet from the access easement road. The structures will be required to comply with all other setback requirements including both shoreline setbacks. The application has been reviewed for compliance with the required standards pursuant to Section 102-187. Staff is recommending approval of the requested variance with listed conditions.

Chair Scarpelli asked for Commission questions or comments. Commissioner Wiatt asked if there were any other developed properties in the immediate area. Ms. Tolpin responded that the subject properties are located on a peninsula off of Ocean Shores Drive and is at the edge of a developed subdivision. Commissioner Wiatt then asked if there were any reduced setbacks on any of those properties. Ms. Tolpin stated she was not aware of any. Commissioner Wiatt noted that the developed subdivision did not have the same geographic constraints that these five

properties have, and Ms. Tolpin confirmed that to be correct. Commissioner Wiatt asked if there had been any concerns voiced from owners of the nearby properties. Ms. Tolpin responded that she was not aware of any. Chair Scarpelli asked if the applicant wished to speak.

Mr. Rolando Gonzalez, applicant, stated he had no additional comments, and thanked staff for their research and consideration. Chair Scarpelli then asked for public comment.

Mr. Andrew Tobin, stated that he represents Matt Anderson and Fred Lemahert (phonetic) who were also present and may also want to speak, but he wanted to bring up a legal issue. This particular plat was approved at a time when the BOCC approved plats that went into the ocean and were below the mean-high water line, so the extension of Shoreline Drive and the easterly lots were never filled in, and were never served by a platted or public roadway. That fact was well known to the purchasers, and the current owner does not meet the criteria of showing good cause or exceptional hardship. From the engineer's calculations, the first and last lot are large enough and have sufficient buildable area to accommodate a single-family home. Mr. Tobin cited case law to support his arguments; *Thompson vs. City of Miami*, 464 1231, a 1985 case, and *Allstate vs. City of Miami Beach*, 308 So.2d 629, both of which say the same thing, if you buy a piece of property not served by a road with normal access, that is considered a self-created hardship and does not qualify for a hardship variance.

Chair Scarpelli asked the applicant if the mangrove fringe on the canal side would be maintained. Mr. Gonzalez stated that was correct. Ms. Schemper then confirmed Chair Scarpelli was referring to the canal side versus the open water side. Chair Scarpelli asked if the street and side tree regulations would still need to be met along this private easement road or whether it would need to be pushed towards Ocean Shore Drive. Ms. Schemper responded that a street tree had not been reviewed for yet.

Mr. Peter Morris, Assistant County Attorney, requested he be allowed to ask Ms. Devin Tolpin a few questions regarding her Planning credentials to properly develop the record. Through his questioning, Ms. Tolpin responded that she has been a Senior Planner for over two years, has a degree in Environmental Science and Policy, and is a Certified Floodplain Manager. Ms. Tolpin has presented Zoning and Comp Plan related applications such as this before the Planning Commission in the past, and had personally prepared the staff report submitted on behalf of Planning and Environmental Resources in connection with this application. Mr. Morris asked that the Planning Commission recognize Ms. Tolpin as an expert in the field of Planning, which they did. Ms. Tolpin then stated that she maintains the opinion reflected in her staff report. Public comment then resumed.

Ms. Holly Hamer stated that you first have to have the road prior to establishing a setback. There will be a lot of fill required to raise the road and add a concrete curb. With high tides, spring tides and King Tides, the road is more like a lake. The cart is being put before the horse. These plans are from a long time ago where 10 condominiums were actually going to be partially put in the ocean. Ms. Hamer anticipates future problems of people parking in other peoples' easements because they can't get out to their house. Ms. Schemper stated that anything of this nature would be reviewed at the time of building permit. The applicant is requesting the

variance approval at this time to proceed with the site plan for building permit approval, at which time all site planning issues will be reviewed per the building code, floodplain code and land development code. Ms. Hamer asked if this would set precedent for people on South Ocean Shores to be allowed to build their homes closer to the road. Ms. Schemper responded that each application is reviewed on its own merits. Ms. Hamer also noted that the application stated that this was to be able to use the land as it was intended, and Ms. Hamer believes the intention was from 30 years ago and does not pertain to this land now. Ms. Hamer also believes there would be cost to the public in the future with flooding, and additional flood claims raise flood insurance premiums for other residents.

Commissioner Demes asked if it was normal for community comment to include interrogating of staff. Mr. Morris stated that the approved rules of procedure prohibit members of the public from engaging in that kind of cross-examination of the staff in the public comment portion of the hearing. Public comment was closed, but was again reopened for additional speakers. Mr. Tom Ahern began speaking and it was pointed out that he was speaking on the wrong agenda item. Before continuing public comment, Mr. Thomas Wright reminded the Commission that the only issue before them at this time is the front yard setback.

Mr. Lazaro Alberto of 244 South Ocean Shores stated that he is the only house in sight of this property. He has spoken with the property owner and was not intending to oppose the houses being built because it is their property and their right, as long as it does not affect him. However, moving the front yard setback will affect him. There is not enough room to build five houses and move the setback. Mr. Alberto believes the owner is going off of a very old waterline survey. If no one in the past has had this setback granted in the past, it should not now be allowed for this property owner. In the past, owner after owner has tried to build something here and for some reason, it has not happened.

Mr. Fred Lemahert stated that he lives across the canal from the property on Lots 23 and 24. He has reviewed this application for a variance and on page 19 the sketch of all of the lots shows the size, but has no dimensions. He believes lots 22, 23 and 24 have enough square footage to build a normal-sized house without a variance. He does not consider that a hardship where the lot should be expanded to build a bigger house. Lots 23 and 24 have a buildable area of 3,500 square feet which would allow for a 7,000 square foot home. To apply for a variance for a 7,000 square foot home is not a hardship. If the variance is accepted, it should pertain to each individual lot rather than the whole property.

There was no further public comment. Public comment was closed. Chair Scarpelli asked for Commission comments.

Commissioner Ritz stated that the reason for a setback is to ensure uniformity in a neighbourhood, protect from a given street or waterway, and make sure things aren't overly crowded. In this case, there is water on one side and there will be nothing on the other side of the road because of the open water. In his mind, there would be no hardship created by the setback variance, and it appears this is the only way the property owner could use this land, so he does not have a problem granting the item that is before the Commission today.

Commissioner Demes concurred, adding that the challenges will be with the building permits and other requirements which will need to be overcome. Commissioner Demes stated that he would move to approve if there was no further comment.

Ms. Emily Schemper added that, for the record, she concurs with Ms. Tolpin's analysis. Chair Scarpelli asked if the canal setbacks would still need to be met on all sides. Ms. Schemper responded that that was correct. Chair Scarpelli added that technically, these properties don't have a front yard because the front yard was taken away from them when the plat wasn't filled as originally designed. That's what makes these lots unique compared to any other lot in the neighbourhood, which he believes is what would give this applicant a hardship.

**Motion: Commissioner Demes made a motion to approve. Commissioner Ritz and Commissioner Wiatt both seconded the motion. There was no opposition. The motion passed unanimously.**

**5. SOUTHCLIFF ESTATES EMPLOYEE HOUSING, 95301 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 95.3 OCEAN:** A PUBLIC HEARING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT FOR THE PROPOSED DEVELOPMENT OF 28 ATTACHED RESIDENTIAL DWELLINGS DESIGNATED AS EMPLOYEE HOUSING. THE SUBJECT PROPERTY IS DESCRIBED AS THREE PARCELS OF LAND IN SECTION 13, TOWNSHIP 62 SOUTH, RANGE 38 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBERS 00483370-000000, 00484390-000000 AND 00484400-000000. (FILE # 2020-130)

(10:38 a.m.) Mr. Bradley Stein, Planning Development Review Manager, presented the staff report. This is a request for a major conditional use permit to develop 28 deed-restricted affordable housing dwelling units at approximately mile marker 95.3. The applicant is the Alice Riehl Living Trust, Armando and Maria Cabrerra, and the agent is Frank Pla. As outlined in the staff report, staff finds the proposed conditional use is consistent with the purposes, goals, objectives and policies of the Comprehensive Plan, the Land Development Code, and the Livable CommuniKeys Plan. The Land Use District is Suburban Commercial for this site, and attached and detached dwelling units involving more than 18 units designated as employee housing are permitted as a major conditional use in this district. The FLUM designation is Mixed Use Commercial. The property is designated as a Tier III infill area. The proposed property is made up of three parcels. The two parcels fronting U.S. 1 are vacant and the larger parcel to the north and east currently has a single-family residence. The existing vegetation habitat is scarified and disturbed with hammock. The proposed area to be developed is 1.96 acres. Section 110-67 of the Monroe County Land Development Code provides the standards which apply to all conditional uses. Mr. Stein presented an aerial to show the current configuration of the parcels located at Snapper Lane and U.S. 1. The larger parcel is not all part of the redevelopment. The area with the yellow box is not included in this project. The 28 units are proposed as eight duplexes and three quadplexes, which were pointed out by Mr. Stein, along with the pool, office and cabana. A private drive is proposed to run north through the development. Mr. Stein pointed out the portions of the code that are applicable to every conditional use. A written protest was provided and out of 137 real property owners within a 600-foot radius required to be

noticed, 31 owners or 22.6 percent submitted a complete written protest against this proposed major conditional use and therefore, a concurring vote of at least four Commissioners is required for approval. Though you may hear that this application has been before the Planning Commission before, the applicant has waited the required minimum period of two years since the project was last heard on June 26, 2017, pursuant to LDC Section 110-8. Staff is recommending approval.

Commissioner Nugent disclosed that he had walked this site and at that time, the agent and the FCAA representative Ms. Julie Cheon (phonetic) were present doing their biological walk of the property, and he wanted to divulge that he had spoken to them briefly. Mr. Wright noted the disclosure.

Chair Scarpelli asked for Commission comments or questions. Commissioner Ritz wanted to hear from the public first. Chair Scarpelli asked if the applicant wished to speak, but Mr. Morris requested he first be allowed to ask Mr. Bradley Stein a few questions regarding his Planning credentials to properly develop the record. Through his questioning, Mr. Stein stated that he had been the Planning and Development Review Manager for almost three years. Prior to that, he was a Senior Planner with Islamorada, and prior to that with the City of Riviera Beach for eight years, along with having done some side projects as well. Mr. Stein is an AICP, accredited professional planner, and has a Bachelor of Science in Physical Geography with a minor in GIS from Montana State University. Mr. Stein has presented testimony before this tribunal in the past. He is the planner of record maintaining the file for this application, is familiar with the complete contents of the file, and personally prepared the professional staff report dated February 12, 2021. All findings and conclusions had been reviewed with the Planning Director, Ms. Emily Schemper. Mr. Morris then asked the Commission to recognize Mr. Stein as an expert in the field of Planning, which they agreed. Ms. Schemper added that she concurs with the conclusions in Mr. Stein's staff report.

Chair Scarpelli then asked if the applicant would like to speak. Mr. Frank Pla, representing the Southcliff Estates project, stated that Mr. Andrew Tobin was present assisting him with legalities, and Mr. Richard Riehl, who lives adjacent to the proposed development, was also present. Mr. Pla had nothing to add to the staff report but reserved time to respond to comments.

Commissioner Wiatt asked about the ratio of housing going to low income, and Mr. Pla stated the breakdown was 14 and 14. Ms. Schemper clarified that was for 14 low and 14 medium. Commissioner Wiatt noted that the Commission had asked for at least 50 percent last time, and this is 50 percent. Chair Scarpelli then asked for public comment.

Mr. Moe Lavasani has a PhD and PE in Transportation Engineering and stated he is representing the impacted residents. There are some major safety concerns and operational issues that need to be addressed because of the access of local roads such as Snapper and Lobster Lanes. The existing options to go southbound are to use local roads to access the median opening at Lobster Lane or go northbound and making a U-turn. There is a travel time analysis for those movements and the option presented has only a few seconds lower travel time. The cut-through movement is going to be dangerous for the safety of residents and kids in the area. The crash

data shows that at that median opening in the past three years had eight severe crashes. In 2019, a crash resulted with more than eight injuries. In 2020, a crash resulted with more than five injuries. This will generate more than 200 trips per day to that median opening. Trip generation in the new land use code for 2023 and affordable housing should be at least looked into for the a.m. peak. The trips generated from affordable housing is higher than trips generated from the multi-family housing land use code in 2020, with about a 30 to 40 percent difference in trips during the a.m. peak. The gross analysis uses a linear metric and only considers 2009 versus 2019 traffic forecasting growth rate, where normally the FDOT trend analysis is used. There are safety concerns with the Level of Service travel times along U.S. 1, but not the wait time for people at that median. The cut-through traffic is going to affect the safety of local road resident. He can provide crash history, crash numbers or any information requested.

Ms. Monique Luna also has concern for safety with the cut-through traffic through the neighborhood, which is where her property is located and which is frequently used to access the direct turn through the median to turn south. Since this project was initially proposed, the County narrowed that through street to about ten feet when the roads were repaved and drains were added approximately a year ago, and it is essentially a single-lane road where only one car at a time can fit through that street. Additional trips per day will be added on that one-lane through-street. The number of cars attempting to turn off of U.S. 1 from a northbound direction will be making an immediate right at a point where all of the business traffic is making a turn directly onto the highway, along with adding residents going into the proposed development. There is no turn lane or any way to slowly exit off of U.S. 1.

Mr. Ronnie Andrews stated he is against the project. He lives on Sunset Road across from the project, and it is already hard enough to get out of his neighborhood and onto the highway, especially if he wants to go north. The traffic will be much worse with this development. People that live there will be walking down the street by his house to get to the beach and boat ramp which is right across the street from his house. It's very crowded and busy with people that come from the Drift Motel and the trailer park down the street and he has to watch out when exiting his driveway.

Mr. Charles Borders lives on Snapper Lane and his concerns are traffic safety, site grading and drainage, and compliance with the setback requirements. He shares a southern boundary with the proposed development site and is concerned about the stormwater runoff as a result of the property being filled to meet grade. The density, elevation and planned site configuration may lead to issues with drainage in this area and it's the developer's responsibility to contain and manage the runoff from the development site. This plan relies on over half of the required site drainage quantity in this hammock area. A Class D 20-foot minimum buffer requirement is noted on the plan's Sheet L-1 between SC and IS Land Use Districts, and is addressed at page 17 of the staff memorandum, and per LDC Section 114-126 must be a minimum 20-foot in width and planted in accordance with standards provided in LDC Section 114-128. In LDC Section 114-129, where both sides of the district boundary are vacant, each side could share responsibility for half of the required buffer. The issue is the plans include a ten-foot wide buffer area and a handwritten note of 50 percent responsibility, not a 20-foot buffer as required. The



proposed road is only 18 feet from the south property line. Both sides are not vacant lots. Eight homes share the border of the proposed development property line. The multi-unit development at the proposed density does not fit with the character as defined in the Tavernier Creek Mile 97 Development Standards and Guidelines. The site density and uncharacteristic location of the three two-story, 35-foot-tall buildings along Route 1 will significantly change the quality of the entrance of this neighborhood and the corridors. The major concerns stem from the overall increase of the 28 units and the need for a major conditional use change. The plan calls for 61 parking spaces with the potential of 96 residents, and over 200 trips daily. The overflow parking, guest parking and tenant need beyond capacity which is typical of multi-unit housing will be forced to park on Snapper and Lobster Lanes, further congesting an already narrow street. The traffic analysis represents the comparison of routes of Snapper Lane versus Lobster Lane and the time traveled. This is a public safety issue. As an example, the outbound Snapper Lane for a right turn on Route 1 to do the U-turn and go southbound is less than 100 feet traveled and 50 seconds difference than taking the Lobster Lane route, but this route on the U-turn includes three turns on Route 1. If the applicant is unable to address these deficiencies, he hopes the request is denied. Mr. Borders asks that in the future, the owner engages the community and County to develop a concept more fitting for this site.

Mr. Philip McKenna, a resident of Lime Grove Estates, wanted to go on record as opposing this development as it will be detrimental to property values, congestion and traffic in the area. He would like the Commission to consider all strong points that others opposing this project have pointed out.

Ms. Carol Rose, at 926 Lobster Lane, is within 600 feet of the proposed project. Both of her concerns involve safety. Ms. Rose wanted to give the Commission her background. She was a Deputy District Attorney in LA County for 34 years and did over 800 jury trials, plenty of which involved traffic, manslaughter cases, et cetera. More important, the last six years of her career she was on the bench of the traffic court for Los Angeles Superior Court. She is also a speaker and teacher regarding traffic safety. She retired this past October and moved to Lobster Lane. Being home all day she has met many people walking with other neighbors getting exercise. There is a sign that says, "slow down, children at play," and there's a basketball court at the house second closest to U.S. 1 at the edge of the street. This street is used for constitutionals all day and children playing. Now there will be 200 more trips per day. Ms. Rose disagrees with the conclusion of the traffic analysis that the residents of the project will not want to go down Snapper Lane, cut across the narrow street and then go on Lobster Lane to cross the median and go south. That conclusion is not worth the life of somebody walking or playing on that street. There are 20 to 25 people presently living on Lobster Lane, and this adds 98 people on one side of the street, which is a lot of people and cars. For a southbound car turning in the median to make a left into Snapper, the median barely holds two cars, and if somebody is not thoughtful it will only safely hold one car. Chair Scarpelli stopped Ms. Rose and asked her to conclude. Ms. Rose stated her bottom line is she is worried about the people playing. This is too many people and too many cars being added to the neighborhood without sidewalks and with the narrow streets. Chair Scarpelli asked Ms. Aguila to start using the three-minute time clock.

Ms. Betty A. Burch lives on Sunset Point and is also concerned about the traffic. There is the boat ramp, the dog park and the public beach which is overrun by people above the stretch. On the weekends it is already like I-95 by her house. There's children playing and it's ridiculous. You can't enjoy your property, go outside, and no one obeys speed limits. To get to her neighborhood going southbound, she has to access through the Lobster Lane divider and it's always a mess. Putting in a large development there, with Ocean Resort across the highway, adds a multitude of people and traffic. This is a walking neighborhood and it's very dangerous to have this much traffic.

Mr. Tom Ahern stated the neighbors all agree on the traffic concerns with adding 289 trips a day coming and going, and reiterated the options of getting in and out of the neighborhood. Mr. Ahern thinks the neighbors would feel differently if people owned the properties. This project does not comply with the Livable CommuniKeys Plan and he does not understand why the Commission would agree with a proposal not allowed by the plan.

Mr. Roland Muench lives on Dove Road which is the street just to the north of Snapper Lane, and this is the area where 50 percent of the expected traffic will have to slow down abruptly to make a U-turn to go south. There are no merge lanes or deceleration lanes nor a plan for one. Key Largo Ocean Resort is another huge development with multi units and hundreds of vehicles that is near completion and about to be occupied, less than a block away from this project. Snapper and Lobster Lanes can barely accommodate the traffic as it exists right now. The bike path is already a problem as cars rarely stop at any of the stop signs coming out of any of the neighborhoods and they cross the bike path directly to the highway without stopping. He and his wife have witnessed numerous incidents of bicycles hit on the bike path next to U.S. 1. Mr. Muench is in firm opposition to a project of this density.

Mr. David Thompson lives immediately across the highway from this proposed project. He was also chairman of a charter school, is on the Wastewater Commission, is in full support of the good function of a local community, and supports this project. It is imperative to continue developing employee housing and the local residents of this community are really just fear mongering. There are traffic issues up and down U.S. 1, predominantly because of local residency being pushed out. This employee housing will allow people to live closer to where they work, is in accordance with the LCP, and the Commission should listen to the professionals in the Planning Department and allow them to do their job. He is fully in support of this project as an adjacent property owner.

Mr. Ruben (no last name given) is a seven-year resident of Snapper Lane. This is the wrong project for the Sunrise Point community. It will be a traffic nightmare and is also going to be very dangerous to everyone living close by. The speed limit is 50 miles per hour, there is a bike path, the children are not going to be able to play in the street, and residents will not be able to walk in peace. This project was turned down before and it should be turned down again because it is wrong for this community. With the removal of the native trees and hammocks at the rear of his property, he will have a road very close to his property. This is not what the residents pay taxes for in the Keys. The character of the neighborhood will be destroyed. There are three lots on Snapper Lane that have applied for permits and will also be building homes on those lots.

There are other residents working right now that are unable to attend this meeting who are also against this project.

Ms. Jill Patterson asked if someone could confirm that Moe Lavasani had been confirmed as an expert. Chair Scarpelli stated that this is public comment only. Ms. Patterson continued that the project does not meet the threshold of community character for the planning area, a process she participated in for over four years. Ms. Patterson has lived in this neighborhood for almost 40 years. There is insufficient space on the Southcliff site for a project of this high density without issuing variances. The major conditional use application is non-compliant with the year 2030 Comp Plan, the Land Development Code and the Livable CommuniKeys Master Plan for Tavernier Creek to Mile Marker 97. This project is projected to house 168 residents, not 98. The buffer yard requirement in Land Development Code 114.129(a)(2) has not been applied to the Class D 20-foot buffer. Land Development Code 114.129(b)(1) should be applied. The new development should be responsible for the entire 20 feet, not only 10 feet. The landscape plan also indicates a reduction in the conservation easement from 18 feet wide as shown on page 17. It has been reduced to 10 feet. Section 130-157(a), the maximum permanent residential density and minimum required open space table indicates that in the Suburban Commercial Land Use District, the maximum net density of 18 affordable units per buildable acre for properties consisting of hammock shall not be available, so the calculation then reverts to the allocation density of three units per gross acre of upland. Ms. Patterson asked the Commission to deny this application and follow the steps in the year 2030 Comp Plan for Monroe County to provide transparency and dialogue for Policy 101.19.1, and Strategy 12.2 of the LCP.

Mr. Barry Patterson has lived in Lime Grove Estates since 1992. This project is nothing more than urban sprawl invading long-established existing residentially zoned neighborhoods and building houses where they're least needed. Key Largo already has two low-income housing apartment complexes that contain 116 apartments. Those are also federally supported programs. Key Largo has the most low-income and moderate-rate housing in the Keys according to the website [affordablehousingonline.com](http://affordablehousingonline.com). The proposed Southcliff Estates apartment complex site is too far away from the Upper Keys retail areas, and is in the middle of the green belt where there are no major commercial enterprises. For example, Tavernier Town is at mile marker 91.2. This site is at mile marker 95. That's about 4.7 miles away from the low-income affordable proposed project. Downtown Key Largo which is at mile marker 90.6 is roughly 4.3 miles north from this project. Key Largo Publix which is at Tradewinds Plaza is at mile marker 101.4, which is six miles away from this project. The project is not only in the middle of residential areas, but it's a long way from jobs and grocery shopping. The Southcliff project of approximately 168 tenants with 293 vehicle trips per day built on 1.57 acres is in a rural area, automatically encourages more vehicle trips onto residential streets and U.S. 1 to get to these jobs that are nowhere near the location of the site.

There was no further public comment. Public comment was closed. Chair Scarpelli noted that he wished he lived four miles from work and then asked for Commission questions or comments.

Commissioner Demes stated he had heard one speaker say this project couldn't be built without variances, but the application looks like everything is in compliance. Mr. Stein and Ms.

Schemper both confirmed that to be correct. Commissioner Wiatt asked if this project is in compliance with the County's buffer requirements. Ms. Schemper explained that there is a section in the code regarding responsibility for buffer yards which is a little difficult to understand. In this case, Section 114-129(a) was applied; where both sides of a district boundary are vacant, each side is responsible for half of the required buffer. The reason that was applied is because the houses on the other side of the property line backs up to existing single-family homes which were all built after 1986 when the buffer yard requirement and responsibility for those were put into the code. At the time of those houses being built, both sides would indeed have been vacant and each responsible for half of the 20-foot buffer. Many of these houses had existing hammock in the back yard so they were not required to plant a 10-foot buffer. Some have conservation easements. They all have a 20-foot rear-yard setback. They all had clearing limits, and paid mitigation if they did take vegetation out. There was a public speaker that said something about an inconsistency in the plans. The landscaping plan shows this 10-foot buffer yard along that property line. The site plan shows, in addition to the 10-foot buffer yard, which the plants will be counted and things filled in as needed, there is existing hammock and an 18-foot strip along that property line which is going into a conservation easement because it's existing hammock. The buffer along that property line is really more like 18 feet. There are areas with gaps where the hammock does not fill the full 18 feet in width, but there is an 18-foot strip behind those houses along that property line between their property line and the internal driveway of this development that will be conservation easement and protected. So the drive is 18 feet off the property line, and the area between the property line and the drive is almost all conservation easement with existing hammock.

Commissioner Ritz noted that was illustrated on page seven of the staff report, but there are gaps within that conservation area. There's a gap on the east side and a V-gap toward the west side. If those gaps in the conservation area were filled with native plants, it would help buffer the neighbors, though it may not be possible to require the applicant to fill in those gaps. Mr. Stein presented what Commissioner Ritz spoke of on the screen. Ms. Schemper stated that could be added as a condition. Mr. Pla interjected that the applicant was in agreement that they will fill the 18-foot planting buffer. Right now there are 91 existing trees and they will be adding 48, so there will be more than adequate trees. Mr. Pla will work with the applicant's biologist and the County for proper placement. Ms. Schemper read a proposed condition: At the time of building permit, the applicant shall provide updated landscape plans that include additional landscaping at a Class D buffer standard that fills in any gaps in the existing hammock within 18 feet of the southwest property line adjacent to Lots 3 through 12. Commissioner Ritz thought that solved that issue, and then addressed the traffic issues, stating he had driven through the area and can see where people would want to cut through the neighborhood. Commissioner Ritz asked if there was discussion of having ingress and egress directly onto U.S. 1. Mr. Pla stated there was, but Ordinance 114.195 prohibits that access because it's within 400 feet of other activities. Subsequent to that came Ordinance 114.196 called parallel access which provides for the type of opening created. Commissioner Ritz then noted that on the existing plan on page nine of the staff report, it shows the entrance and exit detail of the development entering onto Snapper Lane with right turn only, and asked if a curb could be added on the curve to force people to turn right as they leave the development. Mr. Stein presented an example drawing of that curb as well.

Chair Scarpelli asked if the fire department would have a problem with that. Mr. Pla explained that he had discussed this with the fire marshal at the time in 2017, and the fire marshal concurred that their equipment could traverse a six-inch curb easily. This has been addressed by fire and others. Ms. Schemper stated that this could be added as a condition at the time of building permit and would probably need a new review with the new fire marshal. Commissioner Ritz stated that he believes the need for employee housing trumps a lot of these issues, but he is concerned for the neighbors and traffic. Ms. Schemper added that she had spoken with Judith Clarke, the County Engineer, regarding whether additional right-of-way needed to be paved in order to make the turning work in and out of the development around the curb and if it would be possible. Ms. Clarke had stated that it would be possible, with the biggest issue being stormwater which could be accomplished through a stormwater easement. However, there is no way to guarantee that it would be possible at this moment.

Commissioner Demes commented that coming off of U.S. 1 and making a left into the development, if bicycles, scooters, motorcycles or small cars clip a hard curb that comes out to a right angle, that could also be dangerous so a standard, safe turning radius should be maintained. Ms. Schemper stated the traffic engineer would look at that, but Mr. Stein's diagram did contemplate pulling everything back and paving additional right-of-way to provide more room for turning. Commissioner Ritz stated he is confident these issues could be overcome as he's seen it done in other areas and is ready to make a motion unless there is more discussion.

Commissioner Neugent stated that unincorporated Monroe County had lost over 5,000 units three years ago in Hurricane Irma. Everyone recognizes traffic is a challenge throughout this county. Everything that enters onto U.S. 1 is a challenge from one end of the county to the other. But it is also a challenging time for housing, the cost of housing and the high cost of affordable workforce housing creates a growing challenge to the business community and the residential community in attempting to resolve these issues. Commissioner Neugent stated he is in support this item because of that, but wherever these challenges to the residential area can be mitigated, they should be. He lives in a similar neighborhood where there is limited right-of-way because it's located in a hammock, and people just become more conscious of traveling in areas where the roads are narrow and where there are children. This is not anything that many people in the county already deal with on a daily basis.

Commissioner Wiatt added that he cannot help but compare this project to other projects that have been approved. This project is willing to do 50 percent low income and it was like pulling teeth to get other projects to do 25 percent, and that's huge. This project is willing to put traffic out on U.S. 1 where there is a Level A of service. There are folks in Stock Island right now who would be tickled to have that. Commissioner Wiatt had supported the project before and things didn't work out, but he believes this project should be supported now.

Chair Scarpelli agreed and asked the applicant if there would be on-site management. Mr. Pla confirmed there would be, along with family on-site as the Riehl family lives on the land, so there will be ownership representation there at all times. Chair Scarpelli asked about the bicycle parking. Mr. Pla explained that it is present near the office area and meets code. Chair Scarpelli added that as to the issue of turning left onto U.S. 1, as someone who travels up and down U.S. 1

every day, he much prefers to get onto the highway making the right and then turning around. Anything that can be done to help that along is preferable to making a left onto U.S. 1.

Commissioner Ritz moved approval pursuant to staff's recommendations and conditions in the report, and adding filling in the landscape gaps in the 18-foot conservation area, as stated prior by Ms. Schemper; and also to require a curb during the exit of the right-turn only area from the development onto Snapper Lane. Ms. Schemper wanted it clarified that the requirement regarding the curb would be at the time of building permit, and that the approval would not change if the County found that the curb was not feasible. Commissioner Wiatt suggested adding "as allowed by law or regulation" to install the right-turn-only curb to prohibit the left at that intersection, and Commissioner Ritz thought that was perfect. Chair Scarpelli added that the applicant should be responsible to provide the additional stormwater that may be required due to widening the road. Mr. Pla responded that the applicant was in agreement with that. Ms. Schemper then read a full proposed condition: "At the time of building permit application, if allowed by law and relevant regulations, the applicant shall provide an updated design for the driveway onto Snapper Lane which includes a raised curb within the driveway that only allows residents exiting the proposed development to turn right onto Snapper Lane towards U.S. 1, and impedes left turns onto Snapper Lane into the Sunrise Point neighborhood. The applicant shall coordinate with Monroe County Engineering, the Office of the Fire Marshal and other entities as needed, and the applicant may be responsible for stormwater management and/or other improvements as necessary." Commissioner Demes confirmed with Commissioner Ritz that all of his concerns had been addressed. Ms. Schemper then re-read the other condition: "At the time of building permit, the applicant shall provide updated landscape plans that provide additional landscaping at a Class D buffer standard that fills in any gaps in the existing hammock within 18 feet of the southwest property line adjacent to Lots 3 through 12."

**Motion: Commissioner Ritz made a motion to approve with all conditions. Commissioner Wiatt seconded the motion.**

**Roll Call: Commissioner Demes, Yes; Commissioner Wiatt, Yes; Commissioner Neugent, Yes; Commissioner Ritz, Yes; Chair Scarpelli, Yes. There was no opposition. The motion passed unanimously.**

**6. QUACK PROPERTIES LLC, 31095 AVENUE A, 31096 AVENUE B (UNIT A AND B), AND A VACANT PARCEL ON AVENUE B, BIG PINE KEY, FLORIDA, MILE MARKER 31 GULF SIDE:** A PUBLIC HEARING CONCERNING AN APPEAL, PURSUANT TO SECTION 102-185 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, BY THE PROPERTY OWNER TO THE PLANNING COMMISSION CONCERNING A LETTER OF DEVELOPMENT RIGHTS DETERMINATION DATED MARCH 11, 2020 BY THE SENIOR DIRECTOR OF PLANNING & ENVIRONMENTAL RESOURCES. THE APPLICANT IS SPECIFICALLY APPEALING THE DETERMINATION AS TO THE NUMBER OF PERMANENT RESIDENTIAL DWELLING UNITS AND THE AMOUNT OF NONRESIDENTIAL FLOOR AREA THAT WAS LAWFULLY ESTABLISHED AND THEREBY EXEMPT FROM THE RATE OF GROWTH ORDINANCE (ROGO) AND NONRESIDENTIAL RATE OF GROWTH ORDINANCE (NROGO) PERMIT ALLOCATION

SYSTEM ON THE SUBJECT PROPERTY. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS THREE PARCELS OF LAND BEING LOTS 8, 9, 10, AND 11 BLOCK 15 OF SANDS SUBDIVISION AS RECORDED IN PLAT BOOK 1 PAGE 65 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA HAVING PROPERTY ID NUMBERS 00301580-000000, 00301590-000100 AND 00301590-000000. (FILE 2020-064)

(12:00 p.m.) Mr. Matthew Restaino, Senior Planner, presented the County's response to the appeal pursuant to Section 102-185 of the Land Development Code, by Quack Properties to the Planning Commission, concerning the Planning Department's Letter of Development Rights Determination issued March 11, 2020. The appellant and subject property owner, Quack Properties, applied for a letter of development rights determination to confirm that 4,524 square feet of non-residential floor area and one residential dwelling unit were lawfully established at 31095 Avenue A, 31096 Avenue B, and a vacant parcel on Avenue B on Big Pine Key. The LDRD was issued by the Planning Director.

Mr. Bart Smith had a point of order, stating the appellant goes first in an appeal. Mr. Wright stated that it is customary for the appellant to go first. Bart Smith, on behalf of the applicant, Quack Properties, stated this is an appeal to a determination as to the lots 10 and 11 being determined to be non-residential as opposed to residential. This is a dispute over the non-residential square footage because the applicant's position is the building was utilized for residential purposes as of 1992. There is no disagreement as to the size of the building, just whether it was non-residentially used in 1992 or was it a residential use. Mr. Smith presented a diagram with the properties highlighted in blue. There is some non-clarity as to what existed, but the objective is to determine what existed as of the date ROGO was enacted, which is July 13, 1992. There are four lots, 8 and 9 are on Avenue A, and 10 and 11 on Avenue B. The structure at issue is located primarily on Lot 11, and a bit on Lot 10. None of the structure on Lots 8 and 9 are residential. Those have clearly always been non-residential. The County established that there were zero lawfully existing residential units on the property, and that on Lots 10 and 11, 1,052 square feet of non-residential floor area was exempt. Under the Code Section 138-2 provides that in order to establish residential ROGO existed, a body of evidence must be established that supports that it lawfully existed on or about July 13, 1992. Such evidence can consist of a building permit showing that it was a residential structure, and if there are no building permits for the original construction of the structure to confirm the lawful existence of a dwelling unit and its uses, the application shall include at least two of the following documents. So the standard is if you can show through a minimum of two pieces of evidence that it existed and was utilized as a residential purpose as of 1992, that it is established to be ROGO exempt as of that date. Some of the items provided are two documents from the Property Appraiser's Office indicating residential use, aerial photographs to confirm the number of structures, and finally utility documentation. The property record cards from 1992 for Lots 10 and 11 identify the type of structures on lots 10 and 11 as residential which include photos of a structure that still exists today. Additional documentation with the property record card supports the fact that this structure existed and was residential as of 1992. The aerial photography from 1992 shows a driveway going up to the property. Beyond the property record card and the aerials, the applicant also provided the utility records from FCAA and Keys Energy. There is a lack of

clarity in one of the documents, but the totality of the evidence including the most recent utility records all support that the structure on Lots 10 and 11 was being utilized as residential, and the utility records clearly show residential on the application for the utility records. On the top Lot 10 is very clearly identified as residential. Included was a FKAA contract entered into for Lot 10. The records from Keys Energy use a rate class code of 110 for residential and 210 for commercial. Mr. Smith presented a document from Keys Energy from 1981 identifying Lots 10 and 11, Block 15, with a rate class of 110 for residential. The one piece of evidence that staff identifies as commercial references Avenue A, but also references Lot 10; that piece of evidence is the only outlier but is also dated prior to the dates of all other documentation, including in 1992 by the Property Appraiser's Office identifying it as residential. The appellant is requesting the Commission find these have been used as residential lots as of 1992.

Mr. Derek Howard, Assistant County Attorney, representing the Planning Department, stated that the code and rules for Planning Commission procedures indicate that staff should have presented their report first. Though not a big deal in this case, Mr. Howard wanted this clarified for the record for future appeals moving forward. The appellant believed it was sufficient for them to establish what existed before or prior to July 13 of 1992, but the appropriate inquiry is what existed as of July 13, 1992. Mr. Howard asked that Mr. Restaino be able to proceed with the staff report. Mr. Restaino continued with his presentation, stating that the main point of contention here was the residential dwelling unit. The property is made up of three parcels. 31095 Avenue A is a parcel that consists of two platted lots, Block 15, Lots 8 and 9. The vacant parcel on Avenue B is Block 15, Lot 10, and 31096 Avenue B is Block 15, Lot 11. While all three parcels were included in the original LDRD, Lot 11 is the property that has the building that is the subject of this appeal. The building permit history was researched and building permits supported the existence of lawfully established structures and their uses. Based on available building permit history for 31096 Avenue B, the Planning Department concluded that the subject building was permitted as a commercial building, specifically identified as an office. No permits were found to have been submitted to convert it to a residential use. Building Permit A7470 for the installation of a new 200-amp service specifies the use of the building is an office. Similarly, Building Permit A7604 for an interior remodel and exterior painting of the building specifies the building is an office building with three units. The appellant stated in their response to the County that there was a permanent residential dwelling unit at 31096 Avenue B lawfully established on or prior to July 13, 1992. The exhibits submitted by the appellant include property record cards, historic aerial photos and utility records. Just referencing the code section regarding ROGO in determining whether a dwelling unit is ROGO exempt, Section 138-22(a) of the Land Development Code states the Planning Director shall review available documents to determine if a body of evidence exists to support the lawful existence of units on or about July 13, 1992, the effective date of the original ROGO. Evidence suggesting that a dwelling unit may have existed at some point prior to this date is not sufficient for establishing a ROGO exemption if there is no evidence that it was still in use on or about July 13, 1992. The property record cards submitted by the appellant appear to show a residential use on the property in 1978. While the County does not argue that there may have been a residential use on the property at that time, there is no available building permit history establishing the lawfulness of that use. Further, there is no documentation supporting the notion that the residential use was still in existence on



or about July 13, 1992. The left-hand picture reflects the property record card was last updated in 1978, fourteen years prior to the ROGO allocation system. The property appraiser's data only shows that there may have been a residential use over a decade prior to the ROGO system coming into effect. The appellant states the presence of a driveway on the property indicates a residential use. Aerial photos do not show enough detail to determine whether there is a driveway on the property. Further, the use of the building cannot be determined via an aerial photograph and there is no aspect about a driveway that would eliminate the possibility of a non-residential use. The appellant also supplied four connect orders from Keys Energy Services for electric service at the subject properties. The connect orders were issued between 1977 and 1986. The most recent connect order dated August 6, 1986, is nearly six years before ROGO became active. And as was pointed out previously, three of the four connect orders submitted were for Lots 8 and 9, which is the Avenue A property, which is not the property in question. Though staff did not draw attention to this point in the staff report it is worth mentioning. The only connect order submitted is for 31096 Avenue B, Block 15, Lot 11, and it does show a rate class of 110, however the connect order is dated July 14, 1981, just one day shy of eleven years prior to ROGO. It does not show there was a residential use still in existence on or about July 13, 1992. Based upon review of available information, staff recommends the Planning Commission uphold the decision of the Senior Director of Planning and Environmental Resources Department that found that the evidence submitted did not support the lawful establishment of one dwelling unit on or about July 13, 1992.

Chair Scarpelli asked for public comment. There was none. Public comment was closed. Chair Scarpelli asked for Commission questions or comments.

Commissioner Ritz confirmed with staff that they agreed that the property was probably residential in the 1978 to 1981 time period, with just no proof that it was still residential in 1992. Commissioner Ritz then asked Mr. Smith if he understood that if it was residential in 1992, then he would get to go forward, but just because it was residential in the seventies and early eighties wouldn't mean it was still residential in 1992. Mr. Smith said he would agree that the use had changed, but looking at the totality of the evidence, including the last electrical connections with the property, if it were changed to commercial use the systems would have to be upgraded for that purpose. The last utility documents issued in 1981 identify it was connected for residential use after it was constructed. The ability to document uses or other information becomes more and more difficult the further you get from 1992. If someone has applied for service as residential, to continue that service as residential and not change it to a commercial use would violate the utility agreement and be against the law. The presumption is that a property owner is complying with the law, and then the presumption should be that it remained for residential use. Commissioner Ritz then asked staff if there was any proof or indication that the property changed use from 1981 to 1992, and Mr. Restaino responded that he had not seen that. Ms. Schemper stated for the record that she agreed with staff and all pertinent information included in the staff report. Mr. Howard pointed out that there was no permitting for residential use. The question of whether something existed is completely different than whether it was lawful. The department comprehensively reviewed the files and all of the permitting relates to commercial purposes. There was a prior issue before the board with respect to the Department's November

14, 2019 denial of a ROGO exemption request by the prior owner of the parcel located at 31096 Avenue B, and that decision that denied that exemption request was affirmed by the Board. The Department's decision in this instance is consistent with that prior denial and affirming by the board.

Mr. Smith asked to respond, stating that 1981 was pre-1986 code, so the uses allowed are different than what was allowed under the 1992 code. In 1992, residential use was allowed. So it would have been prior to that date and if that use has been maintained through this entire time, then there is no issue with the lawful legality of it. The reason this was brought back is because an applicant is permitted to reapply with additional documentation. In the previous case, no documentation was provided. He had gone back and pulled these records and these records evidence the residential use and he believe it is dispositive.

Commissioner Wiatt stated he understands the further we get from 1992 things get to be more difficult to gather and find, but wanted to know who the individual was living at this location in June of 1992. It doesn't sound like a huge stretch to have that information. Mr. Smith responded that the applicant was Carol A. Frank that applied for residential service for the property, so he would presume that's who resided at the property. Commissioner Wiatt asked if there had been some effort to get an affidavit from Ms. Frank indicating that she lived there. Mr. Smith stated that he could not find Ms. Frank. Commissioner Wiatt asked how long the current owner has owned the property. Mr. Smith responded that the current owner purchased it after Hurricane Irma when it was in disrepair, and the first action required was to knock down the structures due to them being unsafe. Commissioner Wiatt referenced a case of Mr. Smith's from a while ago where the owner owned the house prior to Irma and contacted prior owners and the Commission held that in favor of the property owner. Mr. Smith stated that that was an instance where he had found the prior owners. Commissioner Wiatt responded that the regulation is really tight and without a permit, a preponderance of evidence that indicates someone was residing there is needed, and the evidence here is weak. Leeway should be given in these cases if there is evidence someone was living there prior to 1992 because they were counted as far as the ROGO and emergency evacuation process, but there's not a lot of evidence here indicating someone was actually living in the property in July of '92 without the permit and additional evidence like an affidavit or testimony. He sees no way to overturn the Planning Director's decision on this.

Commissioner Demes asked Mr. Howard if he had heard anything today that would change the conclusion presented to the Commission. Mr. Howard stated he had not.

**Motion: Commissioner Neugent made a motion to uphold the decision of the Planning Director. Commissioner Wiatt seconded the motion.**

**Roll Call: Commissioner Demes, Yes; Commissioner Wiatt, Yes; Commissioner Neugent, Yes; Commissioner Ritz, No; Chair Scarpelli, Yes. The motion passed 4 to 1.**

**7. SHELL OF SUMMERLAND, INC, 24838 OVERSEAS HIGHWAY, SUMMERLAND KEY, MILE MARKER 24: A PUBLIC HEARING CONCERNING THE REQUEST FOR A 2APS ALCOHOLIC BEVERAGE USE PERMIT, WHICH WOULD ALLOW FOR BEER**

AND WINE PACKAGE SALES FOR OFF PREMISES CONSUMPTION. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS LOTS 8,9,10 AND THE EASTERLY ONE-HALF (1/2) OF LOT 11, IN BLOCK 1, AMENDED PLAT, SUMMERLAND KEY COVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 35, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00188980-000000 (File 2020-173).

(12:35 p.m.) Ms. Kestride Estil, Planner, presented the staff report. This is a request for a 2APS alcoholic beverage use permit. The applicant is Daniel Karborani, agent for Shell of Summerland, Inc. This permit would allow for beer and wine package sales for off-premises consumption at the gas station located at 24838 Overseas Highway in Summerland Key. The property is located in the Suburban Commercial Land Use District, on Lots 8, 9, 10, and the easterly one-half of Lot 11, and is 21,000 square feet. The property was lawfully established as a gas station on June 3, 1963, and is currently developed with a gas station. Surrounding properties within 500 feet of the property include a residential condominium, a restaurant to the east with a 2COP beer and wine license, a residential subdivision to the south, a strip mall that includes a liquor store to the west which has a 3APS beer, wine and liquor license. There is also undeveloped conservation land to the northwest of the site. Based on data from MyFloridaLicense.com, there are currently 28 liquor licenses on Summerland Key. Staff does not anticipate that approval of the 2APS Alcoholic Beverage Use Permit would have an adverse effect on surrounding properties or the immediate neighborhoods. Given the property's location within the SC Land Use District which permits commercial retail uses, the subject premises would be suitable. The boundary survey revised on December 9, 2020 and submitted with this application also depicts a gas station with 2,110.78 square feet of commercial retail floor area. The proposed use is not anticipated to have an impact on traffic generation or road capacities due to the use being the same use as currently approved and allowed on the property. The 2017 LOS and reserve capacity for this property's location is B. It is not anticipated that the approval of the requested 2APS would increase demand upon any utilities, community facilities or public services. As of today, there are no open code compliance cases related to the property. Staff recommends approval.

Chair Scarpelli asked if the applicant wished to speak. Mr. Daniel Karborani, owner of the Shell Station, stated he currently has a 1APS license and is looking for a change in series to a 2APS license, and that Ms. Estil had done a great job in explaining everything. Chair Scarpelli asked for public comment. There was none. Public comment was closed.

**Motion: Commissioner Ritz made a motion to approve. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.**

#### **BOARD DISCUSSION**

There was no Board discussion.

#### **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 12:43 p.m.