PLANNING COMMISSION
September 28, 2016
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, September 28, 2016,** beginning at 10:00 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL by Gail Creech

PLANNING COMMISSION MEMBERS

Denise Werling, Chair	Present	
William Wiatt, Vice Chair	Present	
Elizabeth Lustberg	Present	
Ron Miller	Present	Beth
Ramsay-Vickrey	Present	

STAFF

Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
John Wolfe, Planning Commission Counsel	Present
Steve Williams, Assistant County Attorney	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Emily Schemper, Comprehensive Planning Manager	Present
Kevin Bond, Planning & Development Review Manager	Present
Devin Rains, Sr. Planner	Present
Thomas Broadrick, Sr. Planner	Present
Janene Sclafani, Planner	Present
Gail Creech, Sr. Planning Commission Coordinator	Present
Ilze Aguila, Sr. Planning Commission Coordinator	Present

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

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

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Creech confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff members and all members of the public intending on speaking today were sworn in by Mr. Wolfe.

CHANGES TO THE AGENDA

Ms. Creech stated that Item 3 was continued from last month to this meeting, and the applicants have requested to continue to October 26, 2016. Also, Item 4 has been postponed. Mr. Wolfe informed the Commission they needed to vote to continue Item 3 to the October 26, 2016 meeting.

Motion: Commissioner Wiatt made a motion to allow for the continuance of Item 3 to October 26, 2016. Commissioner Ramsay-Vickrey seconded the motion. There was no opposition. The motion passed unanimously.

APPROVAL OF MINUTES

Motion: Commissioner Ramsay-Vickrey made a motion to approve the August 31, 2016, meeting minutes. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

1. Gulf Drive, Lot 12, Block 28, Key Largo Park PB3-62, Key Largo, Mile Marker 100.5: A public hearing concerning a request for a Variance of 10 feet from the required 25-foot primary front yard setback along the Gulf Drive right-of-way, which is adjacent to the southeastern property line, and a variance of 10 feet from the required 20-foot rear yard setback along the northwestern property line. Approval would result in a primary front yard setback of 15 feet along the Gulf Drive right-of-way and a rear yard setback of 10 feet along the southeastern property line. The variance is requested for the development of a proposed single-family detached dwelling. The subject property is legally described as Lot 12, Block 28, Amended Plat of Key Largo Park, Plat Book 3, Page 62, Key Largo, Monroe County, Florida, having real estate number 00529300-000000. (File 2016-060)

(10:05 a.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this item was continued from last month. Items 1 and 2 had been covered jointly and were continued jointly, could be heard again at the same time, and it is the exact same staff report as last time. Ms. Santamaria also informed the Commission that a member of the community submitted an email comment about 20 minutes ago on this item and asked whether the Commission wanted to consider that and get printed copies now. Chair Werling indicated the Commission would like printed copies which were distributed by Ms. Creech.

Mr. Wolfe asked if the Commission would like him to read Item 2, to hear the items together, though they would require separate votes. Chair Werling responded in the affirmative, and Mr. Wolfe proceeded to read Item 2 into the record.

2. Gulf Drive, Lot 13, Block 28, Key Largo Park PB3-62, Key Largo, Mile Marker 100.5: A public hearing concerning a request for a Variance of 10 feet from the required 25-foot primary front yard setback along the Gulf Drive right-of-way, which is adjacent to the southeastern property line, and a variance of 10 feet from the required 20-foot rear yard setback along the northwestern property line. Approval would result in a primary front yard setback of 15 feet along the Gulf Drive right-of-way and a rear yard setback of 10 feet along the southeastern property line. The variance is requested for the

development of a proposed single-family detached dwelling. The subject property is legally described as Lot 13, Block 28, Amended Plat of Key Largo Park, Plat Book 3, Page 62, Key Largo, Monroe County, Florida, having real estate number 00529310-000000. (File 2016-061)

Ms. Santamaria continued the presentation, indicating this is an application for administrative variances to both the front and rear yard setbacks. Based on comments from the community, this was raised to a Planning Commission decision. The staff report was presented last time and the Commission had asked that the applicant go back and fill in the blanks on the application, items 6, 7 and 8. The applicants submitted a revised application with letters that were sent to surrounding property owners requesting comments/input, included in the Commission's packet.

Guillermo Alvarez, Esquire, was present on behalf of the applicant and stated that based on the continuance from the last hearing, they had sent letters to neighbors, he received two calls but was only able to get back with Mr. Gordon, whose first item of concern was vacation rentals. Mr. Alvarez explained to him that short-term vacation rentals were against County code, that code compliance handled that so it should not be an issue. It was not probable that this type of home would be used for vacation rentals. Mr. Gordon's second concern was density having neighbors so close together. Mr. Alvarez explained that the property was platted a long time ago for a density of that size on 50-by-50 lots, so neighbors would eventually going come in and build their home on their sites. Mr. Gordon's third concern was parking. Mr. Alvarez explained that parking was included within the unit itself/lot and there was no need for additional offsite parking. Mr. Gordon discussed that people presently park on other peoples' properties. Mr. Alvarez told him that that was illegal and should not be done and there are safeguards in place against that. Further, the newer homes meet code and the homes that Mr. Gordon was concerned about are older and do not have on-site parking. Mr. Gordon's fourth concern was the height of the structure, a three-story unit. Mr. Alvarez explained they had minimized the variance requested to keep the footprint of the building very small, requiring the structure to have two living floors. Due to floodplain guidelines, in an AE10 zone, the first-floor elevation needed to be 10 feet causing the house to be built on stilts, and a height variance is not needed.

Mr. Alvarez commented on the staff report, pointing out he had been through this process with other properties. Without relief of a variance, a single-family home could not be built, which shows good and sufficient cause. Failure to grant the variance would result in exceptional hardship. The proposed property is consistent with the neighborhood, is the 20th to 25th variation of this exact home that they have built there, and had been approved in the past, so there is no special privilege here. This variance is for the minimum necessary to provide relief to the applicant while keeping within building codes. Nothing unreasonable is being requested and precedent of past approvals has already been set by staff and the Planning Commission. Mr. Alvarez indicated he would answer any questions.

Commissioner Miller asked where the parking was on the site plan. Mr. Alvarez answered that the home is on stilts and parking is underneath. Commissioner Miller asked staff if applicant is required to build what is shown on the site plan. Ms. Santamaria responded that if the variance is approved, they must stick to that site plan. Chair Werling stated that she believes the property could be a vacation rental if County regulations were adhered to. Mr. Alvarez agreed, but said the requirement of 28 or 29-day rentals had satisfied Mr. Gorgon's concern. Mr. Williams indicated he did not believe it would be eligible for vacation rental, and Ms. Santamaria confirmed it would not. Mr. Alvarez indicated it's not the type of house conducive towards that use, either way. Commissioner Miller added that if it was

rented it out, that it wouldn't be anything that anybody else wasn't doing in this county. Mr. Williams invited Mr. Miller to come to the next day's [Code Enforcement] hearings to see something to the contrary. Commissioner Miller acquiesced that Mr. Williams was doing a great job.

Chair Werling asked if there were further questions. There being none, Chair Werling asked for public comment.

Bill Hunter of Sugarloaf was previously sworn in, and preempted his comments by saying he hadn't done his homework, but that a statement from Mr. Alvarez prompted his question as to the square footage of the home. Mr. Alvarez responded 1,600 square feet. Mr. Hunter said he had wondered what the standard of livability was and thanked Mr. Alvarez.

Dottie Moses of Key Largo was previously sworn in and stated she has property and lives in this subdivision so she sees what happens in the neighborhood all the time. She is glad to see that they have parking as that is the biggest problem in the area of 50-by-50 lots, which makes it very tight. As empty lots get developed, parking gets worse, and it's not only cars, but boats, trailers, Jet Skis and all the toys. That being addressed is very important to her and others who live there.

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

Chair Werling asked if the applicant had anything further. Mr. Alvarez said, no, but that the property meets parking code. Parking off property is illegal and safeguards are in place to prevent this. This applicant needs the variance and there's no other way to handle this.

Chair Werling then asked for Commissioners comments and/or questions.

Commissioner Ramsay-Vickery had a question for the applicant, so the applicant came to the podium and introduced herself as Diana Montego. Commissioner Ramsay-Vickery asked how long Mr. and Mrs. Montego had been in the home-building business in the Keys, to which she replied 16 years. Commissioner Ramsay-Vickery then asked, as a long-time experienced home builder in the Keys, if she was aware of the County Building Codes, to which Ms. Montego responded, yes. Commissioner Ramsay-Vickery stated that according to the application, Ms. Montego believed a 50-by-50 foot lot was not big enough to build a home on, so as a long-time experienced builder in the Keys, aware of the Code, why did she purchase the lot. Mr. Alvarez asked to answer that question as counsel, saying it's not so much that the lot's not big enough, but that the setbacks are insufficient to build a house to the code. Commissioner Ramsay-Vickery stated that the code has been in place for 30 years, but the land was purchased a year and-a-half ago. Mr. Alvarez indicated that was correct, but the variances had been approved in the past and precedence was set on these lots for this exact situation. And, that the staff report addresses that the IS Zoned subdivision was not made for lots of these size, and that these lots should have their own setback, code and zoning. That would be a burden on the Commission, so the variance process is sufficient, allowing everyone to develop a property while giving the County Commission oversight.

Commissioner Ramsay-Vickery, going back to the map and the triangular area she'd been concentrating on, looked at the other red marks pointed out by staff as lots having variances. At the top of Gulf View, the first red mark is the applicant's. Two lots below are were combined into one and built on by the

original owner prior to the 1986 comp plan, prior to the variances. Then the lot next to that is again the applicant's. The next lot was also combined and built to the 1982 code. So aside from the applicant's variances received through the staff process, not through the Planning Commission, there are no other variances approved in that area. The concern is, what is the point of having setbacks if best efforts aren't made to apply them? Commissioner Ramsay-Vickery would therefore like to disapprove this on four reasons: First, based on staff's reason number 4 where staff assesses that the original plot did not assume that a lot of this size would be subject to the current required setbacks. The applicant purchased the lot in question in April of 2016 for $35,000. Commissioner Miller asked if that was a point in favor of the applicant. Commissioner Ramsay-Vickery indicated it was her reasons for rejection. Commissioner Miller apologized, stating he was trying to clarify what Commissioner Ramsay-Vickery was saying.

Commissioner Ramsay-Vickery clarified, of the staff's reasons for approval, stating any one reason that the Commission disagrees with would deny the application, and she disagrees with three of the staff's assessments. The numbers, the staff's assessment and her disagreements are as follows: Staff's reasoning number 4 where staff assesses that the original plot did not assume that a lot of this size would be subject to the current required setbacks, the disagreement is that the applicant purchased the lot in April of 2006 for $35,000 and at the time of purchase, the applicant and the County setback requirement in 1986 comp plan and LDRs had been set for 30 years. ROGO lots typically sell in the $25,000 to $50,000 range. Therefore she disagrees with staff's assessment and conclusion in reason number 4, instead concluding that given the applicant's purchase date, the applicant knew or should have known at the time of purchase the County's setback requirement. Had this applicant owned the property prior to the comp plan and the LDC of 1986, then she could agree. But given the date of purchase, the applicant should have been aware of the code.

Second, given the size and number of vacant land purchase the applicant has made in the last year and-a-half, the LLC and public filings showing the applicant has been in the construction and home-building business for more than 16 years, it is reasonable to conclude that the applicant is in the real estate and/or land development business. It is therefore reasonable to conclude the applicant knew or should have known of this 30 year-old LDR and code prior to purchase. Given the purchase price of $35,000 it is reasonable to conclude that this lot was sold and purchased with these setbacks in mind, reflecting the valuation of a ROGO lot.

Third, going to staff's reasoning number 5, staff says granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood, and the Planning Department has approved six other administrative variances on properties in the vicinity. Reason number one points to the administrative variances on Gulf Drive, but these administrative variances are within the Lakeview and the Lakeshore borders for properties purchased by this same applicant. Again, the land purchases were all made within the last year and-a-half for amounts consistent with ROGO lots. The staff referenced that the variances were administrative, meaning they had not gone through the Planning Commission, and if they had, the outcome may have been different. In conclusion, it is unreasonable to make the case that because the applicants were administratively granted variances on their own similarly-sized lots that we should use the applicant's own administrative exceptions as our precedent for this decision, especially when there may have been Planning Commission disagreement as to whether the applicant's prior variances should have been approved in the first place.

Commissioner Ramsay-Vickery indicated she had searched the County Property Appraiser's website and found only one similarly-sized lot in that vicinity which had a constructed home at 18 Gulf Drive, which was purchased in 1985 for $15,000, reiterating the point that the applicant's recent purchase price of $35,000 is so far below market it's reasonable to assume it was priced as a ROGO lot. And, that single 1985 home was built some 30 years ago and predates the County's first adopted comp plan of 1986 and the corresponding LDC and setback requirements. She disagrees with staff on reason number 5. If approved, this variance would in fact give the applicant special privileges based on established development patterns of this neighborhood as no one other than the applicant has been given variances for building on that same sized lot within that immediate vicinity since the inception of the code and setback requirements in the County comp plan's adoption of 1986, predating the applicant's purchase date by 30 years.

Further, the size of the proposed structure is not consistent with the community character of the neighborhood, which speaks to reason 8, that the variance is the reasonable minimum necessary to provide relief to the applicant. Reason 8 is further indicated by the fact that there is a tiny house movement currently going on throughout the country. There are homes in Key Largo currently listed for sale on similarly-sized lots in the 400 square foot range. The applicant's variance request is for the size of home they wish to develop, not the minimum necessary. Chair Werling asked for further questions or comments.

Commissioner Miller asked staff if it was true that no one other than the applicant had received a variance since 1986. Ms. Santamaria responded that she believed that Commissioner Ramsay-Vickery was referring to within that triangular piece, Lakeshore and Lakeview Drives. Mr. Williams indicated Commissioner Ramsay-Vickery was picking a triangle of her choosing. Mr. Alvarez interjected he had received four variances in this neighborhood himself. Commissioner Ramsay-Vickery clarified that this was the immediate vicinity/neighborhood and it appears different than the higher density below it. Commissioner Miller inquired as to the nonconforming setbacks in the blue lots. Ms. Santamaria replied that they were the exact same setbacks, likely built prior to 1986. Commissioner Miller responded that it would be difficult to argue that the community character was being changed if the setbacks were the same as the applicant was asking for. Ms. Santamaria indicated she had not looked at every single one of them, but that some were similar to what the applicant was requesting. Commissioner Miller continued that he believes the applicants have been buoyed up by the fact that they've been getting variances all along. Commissioner Ramsay-Vickery indicated her point about them being a builder was their knowledge of code and building codes. Commissioner Miller indicated their knowledge could be based on the fact that variances have been given to everyone. Commissioner Ramsay-Vickery questioned why we have setback requirements. Commissioner Miller responded that that was another battle and he was not sure if they were going to hold the line in Monroe County with these two properties today, having previously given variances.

Commissioner Wiatt asked for clarification on side yard setbacks. Ms. Santamaria responded that the requirements are 10 and 5, and the submitted site plan was 5 and 14, a little bit larger than the requirement on the 10-foot side. Mr. Alvarez indicated they had tried to ask for the minimum possible, leaving a larger side yard setback, and asking for a variance on front and back, not inconsistent with the neighborhood. As to the comment that the builder should have known, the builder does know that there is the variance process that they have used before. This project can't be denied as precedence is set. They are aware of the legal history and lawsuits and do not want to go to that.

Commissioner Wiatt continued, inquiring about the conversation with Mr. Gordon and whether there was concern as to size of the structure or the setback. Mr. Alvarez indicated the only concern was the height, to which he had explained that when you buy a home in a neighborhood platted like this, there would be a neighbor eventually and the home was below the height restriction. The only inconsistency is with the front and back setback. If they don't get the variance, they can't build a home. Commissioner Miller asked about the height. Mr. Alvarez responded that the height of the lot at existing grade is two feet. Commissioner Miller discussed the height allowed presently and that there was upcoming legislation to get an exemption for flood. Commissioner Wiatt stated he had hoped for more public input, which was the reason for suggesting the continuance from the last meeting. Does the neighborhood prefer a larger house encroaching more into the setbacks, or stick to the setbacks with a smaller home. Also, he does not believe the site plan or house meets the requirement of 8 concerning reasonable minimum necessary at 1,600 square feet, though he is willing see past that if the neighbors would have preferred a larger home. Without neighborhood input he would stick with the home being larger than necessary from a minimum standpoint. He does agree with the concern of the neighbor on height, that when you build up to allowable height, you get a hawkish look into a neighbor's home, and that is a setback issue.

Commissioner Vickery-Ramsay agreed, and the house next door at 18 Gulf Drive, the only other house built on a 50-by-50 lot in her area of concern, is 1,000 square feet. Commissioner Miller asked if that was 1,000 square feet on one floor. Commissioner Vickery-Ramsay responded it looked like a two-story. Commissioner Miller asked if it was 500 square feet per floor, and Commissioner Vickery-Ramsay indicated that it appeared to be. Mr. Alvarez indicated his clients had been to the property and could answer that question best. Though 1,600 sounds like a lot, if you consider per floor, you couldn't fit kitchen and living on one floor, they had to do two floors on top of stilts, and by engineering and fire safety standards, this was the smallest box you can get to go upstairs, turn around, and have a livable area. Commissioner Miller aside if it was 800 per floor, and Mr. Alvarez indicated it was a little less because it includes the first floor entrance. Commissioner Miller commented that he had once built a home 20 feet wide because of setbacks and that it was a nightmare to design and get everything you want in it. Mr. Alvarez indicated this home was 25 by 35 feet. Commissioner Werling asked if this was a modular, and Mr. Alvarez indicated it was CBS, and he distributed pictures to the Commission. Mr. Alvarez explained that they had built four identical homes in the areas of X Flood Zone where stilts were not required, 8 to 10 and another 5 in other areas. This was the 20th or 25th variance application requested. Commissioner Werling inquired as to how many bedrooms, and Mr. Alvarez responded that this model had three.

Commissioner Wiatt asked if the one member of the public present, Dottie Moses, would opine on size versus setback. Ms. Moses asked to see the pictures. Ms. Montego indicated the pictured house was directly across the street from the property. Ms. Moses indicated she has had neighbors move because of these houses going up. They are very close, especially the back setback. Her personal opinion is the 50-by-50 lots are tiny, as is the neighborhood. The density becomes complicated when you start building bigger homes. The neighborhood was originally built with small fishing cottages, which is why they were plotted so small, and most of them were just a bedroom, bathroom and kitchen. That's not what people want anymore, they want a vacation home or a full-time home, and it is definitely changing the character of the community. She is not right next to this particular area, but she bought the lots around her because she did not want this to happen to her. She cannot speak for the people who live in

this particular section. Commissioner Wiatt indicated that was fair enough, that he just wanted a little insight.

Mr. Williams had a couple of concerns as to Commissioner Ramsay-Vickery's comments, stating there is no distinction between an administrative variance and the Commission's variance, so no distinction can be made in the decision making process. The public and the vast majority of the neighborhood doesn't know if a variance is given administratively or by the Planning Commission, so drawing a distinction would not have much defensible value lawfully as both are allowed for, provided for, and espoused by the code. The other matter giving him hesitation is that it does not matter who the purchaser is, the variance goes to the land itself whether it's a first-time homebuyer fresh out of college or to DCI or Lennar Homes.

Ms. Montego asked to make a quick comment, indicating the home in the picture was recently sold to a Key Largo school teacher, a family of five with three children. It's affordable for a family of five which couldn't really fit into a two-bedroom. These properties would not be used for vacation rentals even if they could be. They are built as affordable for the local community.

Commissioner Miller stated, even if they were legal rentals, we're trying to get something affordable in this County. This is a smaller home and it's more affordable. His two concerns are community character and parking. The parking is under this home and the setbacks look to be the same as other properties, so those two things are satisfactory to him.

Commissioner Lustberg indicated, based on what has been done before, it's been made clear that if there is a platted lot, we cannot tell someone they can't build on it. However, the 1,600 square feet is beyond the minimum necessary to address being able to build on the property. 1,600 is definitely bigger than is the minimum necessary. At the last meeting, this had been pulled to get a better understanding of community concern prior to making a decision. Sending a letter from an attorney really says, we're going to play hardball and are not willing to work with you. She believes this did not help to get community feedback. Though, a variance needs to be approved to build, that does not mean 1,600 square feet is the minimum necessary.

Mr. Alvarez asked to address that, stating in this case, the size of the house doesn't have to do with the setback variance asked for. The setback variance is exactly as asked for before so there is precedence. To reduce the size of the house, he could make the third story smaller but would still require the same variance as the variance is based on column location and engineering standards. The footprint of the house is set for a single livable structure with two stories, but the setbacks would be the same setbacks. From construction standards, once you have a second floor, it's more expensive to build something smaller on the third floor. As far as the neighbors are concerned, yes, he is an attorney, but also a reasonable person. He asked the neighbors to come here as it would be good to hear from them, but the neighbor's issues were vacation rentals, density which has already been platted, parking issues and height. At no time did the other public member [Ms. Moses] talk about the size.

Commissioner Lustberg asked Ms. Santamaria to comment. Ms. Santamaria stated she could not speak to the engineering, though it would be an option to design a smaller house, an efficiency or something else, to potentially reduced the variance request.

Commissioner Wiatt indicated the only way he would be convinced this wasn't beyond the reasonably necessary is if the neighborhood convinced him they would prefer a larger home. Since that hasn't happened, he doesn't feel it meets criteria number 8. Commissioner Lustberg asked Commissioner Wiatt, so what do we do now? Commissioner Wiatt agreed this is a platted lot and because of that alone, one would assume they could build a home, so it becomes an issue of how much variance we're willing to allow without neighborhood concerns about building a micro-house in the neighborhood, that regulations almost force going the micro-house route, for lack of a better term, adding that there are entire communities with 500-600 square foot homes.

Commissioner Miller felt that the input from the neighborhood is they don't like the smaller home, and they don't like the height which the Commission has no control over. Commissioner Wiatt responded that they do have some control over setbacks, and potentially some level of control as to whether it's a buildable lot or not, although we haven't seen that we've had much control in that respect, of late. It gets back into the setback, and setback issues are mainly a neighborhood issue. If the neighborhood wants people to remain in the setback as best they can because it gives green space, borders and separation between homes; conversely, neighborhoods from a property value standpoint tend to prefer larger homes because it increases the value overall, which is why he wanted to hear from the neighbors. Without that knowledge, we have to do what the code says without any wiggle room and ask, is the size of this dwelling reasonably the minimum necessary. Based on seeing other neighborhoods in Monroe County, a 1,600 square foot home is not minimal.

Mr. Alvarez asked if he could proffer a suggestion. There's a lot of precedence with this exact home in this neighborhood as variances have already been approved. Hearing concerns with the setback issues, the correct course of action is to approve based on the precedence set and it's been established that is the minimum necessary, and have the Commission take a legislative approach to deal with this situation because there are still a lot of 50-by-50 lots out there. The correct way to approach that would be legislatively, by changing the setback requirements for lots that fall into that, and make it its own zoning subdivision.

Commissioner Wiatt responded that it's already been managed legislatively and that's what the setbacks are. So if we stand firm on what's legislated, you basically can't build. If you're going to build there, you're going to need a variance, the question is how much of a variance you need.

Mr. Alvarez agreed, indicating the County attorney is better suited for this, but there is precedence for this exact home. If you leave the setbacks where they are, that's fine, but you're always going to open yourself up to legal liability as there is a lot of precedence. Commissioner Wiatt indicated there is also a tremendous amount of precedent in the entire County, if you go outside of this neighborhood, with respect to size of the homes. Mr. Alvarez maintained that this is the site under discussion, and that the County attorney would be the best one to answer that. Commissioner Wiatt responded that we're also looking at setting future precedent for the entire County. Mr. Alvarez reiterated that you can't stop where you've come with this from a legal basis, but you can legislatively change the setbacks, and that's the best approach. Commissioner Wiatt disagreed, stating the legislation is in the reasonable minimal necessary, and believes the Commission would be on fairly firm ground to say that 1,600 square feet is beyond reasonable minimum necessary.

Commissioner Miller asked what the standard would be? Commissioner Wiatt responded he wasn't sure that a hard, firm standard should be applied; rather the question should be what is minimally reasonably necessary. If the neighborhood said they prefer a larger home and are willing to give on the setback, then he would certainly listen to that, but we haven't heard that here. We have no idea what the neighborhood wants other than they don't want a home that's hawking, looking into the neighboring property, which doesn't bode well in this case for the applicant, even though that's a very small data point.

Mr. Alvarez asked to make one more point and stated, as to the size of 1,600 square feet, the variance asked for of 10 feet from the rear yard is can be discussed, because if we're talking size, we have an issue here. The size of the house can't be limited, but you can limit the variance that we're asking for. This variance has been given a ton of times and there is a lot of precedence and a lot of legal liability, hence the suggestion to legislatively take care of this, but the setbacks are all we're here for. Commissioner Wiatt indicated that those two things are completely connected, that you can't talk one without talking the other.

Mr. Williams added that the applicant's point is well taken, stating you're not here to regulate the size of the home. You've got a height limit and you've got a variance request, but architectural issues aside, the size of the home itself is not something that's within your purview for consideration. The setback distances are, and that's what they sought for the variance.

Commissioner Miller added that community character was not changing, that this neighborhood has the same setbacks all over. Expanding the triangle [as referred to by Commissioner Ramsay-Vickery] more, there are a lot of blue lots with the same setbacks. The parking is under the home. I think you're getting into the weeds when you start talking about what size and square footage the house going to be. Commissioner Wiatt didn't disagree. Commissioner Miller indicated he was all for holding the line, but that is a density issue. Commissioner Wiatt asked if Commissioner Miller felt it was a reasonable amount of setback variance to grant the applicant, and Commissioner Miller responded that he did. Commissioner Wiatt admitted he was fairly close to the middle of the fence.

Motion: Commissioner Wiatt made a motion to approve the variance for Item 1 based upon the recommendations set forth in the staff report, and also the site plan that there are two parking spaces under the home. Chair Werling seconded the motion to move things along. The roll was called with the following results: Commissioner Ramsay-Vickery, No; Commissioner Wiatt, No; Commissioner Lustberg, No; Commissioner Miller, Yes; and Chair Werling, No. The motion did not pass.

Commissioner Lustberg suggested a motion to approve a variance today based on all of the materials and testimony with the stipulation that it does not meet the minimum necessary in number 8. Chair Werling indicated that the size of the house cannot be regulated, only the setback. Ms. Santamaria interjected that it either has to meet all the criteria or a variance would not be issued. Commissioner Lustberg asked if they could be sent back to work with engineering to come up with the minimum necessary, and then move forward without coming before the Planning Commission again. Ms. Santamaria responded, no. Mr. Wolfe stated a motion could be made to deny and state which particular reason or reasons. Then the applicant is free to come back with another variance application in the future, trying to meet something that you might approve. Mr. Williams added, if that's the leaning of

the Board, if they bring something back next month with different setback lines for the variance, it is completely voluntary on their part., not anything compelled. Based upon the motion about to be made by item 8 not being properly sized, it could be proposed, if they had the ability or the desire to give you different proposed variance lines or setback lines. It sounded like that's where the motion was going.

Mr. Alvarez asked if there were any recommendations as far as a setback that would be approved, understanding once setbacks are set, you give the footprint of the building. If the footprint is smaller than dimensions for a parking space, the cars may not fit and would be parked outside. This was the smallest possible footprint. The only suggestions from neighbors were, don't build the house, which is not reasonable. Mr. Alvarez asked for direction to avoid a lawsuit. Ms. Montego interjected that the house is only 14 feet deep and not a very footprint, that the square footage seems high because it's going up three stories. Mr. Alvarez added that 14 feet is a bedroom and hallway.

Commissioner Wiatt asked Ms. Santamaria for her thoughts on reasonable minimum necessary, based on prior approvals, that this same size house on this same size lot, from an engineering perspective and other things, was a reasonable minimum. Ms. Santamaria responded that she could not speak to engineering, but in looking at the neighborhood, the larger area, not just the smaller corner, the existing development in the neighborhood and the fact that many other homes were already within the setbacks, that this was a reasonable request to have a footprint on the ground of 875 square feet with parking underneath, and that's why staff initially recommended approval. Commissioner Wiatt asked if 900 square feet would not have been. Ms. Santamaria responded that each property and neighborhood is unique, so they look at each case specifically. Commissioner Wiatt added that he sees many houses in the Keys that are smaller than that. Chair Werling commented that she would hate to lose the parking.

Mr. Alvarez asked if both items could be pushed back another month to see if he could get the neighbors out here. He did not know how to work with staff because "you guys" would have to pocket-out money for an engineer to look at this and come up with a minimum standard. Chair Werling indicated that was not for the Planning Commission to do, but that the neighborhood was one of the questions some of us have. Mr. Alvarez stated he had tried to reach out to the neighbors, and could try to reach out with a letter directly from the sellers.

Mr. Williams interjected that if the applicant was willing voluntarily to come back next month, perhaps the engineer could submit a report to staff stating how this is the minimum necessary and have an opportunity to review it, see if there's a way to shave some feet off someplace and still keep the parking that Commissioner Miller is concerned with. It could be looked at and try again next month. Mr. Wolfe added, in addition, they might get some more neighborhood comment and it would be an attempt to reach a resolution rather than the alternative. Commissioner Wiatt indicated he would be interested in knowing if the neighborhood was more concerned with setback versus property values associated with size, coupled with what is minimally required from a building standpoint, which would give him a better feel on making an appropriate decision.

Mr. Williams suggested, as is provided for in other code situations, a community meeting, an informal meeting between the applicant and the neighborhood. Staff would not be attending as it would be voluntary on the part of the applicant. Mr. Wolfe suggested listing the Commissions' concerns when the applicant sends out the communication for the meeting.

Motion: Commissioner Wiatt made a motion to approve the applicant's request to continue Item 1 until October 26, 2016. Commissioner Ramsay-Vickery seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Wiatt made a motion to approve the applicant's request to continue Item 2 until October 26, 2016. Commissioner Ramsay-Vickery seconded the motion. There was no opposition. The motion passed unanimously.

Chair Werling requested Item 5 be read. Mr. Wolfe announced that staff had requested Items 5 and 6 be heard together.

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY YEAR 2030 COMPREHENSIVE PLAN POLICY 101.5.29, TO ALLOW LAWFULLY ESTABLISHED TRANSIENT UNITS TO BE ENTITLED TO A DENSITY OF ONE TRANSIENT UNIT PER LAWFULLY ESTABLISHED TRANSIENT UNIT AND NOT BE CONSIDERED NONCONFORMING AS TO DENSITY, AND TO ALLOW THE DENSITY OF LAWFULLY ESTABLISHED TRANSIENT UNITS TO BE REPLACED WITH THE SAME DENSITY OF PERMANENT AFFORDABLE HOUSING DWELLING UNITS NOTWITHSTANDING DENSITY LIMITATIONS OF THE FUTURE LAND USE MAP CATEGORIES AND SUBJECT TO THE AWARD OF AFFORDABLE ROGO ALLOCATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (File #2016-046)

6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 130-163, EXISTING RESIDENTIAL DWELLINGS, TO ALLOW LAWFULLY ESTABLISHED TRANSIENT UNITS TO BE ENTITLED TO A DENSITY OF ONE TRANSIENT UNIT PER LAWFULLY ESTABLISHED TRANSIENT UNIT AND NOT BE CONSIDERED NONCONFORMING AS TO DENSITY, AND TO ALLOW THE DENSITY OF LAWFULLY ESTABLISHED TRANSIENT UNITS TO BE REPLACED WITH THE SAME DENSITY OF PERMANENT AFFORDEABLE HOUSING DWELLING UNITS NOTWITHSTANDING DENSITY LIMITATIONS OF THE LAND USE (ZONING) DISTRICTS AND SUBJECT TO THE AWARD OF AFFORDABLE ROGO ALLOCATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (File #2016-047)

(11:20 a.m.) Ms. Schemper presented the staff report. The applicant is requesting to make changes to Policy 101.5.29 and to Section 130-163. The language is almost identical. They are asking to allow lawfully established transient units to be entitled to a density of one transient unit per lawfully established unit and not be considered nonconforming as to density. Also, to allow those lawfully established units to be replaced with permanent affordable housing dwelling units at the same density as

the preexisting transient density, notwithstanding the density limitations of the future land use map designation or the zoning on the subject property.

Commissioner Lustberg asked for an explanation of what "notwithstanding" means. Ms. Schemper responded, in this case, if the maximum net density for the future land use category and/or the zoning does not allow that many affordable housing units, they would be able to replace the same number of transient units that were already there, nonconforming to density, with affordable housing units. So if a property has 30 transient units on it, but only allows 15 affordable housing, they could redevelop the transient as affordable, those 30 units, notwithstanding the requirement that it only be 15 for affordable. Ms. Santamaria added, so it's like "despite" or "regardless" of what the existing standard is, this would be the standard.

Ms. Schemper continued, the applicant states that the primary purpose of these amendments is to incentivize the provision of affordable housing; and a secondary effect would be to incentivize the redevelopment of aging hotel/motel infrastructure. They cite data from the evaluation and appraisal report, the population projections for Monroe County from 2011, the Economic Transit Opportunities in Unincorporated Monroe County report from 2011, and Monroe County Workforce Housing Stakeholder Assessment Report from 2015, and the United Way ALICE Study from 2014. They cite this data to support two important issues: Inadequate availability of affordable housing, and the need for redevelopment of aging hotel/motel infrastructure.

Staff has reviewed the applicant's position on this and the documentation and agrees that there is inadequate availability of affordable housing, which is currently a primary issue facing the permanent residents of unincorporated Monroe County. The BOCC assigned additional tasks to the Affordable Housing Advisory Committee. They have presented their recommendations and the BOCC will be scheduling a special meeting in the future to give staff direction on those recommendations. Staff also acknowledges that the evaluation of appraisal reports, major issues analysis, did identify aging hotel/motel infrastructure as an economic sustainability issue for the unincorporated County, and also points out that only 25 percent of hotel rooms within all of the Keys are located in the unincorporated County and of these hotel rooms, 54 percent are within structures that are older than 40 years, which is considered the useful life for structures from an architectural perspective. By 2030, 84% of the hotel/motel structures in the unincorporated County will then surpass this useful life and will require either replacement or extended renovation.

Ms. Schemper explained, in evaluating their proposed amendments, from background information for analysis purposes, pursuant to Policy 101.5.29 of the adopted comp plan, residential properties developed with lawfully established dwelling units may redevelop the property at the same densities with the same type of dwelling units, even if it exceeds the density standards of the proposed future land use map category. The applicant is proposing to amend this policy to allow properties with transient units to redevelop with permanent affordable housing dwelling units. Not the same type, but a change from transient to affordable, at the density of a former transient use. This would provide additional density to develop affordable housing above the existing affordable housing density bonuses. The applicant is proposing that a development agreement would be required for such replacements and after review at the DRC, staff has also proposed additional criteria. It should be noted that this conflicts with the County's current policies and regulations which require a site that is proposing a change of use, for example, transient to affordable permanent units, to develop the site in conformance with all adopted

standards and regulations. This amendment would allow the retention of nonconforming density for a change of use.

Ms. Schemper continued, additionally, there are some other policies in the comp plan that address these types of issues, but the proposed amendment would allow the nonconforming transient density to be used in a way that goes beyond what they allow. For example, Policy 101.3.5 allows lawfully established transient units to be entitled to one unit for each type of unit in existence before January 1996, but only for use as a ROGO exemption, not for redevelopment purposes. Policies 101.5.5 and 101.8.7 specifically allow nonconforming, nonresidential and transient units in four specific future land use categories to redevelop, reestablish or substantially improve as long as it's limited to the density, intensity floor area, and to the type of use that existed in January of 1996. Again, their proposal would be a change of use, not limited to the same use that existed. Staff understands the applicant's primary purpose of the proposed amendments, that it's to incentivize provision of affordable housing and to incentivize redevelopment of the aging hotel/motel infrastructure, but the County also has to evaluate the amendment to balance and protect the public health, safety and welfare of the citizens of the Florida Keys, particularly those citizens qualifying for affordable housing. Staff is making recommendations to the proposed amendment to ensure that this incentivized affordable housing is not encouraging locating affordable housing in risky locations or within structures that are unsafe. That gets to the criteria again, which will be gone through in detail. Staff is only supportive of this amendment with the continued protection of the public health, safety and welfare of the citizens of the Florida Keys.

In terms of the criteria, staff is supportive of the requirement for a development agreement and several of the eligibility criteria. These include that it be located in Tier 3, that the property not be located within the designated TDRS unit, that each affordable unit contain a minimum of 400 square feet of habitable floor area, pass a life-safety inspection if they're retaining the existing structure, that the units comply with hurricane standards and habitability standards, that every affordable unit to be developed obtain an affordable ROGO allocation, and that any transfers of the transient ROGO exemptions from the site to another location would be subject to the TRE requirements of Policy 101.6.8. Those criteria that staff agrees with are consistent with criteria used for our TDRs and TREs, trying to direct growth to the most appropriate areas of the County, and they are consistent with existing policies regarding the size of units for inclusionary housing and certain building standards of the habitability and hurricane standards.

On other proposed criteria, staff is recommending some changes. Criteria (A) the property's future land use category and land use zoning district must allow, and staff would like to insert "the proposed type of" residential affordable housing dwelling units as a permanent use. This is to clarify that any proposed development that is affordable housing that would be proposed must be listed as a permitted use in that zoning category. It would not let the property out of its zoning regulations in terms of the types of uses that are permitted. So, for example, if it's a zoning category or future land use category that only allows employee housing versus any other type of affordable housing, they must comply with affordable employee housing specifically. Criteria (B), the property shall have all infrastructure in place, and staff would like to insert "that affordable housing units developed to replace the transient unit density shall meet the adopted level of service required by the policies in the comprehensive plan related to level of service." This is just to clarify that they must meet all level of service standards required by our comp plan. (D), the proposed affordable housing dwelling units shall not be located in a Velocity Zone. The applicant is proposing that they only be discouraged within a Velocity Zone and their corresponding

amendment to the LDC proposes criteria that would allow a certain portion of the units to be developed in the V-Zone, just at a reduced replacement rate, a 30% reduction in gross number of units. Staff does not agree with that policy change. Our current policies have been adopted to protect people and property. Goal 101 of the comp plan states that we will ensure the safety of County residents and visitors, protect valuable natural resources and enhance quality of life. Our amendments also have to be consistent with the principles for guiding development which include protecting public health, safety and welfare. Current County policy does not allow the award of affordable ROGO allocations within the V-Zone, so this would be a big departure from that. This is in order to reduce vulnerability of the environment to flood risk. If we know that the land will flood from time to time, we should make reasonable decisions to help protect the families and owners of property, especially those who may live in affordable housing who may have the least amount of resources to cover increasing costs of insurance, replacement and recovery from a flooding event.

Commissioner Wiatt asked when FEMA was coming out with the new zoning. Ms. Santamaria responded that the new maps are due either the end of 2018 or 2019. Mr. Williams indicated there would be a temporary step, and then get the final maps in 2019. Commissioner Wiatt asked if the V-Zone would be expanded. Ms. Santamaria indicated it's likely that may be a result. Commissioner Wiatt's concerns are we have a property owner who owns a mobile home park, transient or non-transient for this question, what do they do? If they've got a property that's all V-Zone, especially in the future, we're basically making their property undevelopable for the future with respect to transferring units off and allowing affordable housing to be located there. The concern is we're taking property away from being available for affordable housing, and also potentially hurting that property owner. If new construction has to meet 180 mile-an-hour wind loads and has to conform to the new FEMA requirements for flood, what's the problem with putting them in a V-Zone?

Ms. Santamaria stated that the V-Zone is the area with storm surge and flooding. Presently, there is no allocation of affordable housing in the V-Zone and market rate is discouraged from going there. The policy is to direct growth to areas least likely to get impacts from a storm, to areas that may be safer. Commissioner Wiatt indicated his concern is taking property away that could be used for affordable housing. We have the most stringent building code in the world, and now we're getting more strict by saying we can't place those most restricted building-code buildings in areas that probably, in the future, are going to make up a big percentage of the Keys. Ms. Santamaria explained this is not a new provision, it is an existing provision. What staff is saying is that based on existing policy that we don't issue affordable allocations there, that this would be inconsistent with that and we're not recommending it for replacement of transient and conversion to affordable for the same reason. Commissioner Wiatt continued, if we have a property that would like to participate in this and would like to upgrade the units on their property by transferring their transient rights and getting ROGO allocations to rebuild, 180 mile-an-hour wind loaded structures on their property, they're not going to be able to do that if their property is located in V. So why do we have these insanely restrictive building codes if we're not going to let people build here, pretty much anywhere? This seems like another add-on to the incredibly strict building code that we have. And this one not only makes you build to a higher level, this one just says you can't build. So we have property owners out there with mobile homes, transient or non-transient, and they want to redevelop and put affordable housing on there, they're not going to be able to do that. So they will stay status quo, and what does that mean? That means we've got mobile homes that don't meet anything except the criterion that was there when they were first located there in the 60s or 70s and they're going to stay in the V-Zone, which we don't want them in the V-Zone. Ms. Santamaria replied,

"Exactly." Development is being encouraged out of the V-Zone. So those property owners may transfer their units out of the V-Zone and possibly retire that land and not redevelop it. But we are not speaking about mobile homes, we are only speaking about transient units.

Commissioner Wiatt agreed and opined that would be great if that would happen, but a property with waterfront property in the V-Zone and to ask them to retire that property is a tough one. Ms. Schemper added, to keep in mind that's not exactly where we're going with this. We're basically saying, you're asking for a very big density bonus, a bigger density bonus than we already give to affordable housing in general. So, you're asking for a density bonus, and do we want to do that in a V-Zone? Commissioner Wiatt responded that the opening statement and the whole idea behind these amendments is to foster replacement of these older units, be they hotels or trailer parks, and that may not happen if building rights are taken away from folks with V-Zone property. On the surface, this looks like a bad unintended consequence. Ms. Santamaria responded that the comments are appreciated, but we are not talking about trailer parks or mobile homes, rather hotel and motel structures. Based on the application, they want to incentivize affordable and the redevelopment of these older structures. These are structures that are at the end of their life and they want to convert it to affordable housing in the V-Zone. The concern is to make sure these are safe structures, meeting life-safety standards, and are not putting more people in potential harm by putting more permanent residents in the V-Zone versus today what the policy is. We're not trying to take away peoples' rights and today they can't do it. We're saying with the added extra bonus, and for trying to incentivize redevelopment, we don't want to put people in harm's way. Commissioner Wiatt pressed on and said it would have to go back to new construction, 180 mile-an-hour wind loads, without doubt, if you're going to go to V-Zone. Ms. Santamaria stressed that is not in there today, so that may be something to consider. Chair Werling asked if it could be done case-by-case, because not everything is similar. Maybe the property is partially V-Zone. Would that kick it out completely? Ms. Santamaria indicated the proposal is through a development agreement so it would have to come in property-by-property. Commission Wiatt stated we already have the legislation that just prohibits it anyway, putting affordable housing in V-Zones, so we would have to come back and address that as well. The worry is taking away the ability to put affordable housing on property. There is a way to do it safely. We really need to look hard at what options the property owner whose property is in a V-Zone has. We've already taken away the affordable housing option from them. If they don't have any viable options, they will maintain status quo, which is older buildings in a V-Zone.

Ms. Schemper stated she would briefly touch on the rest of the V-Zone issue in terms of staff's position, that most if it had been discussed. As Ms. Santamaria previously said, negative points in ROGO. The comprehensive plan also has the policy that prohibits the transfer of ROGO exemptions to V-Zones, prioritizes land acquisition in V-Zones for the purpose of encouraging growth away from those vulnerable areas, prohibits development of affordable housing with County funding or land in the V-Zone, and prohibits Land Authority from acquiring land in V-Zones for the purpose of affordable housing. There is precedent in the comp plan to try to keep affordable housing out of the V-Zone, which is why staff is not supportive of giving an additional density bonus within the V-Zone. The technical document of the comp plan confirms that we intend to discourage development in flood-prone areas in general. The County's post-disaster redevelopment plan also says to encourage the relocation or replacement of infrastructure and limit development following a hurricane in a V-Zone. FEMA points out that V-Zones are high-hazard areas subject to high-velocity water. The Florida Division of Emergency Management confirms the V-Zone is subject to high-velocity wave action, waves greater than or equal to three feet. The applicant has submitted documentation consistent with what

Commissioner Wiatt was saying, that there are construction techniques to reduce potential risk for buildings within V-Zones and this is presumably to illustrate that it is possible to build within the V-Zone and that there is no outright prohibition against constructing residential units, period, in the V-Zone. Staff maintains awarding affordable ROGO allocations to properties within the V-Zone is not consistent with current policy and regulations.

Staff is also asking for changes to the criteria that affordable housing shall be the exclusive primary use of a property developed under this policy. Staff agrees with the intent of that criteria but suggests editorial changes to make it more consistent with our typical language. Affordable housing as permitted by the property's FLUM and Zoning Designations, and accessory uses thereto shall be the only uses permitted on property developed under this policy. Starting at page 16 of the comp plan staff report, there is strike-through/underline showing the applicant's proposed language in green, and staff's proposed changes in purple. Within the LDC staff report, page 16, proposed changes are the same, plus some editorial changes because it's a code section versus a comp plan policy. Staff finds that with the changes recommended, the proposed amendments are consistent with the comp plan, the principles for guiding development, Florida statute and the land development code. For both amendments, staff recommends approval with the changes as laid out in the staff report. The applicant is here, if they want to speak or take questions.

Commissioner Miller asked if Ms. Schemper could quantify increase in density. Ms. Schemper responded that we don't know because we don't have a specific list of every parcel that has lawfully established transient units. That would require doing a development rights determination for all properties that claim to have RV parks, hotels, anything that's transient. Commissioner Miller asked, so we have no idea right now what the density increases would be? Ms. Schemper indicated that statement was correct.

Kevin Sullivan, a Certified Planner from Trepanier & Associates, Inc., desired to present the two amendments on behalf of the applicant, 1211 Overseas, LLC. Mr. Sullivan indicated he would not spend a lot of time supporting what is already known regarding the lack of workforce housing in the County. There's not enough of it, we need more, and there's not a lot of places to put it. It has consistently been the number one issue in the County. Where there's issue, there's opportunity, and we have identified a connection between workforce housing and another issue identified during County visioning and we have constructed a dual solution. It's a targeted, niche solution addressing both issues. The result is this submitted package encourages redevelopment in a safe, economical and sustainable manner.

Commissioner Miller asked if Mr. Sullivan was talking about workforce housing or affordable housing. Ms. Santamaria responded that currently, our comp plan and code use the terms affordable housing and employee housing which is part of the affordable housing category. Commissioner Miller asked Mr. Sullivan what he was talking about, as we do not have a definition for workforce housing. Mr. Sullivan indicated he would refer to it as affordable. The first piece of the puzzle being affordable housing, the second piece of the puzzle comes in a recent trend of transferring transient units from older hotel sites and relocating them elsewhere. Planning consultants identified the reason that this happens, because over the planning period up to 2030, 84% of the unincorporated hotel/motel structures will exceed their useful lives, requiring either extensive renovation or total replacement. The question becomes what to do with these sites after units are transferred away from them and they are vacated, and what do we want

to see them replaced with. Do we want to encourage more transient, or what this amendment proposes, to redevelop these sites with affordable housing for the workforce in the Keys. Commissioner Miller asked again as to affordable or workforce housing and what Mr. Sullivan was selling here, indicating the Commission had been down this path before where they can't determine "what this stuff is." Mr. Sullivan continued with his presentation, explaining the existing County codes already allow transfer lawfully established transient units from a site. What is not currently allowed is to replace those units with affordable housing at the same density that the site is vested with. The request is to make changes to make it easier to do that, to replace existing density on an old transient site with affordable housing.

Mr. Williams interjected that the County is not agreeing that those are vested, either, and would prefer Mr. Sullivan not use the terms "vested" and "workforce." Mr. Sullivan continued explaining how the County code allows you to vest these sites for these transient units. The proposed amendment encourages construction of workforce housing in place of older hotel/motel units if and when they're vested. The proposed incentives do not require government funding. The mechanics of how this would work: Once a transient site is identified as a sender site, which would require that vesting, a development agreement would be entered into to verify all conditions of the new affordable redevelopment project. Some level of conditional use would likely be required based on the underling future land use or zoning category, and the site plans need to go through all public review and hearing processes so the public, Planning Commission and BOCC would have full opportunity to review individual instances as they are being implemented. Throughout the process, all construction and development must comply with current life-safety, flood, building and land development codes. These amendments in no way avoid or replace any floodplain construction or the Florida building code, nothing already in place. Any property utilizing this amendment would have to comply with the letter of the law. Foreseen benefits: Encouragement for affordable housing redevelopment at sufficient densities to make it economically viable. Encouragement of infill development into sites with existing infrastructure, making it easier to meet concurrency levels and place less burden on existing facilities capacity.

Chair Werling asked, we're encouraging this, we're not making this part of the mechanism? In other words, this is nice if you agree to it, but we're not making you redevelop it as affordable housing? That's not part of the request? Mr. Sullivan replied that, no, it does not force anyone's hand, but it creates an option. Chair Werling described it as to having your cake and eating it, too, if you don't have to redevelop as affordable housing by this mechanism. Mr. Sullivan confirmed that you don't have to replace the transient units with affordable units, but that this provides an option to do so. Chair Werling felt that was the point. Commissioner Lustberg commented if someone has a piece of property with a hotel, they could redevelop the hotel if they wanted to. Chair Werling agreed, but stated that if you trade off transient units and not make them put affordable on it, it can be redeveloped into something else. Mr. Sullivan agreed, saying the incentive was the one-for-one density swap for affordable. Chair Werling stated, only if that matters to them. And Mr. Sullivan submitted that it does. Commissioner Wiatt stated you can't forget the ROGOs, that that's the issue. Mr. Sullivan responded it's incentivizing, that they could not create something that forces.

Mr. Sullivan continued with benefits: By going from hotel to residential affordable housing use, average daily traffic trips are reduced. In these cases, traffic studies and associated costs to review would not be required as they are redundant and have significant cost. Commissioner Ramsay-Vickery asked why, and asked Mr. Sullivan to address that. Ms. Santamaria interjected that that was not in

today's application and the County was not aware of that particular request. Mr. Williams indicated the County is not going to agree with that. Commissioner Ramsay-Vickery agreed.

Mr. Sullivan indicated he would move on. Another benefit, when these sites are redeveloped with affordable housing, new housing structures are built with newest and best codes, replacing older unsafe and flood-prone structures. Swapping transient maximum with residential maximum or affordable maximum densities, you see a reduction in nonconforming density on site prior to swap, in furtherance of the comp plan. And since all units will have been accounted for in ROGO, there is no impact on hurricane evacuation. Commissioner Ramsay-Vickery asked about and Ms. Santamaria addressed that last statement, that on some of the items, the property would have infrastructure, and potentially it may reduce traffic based on hotel to residential. In terms of new resilient structures, the comp plan and code amendments do not require new structures. It was presented as redeveloping existing older structures, as one thing to consider. As to reducing nonconforming density, that's sort of half-and-half as they're trying to recognize nonconforming density and keep it on site. In terms of hurricane evacuation, if they are required to get affordable ROGOs they would be units counted, already provided for in hurricane evacuation. Commissioner Ramsay-Vickery stated she thought she heard "reduces" on the hurricane evacuation.

Mr. Sullivan continued, as to the statement on new resilient structures, that it is based on the assumption that many of these will need to be tear-down and rebuilds. Portions of structures that are maintained must come up to current code. As to the logic on trip reduction, when looking at trip generation rates, a 25% reduction in trips is seen when changing use from transient to residential. The original amendment had exemption from LOS for transportation. The site of new workforce housing, because of the swap, will exhibit a reduction in trips based on traffic generation reports and standard practice. Commissioner Ramsay-Vickery stated, depending what time of the year it is. Commissioner Miller indicated the problem is, looking at the big picture, this increases density overall and does nothing for hurricane evacuation. Commissioner Ramsay-Vickery stated, in September, no; in January, yes. That is the difference. Winter visitors fly home. Hurricanes come in summer when they're gone, when those hotel units would have been basically vacant, and now they will be filled with full-time workforce, affordable, whichever, housed employees, increasing hurricane evacuation numbers.

Mr. Sullivan indicated the distinction is between concurrency with trip generation and requirements for spending $10,000 or more with an affordable housing project for something shown up front as being a reduction. Chair Werling stated, but you're keeping the transient, trading them off to a different location, and possibly redeveloping in some configuration, so how is that not more people? Commissioner Wiatt stated ROGO is still going to be in place. Chair Werling agreed, but referring to trip generation, not hurricane. Commissioner Wiatt indicated it may squish the timeline with more traffic in a shorter period of time, but he does not see a net increase in traffic with ROGO involved. Commissioner Ramsay-Vickery sees it differently with an old hotel in the summer. Chair Werling stated it is already factored in. Ms. Santamaria explained it is factored in, in terms of ROGOS and number of people in vehicles. One reason the County did not recommend exemption from traffic concurrency is they do not know the date the hotel/motel was established and level of service has changed throughout time. We do the biannual report and establish the level of service. When a new project is proposed, they must look at, will this impact level of service on that segment. It may reduce hotel to residential, it still may be above the cap in that segment in terms of LOS. Commissioner Wiatt stated you need to localize a regional issue which is why you still have to do the traffic. Ms. Santamaria

indicated that was correct. Commissioner Ramsay-Vickery believes is also affected by time of year. Commissioner Wiatt agreed and stated there is no getting away from traffic issues. But from a standpoint of overall increases in traffic and density, he does not see any real difference. Commissioner Wiatt compared it to Oceanside, but instead of transferring non-transient, now we're transferring transient, and asked if that was correct. Ms. Santamaria indicated, "Sort of." Presently, you can transfer transient and redevelop the site based on existing future land use and zoning. Example: If this zoning had 30 units of a hotel transferred off, and existing zoning in future land use only allowed a replacement of 10 units, market rate or affordable, in this case they want to transfer off the 30 and then say, on this site I can still build 30, back marked as affordable, and retain that density. It is similar, but they are trying to get extra density for the affordable housing.

Commissioner Ramsay-Vickery commented that this is a new added benefit to affordable housing with no defined or clarified level of affordability or specified percentages requirement, so it's a big leap-out. Commissioner Wiatt agreed as to category of affordability. Commissioner Ramsay-Vickery indicated while this developer is known as a standout person, no one knows what could come along next, which is concerning. Commissioner Wiatt asked if right now it's the BOCC who determines this on a project-by-project basis. Ms. Santamaria responded that the applicant can propose anything from very low to moderate, assuming we have the allocations. The Affordable Housing Committee established about a year ago that the need is for median income and below, based on the economy and workforce. The only time BOCC is involved in deciding income categories are with mobile home transfer and through development agreement, they have the ability to establish the number of units and at which income category as well as ROGO reservations. Otherwise, the ROGOs are before the Planning Commission.

Commissioner Wiatt then asked if there are transient mobile home parks. Ms. Santamaria stated there are a handful of mobile home parks where there may be RVs as well. Looking at page 16 of 25 of File 2016-046, it is specific to hotel and motel uses. The applicant's purpose was to incentivize not only affordable housing, but redevelopment of hotels and motels. An RV park or RV spaces don't likely have the same infrastructure and building use life that will expire. Commissioner Wiatt indicated he was not talking about RV parks, but perhaps was under the false assumption that mobile homes were identified as transient. Ms. Santamaria indicated there may be a handful, but it's not the typical. Chair Werling indicated Venture Out has lots of transient units, but most are in park model structures.

Commissioner Wiatt stated that in Marathon, Jolly Roger had mobile homes which were considered transient. Mr. Wolfe stated Jolly Roger is the classic example with "x" number of mobile homes and "y" number of RVs. The mobile homes are established and regulated by one part of the state. The RVs are established as transient and regulated by a different part of the state. Typically, they are delineated and separated and are different animals that happen to be on one property. Commissioner Wiatt stated he thought there were parks that had started off with RV, turned into mobile home, turned into they built a porch, et cetera, and that the unit was no longer treated as an RV, but a mobile home with a transient use. Ms. Santamaria indicated there have been situations where RVs have grown legs and porches, but they are still a transient use, as they were permitted. They are not included with this application which was drafted specifically for hotel and motel. Commissioner Ramsay-Vickery asked Ms. Santamaria if clarifying the levels of affordability and percentages of required categorie could be recommended and added to send to the BOCC. Ms. Santamaria stated the Planning Commission could absolutely add that as a recommendation to include certain percentages of certain income categories.

Mr. Sullivan indicated he had one more item to discuss and that is construction in the floodplain. This amendment reflects the importance of providing affordable housing where needed on these infill sites that have existing infrastructure. Some of these sites may be in the floodplain and some may be in the V-Zone. As discussed, these affordable units would have to meet the regulation for whatever floodplain they are in. There is no firm direction in the comp plan today to prohibit new privately-funded affordable housing in a V-Zone, though a market rate ROGO application is slightly less competitive if in a V-Zone. The Florida building code, the American Society for Civil Engineers, NFIP which is the flood insurance program, FEMA, and the County's floodplain management ordinance all allow construction of residential homes in a V-Zone regardless of affordability. Building to V-Zone standards provides a stronger, more disaster-resilient home. If market rate housing, a second home or a vacation rental can be built in a floodplain, then affordable housing should not be precluded. The applicant asks the Commission to consider the substantial, competent evidence in the application as presented and requests a recommendation for approval to the BOCC.

Commissioner Lustberg requested clarification, if the applicant was asking to not change what can be done, but change the only density to which it can be done. And the difference between the applicant's language and staff's language is that the applicant wants to build in the V-Zone. Mr. Sullivan indicated this was correct. The applicant is looking to not necessarily increase the density, as it is already present in the form of these transient units. Commissioner Lustberg stated that right now, affordable can be built to affordable density restrictions, and this would change the density restrictions for affordable. Mr. Sullivan indicated that was correct. This expands what's already in the comp plan allowing a one-for-one swap, expanding to transient and affordable. Chair Werling asked if there was a time frame for this. In other words, once you trade off transients, can you build that, use it and put off the other component of it indefinitely? Mr. Sullivan didn't think so. As part of the development agreement or one of the subsections, you've got to get the affordable before you can move the transient. Chair Werling clarified it's not when you get it, but rather the actual structure. There are too many "hold the permits." We've got the affordable allocations to be built later and they never get done. Mr. Sullivan thought staff may be best to answer that.

Ms. Santamaria stated that today, they can transfer off the transients. It is an existing procedure. There is no requirement to do affordable housing on the sender site. The way it's drafted, there is no time frame that it must be done. Chair Werling indicated she had problems with that. Too many are lost in the shuffle that way. Commissioner Lustberg stated anytime she's seen a transfer agreement, part of the transfer agreement has been that the affordable must be developed unit-per-unit prior to the other being developed. But right now, somebody can transfer transient units and there's no requirement that they then put in affordable. So this is giving the incentive to do the affordable, that they don't need the affordable to transfer this as the rules are. Chair Werling agreed, but indicated there have been projects with an affordable component that was never actually followed up on. Commissioner Ramsay-Vickery agreed with the time frame, especially as they're taking our ROGO units and applying them, so let's put them to work. Chair Werling indicated apprehension whenever someone sticks the word affordable in front of something. Commissioner Ramsay-Vickery indicated that's why she would like to see specificity on the levels of affordability and the percentages. Chair Werling stated she would like to see the affordable up and running beforehand.

Ms. Santamaria asked for clarification, if the establishment of affordable housing should be prior to the completion and COs of the hotels. Chair Werling indicated affirmatively, and Commissioner Wiatt

stated, even if it's a day, that was fine. Chair Werling stated simultaneous, that the one does not get the CO without the other.

Mr. Owen Trapanier of Trepanier and Associates, representing the applicant 1211 Overseas, LLC, stated the owner of this company is Joe Walsh. The applicant is not asking to have the right to transfer transients, as that already exists. They have properties where those rights have been transferred off and are now looking to get the right to build affordable housing. The reason Mr. Sullivan used the term workforce is from a planning perspective, as they don't believe more affordable housing is needed, rather workforce housing is needed. Housing requiring a certain level of income allows a retiree or someone to move to the Keys and occupy deed-restricted affordable housing. The crisis is for housing the working people; teachers, firemen, planners. This amendment and staff's restrictions is that the type of housing, whether strictly affordable or employee, is not defined by the ability to build it, rather by the zoning. In SC, you can't build straight affordable, you can only build employee housing, which is affordable, but you have to be gainfully employed in Monroe County in order to occupy it. The applicant is not trying to build straight affordable housing, rather housing for working people.

Commissioner Wiatt stated the Affordable Housing Advisory Committee spent 20 mind-numbing hours on defining this and asked if by saying affordable, they were meaning workforce? Mr. Trepanier indicated, yes, and that the committee was proposing a definition for workforce. Chair Werling stated these units have already been traded off so there is nothing prohibiting them from doing this as it is, except for wanting the density. Mr. Trepanier agreed, stating right now, this property is on Big Coppitt across from the Circle K. This property had 37 units; 31 transient, six non-transient, and that's what was recognized, 37 "vested" units. To rebuild this property as is, under the current regulations as currently interpreted, they could build something like 15 units there today. That is under utilizing the property. It's on the bus route and has existing infrastructure. The reason this piece of property was acquired was to build an employee housing project. The hotel was flooded out in Wilma and torn down. This property is where affordable housing is needed. They can replace it with 15 or 37.

Commissioner Miller asked if this is what you call appropriate infill. Mr. Trepanier responded, absolutely. Chair Werling asked if this is where they had the floating structures. Mr. Trepanier responded, yes, and that it could be redeveloped with about 15, but that would be a waste of the land there. Studies indicate that 37 can't be put on there and comply with the codes, even though there were 37. Chair Werling stated those were transferred so the 37 weren't lost. Mr. Trepanier stated 31 are transient, six are non-transient. Assuming this can be done, the six non-transient will be convered into affordable on the site. Commissioner Miller asked what the increase in density would be. Mr. Trepanier responded if there are 37 units there today, there will probably be 32 there in the future, so it's technically a reduction in number of units. ROGO's are transferred, not the density.

Ms. Santamaria clarified, if he says he transfers off the 31 transients, today he can build back 15 affordable. They want to build back the 31, so it's double the density of what today's code would allow. Commissioner Wiatt inquired, so basically, if this goes through, the ancillary zoning requirements with respect to density get put aside and they are able to build at the increased level of density if they have those units approved. Ms. Santamaria indicated that is what they are requesting, to build back the 31 transients as affordable versus the 15 they could do today. Commissioner Lustberg asked if they would still need to comply with the setbacks, open space, or are there requested changes in that as well. Mr. Trepanier stated that this amendment does not authorize any additional approvals. They will probably

experience a reduction from 37 to 31 or 32 due to setbacks, height, open space, et cetera. The dimensional regulations reduce the density on this site from 37 to 31 or 32. Commissioner Wiatt inquired if the property was in a V-Zone. Mr. Trepanier stated there is a V-Zone running diagonally across the property. The previous structures that were there were in the V-Zone. If not allowed to replace structures built to V-Zone standards, half of the buildability of this property is lost.

Mr. Trepanier stated this property was the target for this amendment. Prohibition on doing this in RV parks would diminish the potential opportunity for redevelopment of those, but they are only referring to this site. Commissioner Miller pointed out that changing the comp plan affects the whole County. Commissioner Wiatt asked if they had applied to allow for affordable housing in a V-Zone. Mr. Trepanier explained the comp plan does not prohibit affordable in the V-Zone, it's the land development regulations, and they plan to ask to amend that. Ms. Santamaria stated this is proposed within this amendment package for both the comp plan and code, to allow affordable in the V-Zone. Commissioner Wiatt asked if that was part and parcel to the 30-some percent provision or is it totally separate, allowing affordable housing to be constructed in the V-Zone. Ms. Santamaria stated it was the 30% reduction, and only those subject to this policy. It would not affect other affordable housing, just those affected by this policy.

Mr. Trepanier stated the 30% came from staff and staff didn't want to allow affordable in the V-Zone. The compromise proposed is if allowed to replace them, it would reduce the number of units currently in the V-Zone. So there's the discouragement, if that's the goal. But we lose the opportunity for this property and probably for many of the old hotels because they built them along the little edges of the water. Commissioner Wiatt indicated that was likely to get worse with the new FEMA floodplain assessment. Commissioner Miller stated he was confused, and asked if the proposal was to not put affordable on this property. Ms. Santamaria stated there is no requirement as drafted, but if they want the opportunity, they can. They can double the density to do an affordable project. Commissioner Miller stated, let's stop talking about affordable housing, period, because there is no requirement. Commissioner Wiatt stated there is for ROGO. Commissioner Miller repeated there is no requirement under this proposal. Chair Werling agreed they don't have to put up affordable. Commissioner Lustberg agreed there's no requirement. Commissioner Wiatt stated they would then have to get market-rate ROGO. Commissioner Miller stated this is all pie in the sky right now, as there is no requirement for affordable in this proposal. Commissioner Lustberg stated there is no requirement, but the applicant is saying is if they do build affordable, they can build to greater density, but they do not have to build to affordable. Chair Werling agreed and stated they also retain the 37 units they have not used. Mr. Trepanier indicated that was correct, they had not yet landed anywhere. Chair Werling asked, so you still have them? To which Mr. Trepanier stated, yes, and that was what would partially fund the affordable housing units.

Mr. Trepanier stated he's heard the Commission say there's no claw-back or requirement on the existing transfer ordinance. Though it's true that doesn't exist, they aren't altering that. There would be no objection if these sites are required to become affordable housing because that is the goal. Commissioner Wiatt indicated there had been no discussion with respect to very low, medium and moderate, that they may change their mind if 100% of this has got to be very low. Mr. Trepanier agreed, and stated there is the need for that and it wasn't put in this amendment simply because it didn't occur to him until after discussions with Bill Hunter. This amendment could easily include a provision saying there has to be a spread and that should be determined in the development agreement. The development

agreement provision allows the project to be evaluated on its characteristics, so the Commission could decide the mix of levels. They may differ based on location and size of the project is, as smaller projects have higher per-unit costs than larger projects. That could be evaluated on a project-by-project basis. Commissioner Ramsay-Vickery stated she would be very uncomfortable not having minimum percentages set aside in the different categories. Commissioner Wiatt said it's all about money and profit margin. Commissioner Ramsay-Vickery agreed and said the density allocation is an added benefit and in exchange for that benefit, we need to protect these as affordable units and protect the people in affordable units as they are the more vulnerable of our society.

Commissioner Miller asked what affordable units were being talked about. Commissioner Wiatt replied, the ones that ultimately eat up affordable housing ROGO units are the ones we're talking about. In a perfect world, we'd make them all very low. Realistically speaking, you can't build very low here without subsidies. Commissioner Lustberg stated we're talking about details about putting in requirements for low and very low and medium, and how to address the V-Zone, but the big question is do we want to allow this increased density. Right now, we do allow for an increased density for affordable to such-and-such a level, but this increases the density more. It is concerning that we don't know what similar parcels are out there and what density they have and what impact this could have. We need to think about the big picture before getting stuck in the details. Commissioner Wiatt stated not all units are created equal and this will get complicated quick with respect to actual density. Commissioner Lustberg asked, do we think that the affordable density rates are as they should be and shouldn't be messed with or do we think that when we look at these projects, will the fact that they have to comply with all other LDRs like open space and setbacks, protect us from having density beyond what it should be.

Mr. Wolfe commented that the Commissioners may want to come to a consensus whether they like the basic idea first and, if not, forget all further discussion. Commissioner Miller thought that was a great idea. Chair Werling replied, cut to the chase, in other words. Commissioner Wiatt, recognizing the devil is in the details, thought the overall deal had merit. Commissioner Miller stated, so now we know where we're at.

Chair Werling asked for public comment.

Deb Curlee, Vice President of Last Stand, spoke on behalf of Last Stand. On the surface, this proposal sounds good. However, this can be done today without changing the comp plan. Transient rights can be moved off of property and replaced with affordable ROGOs today. This proposal intends to capture the transient density from decades ago and reuse it for permanent housing. Affordability makes this attractive, but the impact of permanent housing on the environment and the community is the impact our current code is intended to manage. Last Stand has looked at this proposal closely and believes Monroe County does not need more affordable housing, it needs workforce housing. This is where we're talking about the income designations and the percentages. Our workforce cannot afford to purchase moderate affordable housing. It costs too much. These folks need median low, very low rental housing. Some transient properties in this County were established before today's density limits were established. While we shouldn't take away a property owner's right to rebuild what they have today, converting transient to workforce at the existing transient density raises a lot of questions. This transient density was never allowed by the County with permanent housing in mind. Converting decades old buildings no longer economical to maintain as tourist lodging into housing for the segment of our population least

able to afford to maintain old buildings or deal with flooding of ground-level buildings is not the wisest use of the limited remaining affordable ROGOs. If the existing buildings are or have been demolished, we are looking at new construction and existing density units should be the rule. Increased density may help reduce the cost of construction, but does nothing to encourage building on existing lots and reduce potential for takings cases. Last Stand has been working hard on the issue of providing housing that meets the financial needs of our workforce and providing a reasonable place for families to live while not destroying the quality of life or the surrounding community. This is a delicate balance. The proposal before you has good intentions, but has an unknown County-wide impact. If the property owner wants to ask to increase density, it should be only for the property in question. Density increases have the potential of affecting the safety and quality of life of all residents in the Keys and will hopefully be carefully considered. We're recommending against it.

Bill Hunter of Sugarloaf stated he is a member of the Affordable Housing Advisory Committee for the County, but is speaking as an individual. One of the things I learned is Monroe County does not need any more affordable housing. We should preserve what we have, but we don't need any more. We need workforce housing. Workforce housing is not defined in the code today, but was defined by the committee, given to the BOCC, and is awaiting their discussion and hopefully approval. Workforce housing is similar to employee housing in that it requires the occupant to receive 70 percent of their income providing goods and services to the visitors and residents of Monroe County. With employee housing it's 70 percent of your income received in Monroe County, so a poor day trader with low income levels could qualify. The requirement of providing goods and services to the visitors and residents of Monroe County is the distinction. Given the gravity of what these gentlemen propose, moving both of those at the same time is worth considering. All I have to do to meet affordable housing requirements is have a low income, that's it. My brother is getting ready to retire. He's got a lot more money in a 401K than I ever thought I'd have, but he's going to have a pretty low pension, and he's eyeballing affordable housing down here, along with a lot of other people who would love to come down to paradise and retire. We don't need affordable housing, we need workforce housing.

Commissioner Lustberg asked Mr. Hunter, if there was any income attached to the definition of workforce housing. Mr. Hunter answered under the affordable housing income umbrella, we have regular affordable, employee housing, and hopefully soon workforce. All three categories have to meet the umbrella. The income has to below whatever we're talking about, and if a rental, then the rent has to be the level for that category. All rents, sale and income categories apply across all three of those categories.

Chair Werling asked Ms. Santamaria if the certain percentages of income for any of the categories that had to be made and earned in Monroe County had changed. Ms. Santamaria stated that was only employee housing, which is specifically those who derive 70 percent of their household income from gainful employment in the County. To follow up on Mr. Hunter statements, the Affordable Housing Committee has proposed the following definition: Workforce housing means dwelling units for those who derive at least 70 percent of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Code. Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors.

Commissioner Ramsay-Vickery asked if that means that it's all under the moderate income. Ms. Santamaria stated it does not specify moderate versus very low. Mr. Hunter stated the committee also defined need. Workforce housing need is most critical at the median, low and very low income levels and is most severe in the Middle and Lower Keys. That's what the committee defined. So the committee said moderate is not the need. The need is median, low, and very low. The committee also recognized that very low, according to everything the developers tell us, is almost impossible to build without federal subsidies, but median and low are kind the sweet spot.

Commissioner Ramsay-Vickery asked, since we haven't yet defined workforce in our code, could we address that in this proposal, saying that the affordability must be a minimum of these levels and percentages, must receive 70 percent, as it will be written into the code, since code's definition is not there yet. Ms. Santamaria replied that you could propose adding the definition to the comp plan and the code for this process. The recommendations of the Affordable Housing Committee have been presented to the BOCC. Some have been discussed, not all, and there will be future discussions for those items remaining. The BOCC has seen the definition of workforce and workforce housing and stated that staff should add it into the Monroe County code. It has not been done yet as we are waiting for other directions on multiple code amendments. But one of the Planning Commission's options could be, through this proposed comp plan and code amendment, as used in this policy it shall be for workforce housing, which is defined as "x."

Commissioner Ramsay-Vickery stated, as approved with the BOCC. Commissioner Miller stated, or we could wait until we have a definition. Ms. Santamaria stated that was also an option. Commissioner Ramsay-Vickery stated, if we move forward to try to cover all of these. Commissioner Lustberg stated, if we move forward, it has to go before the BOCC anyways. Commissioner Wiatt stated an awful lot of work has been done on this. It's not finalized, but certainly we need to give them a little time or it will not help, and may make things worse.

Commissioner Miller stated, I do not see how anybody can allow more density in this county after all of the stuff we've been through, after all of the programs we've looked at, the staff has worked on the 15 ways to get us toward a horizon where the takings issue is less, and then to allow more density, it doesn't make any sense at all, whatsoever. Commissioner Wiatt stated the Affordable Housing Committee talked at length about density. A lot of folks are concerned about an increase in density, period, under the guise of affordable housing. This situation is a little bit different because you have existing density. Before you redevelop this property, there were 35 hotel rooms. Chair Werling pointed out that some of them were floating, they were not on the land. Commissioner Wiatt agreed, but at the same time, that property had density. It may not be the kind of density we normally work with it, but there's people on it, there's density there. So how do we manage that? Do we say, no, we'll never have any density on the property again, do we allow density there at a reduced rate and all those things. As Mr. Wolfe said, this is a deep dive on this stuff. Chair Werling stated they have not lost their units. Besides the added density that we're thinking about, they still retain all of that density to go elsewhere. Commissioner Wiatt agreed. Commissioner Miller asked what's wrong with holding the line on the density and say no increase in density. That's what we've done with FLUM changes. Commissioner Wiatt stated the negative to that is taking buildable land and not allow it to be put into the affordable workforce housing pool. There's a real limit to the amount of available property for affordable housing. By not doing some give and take here, you're taking these parcels out of that pool which doesn't help

anyone. Chair Werling reminded him that they don't have to do affordable housing. Commissioner Wiatt said they would then have to apply for market-rate ROGOs.

Mr. Hunter asked if he could speak to a couple of items discussed. With respect to density, Commissioner Miller is right as to this site, but it would not increase density within the County because they are using affordable ROGOs already accounted for. It's density for this site, but that speaks to the issue that the density on this site is from decades old allowances, perhaps predating any of the code restrictions. This comp plan applies to all unincorporated Monroe and this is broader than this individual site. That's the scary thing, we don't know how this affects other sites within the County. If it were to affect RVs, then Seahorse would have 125. Sunshine Key has close to 400. So the fact that it's limited to hotel/motel is a good thing, but we don't know what the effects will be on a site-by-site basis. The committee talked about providing incentives, somewhere increasing density, but recognizing that sometimes more dense developments are less expensive to build, thus incentivizing the building of it. The question is, is that appropriate for this site and all the other sites that this amendment would enable. Suburban commercial is allowed to have six market rate, 15 affordable. There's a provision in the code that may bump that up to 18. They're talking about 31. Is that right for this property? I don't know. But if you are considering approval, I would ask that you don't allow any variances. These folks want to pack 10 pounds of coconuts into a five-pound bag. The way that can happen is by pushing every envelope they can, height, buildable land, everything. Commissioner Miller stated that is not just with the variances, but also with the ROGOs, what we're looking at now, doubling the densities. So there are several ways that this is not in the public interest. Mr. Hunter stated what worries him is this is not only for this site, this is for all communities up and down unincorporated Monroe County that don't even know this is being considered and may double the density in their neighborhood. That is one of the concerns.

Mr. Hunter continued, along with increasing density which the committee asked staff to look at in terms of zoning and the amount appropriate, this proposal increases density based on what it was before, and that's a little iffy. The committee also recommended an overlay district, using overlay districts to deal with situations like this on a site-by-site basis. This may or may not be the right solution for this one, but would allow each of these situations up and down the Keys to be addressed on an individual basis with individual requirements. From a density perspective, it's scary. Also, as to the preservation of old housing, when this was first proposed the understanding was converting the old hotel rooms, something needs to be done with them. The tourist industry will motivate that to happen. They will either be rebuilt or the transient units will be moved off and built somewhere else. I'm not big on helping the tourist industry renovate old hotel rooms, but thinking of the small, one parking place, a little room, ground level, when it was first proposed I had envisioned that being turned into affordable housing. It's quick, but is that what we want for the families that we're supposed to be building workforce housing for, with the cost of living, and at ground level with the insurance. I'm rambling. We have 700 ROGOs left. When I first started on the committee my goal was to get the last one issued. When I left the committee my realization was we don't have enough. They're being taken off the shelf building new affordable housing very rapidly, and the people getting them are building moderate. We don't need moderate and we don't need affordable. We need workforce rental. 213 on Rockland Key, 134 at the Shrimp Farm, they're going fast. We need to be careful about the remaining ROGOs and use them for workforce rental, median and low. If you consider this, please keep these things in mind.

Deb Curlee of Cudjoe spoke on behalf of herself individually; first, complimenting staff on working through an extremely complex proposal. Staff's job is to remain neutral and fit the proposal in the existing rules, and have done a very good job at that. The Commission's job is to take those proposals from staff and decide the nuances of quality of life issues and the nitty-gritty kinds of things on how it affects communities, and you also do an excellent job. My concern is the whole segment of local population of hotel/motel owners. We're talking about making decisions for a group of people who aren't in the conversation at this point and that seems disturbing. The local motel, the mom and pop's as they're called because a lot of times they're family owned, these smaller hotels and motels, which I've taken advantage of before I moved down here myself, are the affordable visitors' places they can go. They can't afford the Hyatt's and Marriott's if they're coming down here for funerals, births, weddings or family time, and we're talking about removing all of that. The only other thing I wanted to say is the Affordable Housing Committee has worked for a year and it would only be fair to wait until the BOCC has listened to their recommendations and made recommendations of their own before you proceed with something as massive that affects the whole of unincorporated Monroe County.

Sharing an experience from last week, one of my neighbors is a teacher at Sugarloaf, whose husband is a Key West policeman. They live in a rental house one street that had been on the market and there was an offer on that house. Not wanting to lose them from the neighborhood, I mentioned a rental home coming available in the neighborhood. The house I suggested was renting for $2,500 per month, and she said they couldn't afford that. I asked what she was paying presently and it was $1,500 a month. Even with two incomes, they have educational debt. So she is moving in with her father, the husband is moving in with a friend, and they will be back and forth. Two of the most valuable members of our community, a teacher and a policeman, and they're going to have to live apart. This is why we have to nail down those categories of low and median and very low.

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

Commissioner Ramsay-Vickery asked Commissioner Wiatt what his thoughts were on what's being presented to the BOCC and the timing of this predating or postdating that. Commissioner Wiatt stated all of those things were unknown, but from the standpoint of getting into definitions of workforce and all that, we should not be doing that right now. It's been done and hashed through, so why muddy the water. Having said that, the only time that we've really looked at issues similar to this one is with the Oceanside project and how there were positives and negatives associated with that. The big negative was so little of that project was going to be low income on the categories. At the timing of that project, it was up to the BOCC to approve the ratios. Ms. Santamaria stated they did approve the ratio, but this Planning Commission got that project to recognize existing tenants and got the ratios to match the existing tenants so they would not be removed from their homes. You had also asked the developer to extend their leases for seven years so nobody would be displaced. Commissioner Wiatt stated they had volunteered that and we approved it. That to some extent gets to the question here, that these projects are incredibly complicated, diverse and different. What we do here will push everything, the proverbial square peg in a round hole. If we could instead meld some of these issues into a major conditional use permit where things are looked at individually, have say-so based on the specifics of the project as opposed to trying to go into a great deal of detail in the code and make all of this fit. Why not put our hands up and say, this is an outline, but if you're going to do this, this development is going to have to have a major conditional use permit and we're going to go over these things on a site-specific basis. We would do a much better job looking at it on a site-specific basis rather than general terms.

Ms. Santamaria asked if he was saying a development agreement and a major conditional use, or the major conditional use instead of a development agreement. Commissioner Wiatt stated that it depends on who you want to make the decision, the Development Review Committee or us. Ms. Santamaria indicated there would be two pieces. With the DRC, you would have input, the Board would decide. If you required the major conditional use on top of that, then the Planning Commission would decide all the other parameters. Chair Werling stated it may not be that unique, but it's certainly creative, and maybe for this one, the first one of this nature, to do major conditional use and DRC. Commissioner Miller stated he does not understand why we would pass mitigation for FLUM changes and then allow something like this. It makes no sense. We're going against the principles which establish the mitigation to begin with for a FLUM and you're getting around that. Commissioner Miller was adamant that he cannot vote for anything increasing density without mitigation, no way, no how. Commissioner Wiatt agreed that he is not far from Commissioner Miller, except for the fact if certain projects really assisted in addressing the affordable workforce housing crisis. Commissioner Miller again stated that it is not required in this legislation. Commissioner Wiatt indicated it could be given some wiggle room and have a board make that determination on whether or not it was the lesser of two evils, one being increased density and the other maintaining status quo with the affordable housing crisis. On the Affordable Housing Committee, density is like a four-letter word, but without some slight adjustments to density, some projects would not happen. Commissioner Miller stated he understood, but the mantra has been we can't build our way out of this. Now, all of a sudden, we can build our way out? I'm trying to figure out what the heck happened here. We're trying to do something that we cannot afford to do in this County. Looking at the overall picture, we're shooting ourselves in the foot. We're not working for the public good when we allow any increase in density, and we've already decided to stop these increases, for instance the FLUM change, which this is going around that.

Commissioner Wiatt added, but it doesn't go around ROGO. When you talk density on a project like this, the increase is only going to be localized. It will have no effect on the macro density of the entire County because that is regulated by ROGO. Taking some of those things into consideration, based on the project and how much of an increase in density, recognizing that the overall density will not increase, then you get into a position where you might be a little bit more willing to increase local density. Commissioner Miller disagreed, saying the overall density will increase, which is the problem. So when we're running out of allocations and we have Tier 3 properties that we cannot give allocations to, but yet we've allowed this, we've done something wrong. That's not in the public interest, period. That's why mitigation, if you want to do mitigation to make this more palatable, that's fine, but we need mitigation one-for-one or we can't do these kinds of increases. I'm sorry. Commissioner Wiatt indicated he respected his position on that and is pretty close to it himself. Chair Werling stated the bigger issue that will limit what they can do is they are in the V-Zone. Ms. Santamaria interjected that they should think beyond this property, because this is a policy change. Think about it globally and what policy framework you want to set and what you'd like to recommend. Commissioner Wiatt stated, that's where you really get into the problems, to keep the language that will manage all of these different projects. Chair Werley indicated it would have been better to have this specific property and say what they're seeking and see if there's a workable way to come to what they want and what the County needs to have. Commissioner Miller agreed there are too many loose ends. Commissioner Wiatt stated an example of the language that hurts us in being able to do the right thing is language that we have right now that says you can't build affordable housing in a V-Zone, period, end of story. We can't change it.

Commissioner Miller stated Ms. Schemper had mentioned some things not consistent with the Monroe County policy and couldn't remember what she said, and when you talk about the inconsistencies, they add up. I would rather see this go back to the drawing board and get something tighter. We're talking about a comp plan change affecting the whole County. We don't know what the density increases would be. There are too many unknowns. I think we've come to some consensus, I think.

Commissioner Lustberg stated she is not comfortable passing this as it is today because of the unknown density this could create going forward. Two ways to deal with this, if we can't build affordable housing because the density requirements are too low, then we need to reevaluate the density requirements for affordable in general, which is better done by the Affordable Housing Committee. Commissioner Wiatt stated they've already done that. Ms. Santamaria stated the Affordable Housing Committee looked at increasing density in the Mixed Use zoning category for workforce housing in the median low and very low categories, as long as it's rental housing. Commissioner Lustberg continued, the other thing pertaining to what we're looking at today is the proposal of something like a major conditional use, so you could look at huge increases in density, but also look at the surrounding community character and the site-specific project, look at making sure that if that excessive density is allowed, that it's done with great oversight and that it's appropriate. If we approved something of that ilk, we would need to have more language and staff opinion on that before going that way. Commissioner Wiatt said we have all that and more with a major conditional use permit, but it becomes onerous on the developer.

Chair Werling stated that we keep talking about affordable but in this change, they don't have to do the affordable. Commissioner Lustberg stated the whole purpose is not to require them to do the affordable, but to give the incentive to do the affordable through the increased density. Chair Werling thought it should be site-by-site. Commissioner Miller proposed making a motion that this be returned to the staff and tighten up the language so we know what we're getting. Right now, without knowing what the result would be, we're making a comp plan change that would apply to the whole County. Commissioner Lustberg stated we can't necessarily send it back to staff to tighten the language. The language makes sense, but we don't know what we want to do. You don't want to increase density. I want to increase density, but I don't want to necessarily increase density to what I have no idea of. Chair Werling stated that the County wasn't looking for this, that it was brought to them, so the County doesn't need to fix it. Commissioner Wiatt stated one possible answer would be to put a provision in here that if we have non-transient development rights being transferred that will result in increases in density, or a development that would result in increased density at the sender site, then that has to have a major conditional use permit. Density is the real issue here. If you're going to increase density at the sender site for an affordable housing project, we're not saying you can't, we're saying that's going to require a major conditional use permit. Then it comes in front of us and you have your day in court, so to speak, as far as defending the density issues for Monroe County and it goes from there. Chair Werling asked if Ms. Santamaria had any suggestions.

Ms. Santamaria stated her notes reflect it should be property specific, have more oversight, potentially any incentivized affordable housing that gets extra density through the use of this policy would also be required to do a major conditional use. Chair Werling asked if we wanted to change the policy. How much of this criteria is already existing? When you do the trades and you take the use off, don't we have this mechanism already? Ms. Santamaria explained the difference. Today, in their example, they transfer off the 31 transients, build it somewhere else. They can already rebuild on site. They can

already do 14 affordable on half of the property that's not in the V-Zone today. What they'd like to do is, say, transfer off the 31 and let us rebuild 31 on site as affordable, either within or without the V-Zone. They're asking is it a good policy decision to recognize that density and allow it to be reestablished on sites that were former hotel and motel uses. Chair Werling stated, we're kind of doubling up if we already say we don't allow the density, but we're not precluding you from coming forward with a site-specific request. Ms. Santamaria responded, I think what you're saying is you can do what you can do today, transfer off, do the 15, or if you want to go through this mechanism and get increased density, I'm assuming you're saying development agreement and major conditional use? Chair Werling agreed. Commissioner Miller stated he would like to see mitigation, no increases in density. This is exactly what we've done with the FLUM changes. So I don't want to circumvent what we're trying to do already. Commissioner Wiatt responded, given your concerns, I would say we want both. It's a higher standard to give everyone an opportunity to address this potential increase in density. Chair Werling stated if you want the reward, you have to kind of work for it. Commissioner Lustberg stated she would disagree on requiring mitigation for building affordable housing, understanding it pulls the ability to develop off of other pieces of property, but it drives the cost of building affordable up significantly.

Commissioner Miller asked who was going to pick up the bill eventually when the allocations go? We don't have the allocations now for the Tier 3 properties? What will that cost the taxpayers? It will be very significant. The worse scenario is when FDOT steps in and says, we can widen the roads, we can four-lane the Keys. That starts another round of development. Then you've lost control of anything you wanted to do down here. You can forget about the Keys as we view it or know it now. Commissioner Wiatt stated if you believe ROGO is going to be circumvented down the road, I would agree, you can't allow additional density on any individual property, period, end of story. Commissioner Miller replied, as I said, I don't believe this is in the public interest. Commissioner Wiatt stated, if you believe ROGO has a chance of maintaining itself and we get through the takings issue, then overall density is really not going to be affected by projects like this.

Commissioner Lustberg stated, we've had a lot of discussion and haven't gotten anywhere. Does the applicant have any additional thoughts based on the conversation? Mr. Joe Walsh from Key West stated when they were putting this together, they were working on affordable housing. We appreciate the feedback, first a whole bunch from staff and then from the Board. Two quick points of clarification, we can redevelop the property right now. The objective was to try to develop it with affordable housing. The challenges there, land costs, construction costs, insurance costs, when you put those together, it's extremely difficult. Getting bank financing is virtually impossible. The density that we were trying to maintain and put back in, whatever terminology we're going to use, was designed specifically for that. Affordable housing is not a problem I'm going to be fixing with this 31-unit project. Some discussions with staff had been to try to put at least an idea together that potentially could be duplicated somewhere else. That was our thinking on why this was not completely site specific. The problem with 15 or 18 units per acre in SC, which is this zoning, is the land cost divided by those units, I can't finance as affordable housing. By right, we could put a motel back or six market-rate units. What we were working on is you have a lot more problems than the one we were working on, which was the affordable housing component. I think we're comfortable to some degree with the direction it was going. The challenge is, I can't do it without maintaining the density of those units. The follow-on challenge is being able to use the entire parcel from a V-Zone construction standpoint. I'm not sure if I addressed your question.

Commissioner Lustberg stated she understands, but wanted to ask if after the discussion, he had any thoughts. Chair Werling added, or any proposals that could stand or fall on its own merit, not the broad code change. Mr. Walsh stated they were comfortable with that idea, and the means to an end was to create another mechanism for affordable housing. We had that intention of bringing a major development plan before this Board. If the objective is to make it more site specific, we're happy to do that. The lack of being able to retain the density is an insurmountable problem on this particular parcel. Chair Werling stated there was a motion on the floor without a second. Commissioner Miller asked if this project required comp plan change. Ms. Santamaria stated what the Commission has before it is a change to the comp plan and the code. Commissioner Miller asked if they could do something similar to this without a comp plan change, and Ms. Santamaria replied, no. Commissioner Ramsay-Vickery stated she believes the only thing we're all in agreement with is we support affordable workforce housing and we're all having indigestion about the density. If I might, are we all in agreement that the only thing we agree on is that if we were to look at anything, it would be on an individual basis, that we're not going to take a broad brush to everything? Commissioner Wiatt stated the way to do that would be to have, if a project comes up requesting increased density on a sender site, in order to identify a viable affordable housing project, they would have to get a major conditional use permit and that would do it. Commissioner Miller stated the affordable component would be locked in. Commissioner Wiatt stated using common sense and looking at projects on a case-by-case basis through the conditional use permit, you can make the decision.

Ms. Santamaria asked the Board, looking at page 16 and 17 of the comp plan amendment, File 2016-046, you see the policy and then (A) through (K) is the criteria. Are you recommending additional criteria that says the affordable housing developed under this policy, if it's increasing or maintaining nonconforming density on that sender site, shall be required to do a major conditional use? Commissioner Miller state he believe so. Commissioner Lustberg believes the answer is yes, but asked if the criteria that we go through to do a major conditional use, as the major conditional use is now, does that process address the concerns raised. Once we do the conditional uses and the rule is "x" it's very hard to have the conditional use allow for "x-10." So would the major conditional use give the flexibility to have the reduced density from what the transient uses were while increasing what would be the normally allocated density without getting us into trouble? Ms. Santamaria responded, "I think so." The policy itself allows the recognition of the non-conforming density. The major conditional use lets you look at the specifics of the site, constraints, community character, but will not address the affordable housing income components unless you add that as a condition within it. Commissioner Wiatt stated he thinks we need to add that, otherwise how does it get done. Commissioner Lustberg agreed. Ms. Santamaria responded with the development agreements. Commissioner Miller stated affordable housing was one of the motivators, so why wouldn't it be required as a component?

Mr. Wolfe stated perhaps, to address the problem Commissioner Lustberg mentioned, just to make it clear, to say that the major conditional use would address the amount, if any, of the additional density. That makes it clear they have the freedom to go from zero to the full amount. Ms. Santamaria stated, maybe they can recognize less of the nonconforming density. Mr. Wolfe replied, exactly. They don't have to go to the max, but have the ability within that spectrum. Commissioner Lustberg stated she didn't want to be locked into doing the major conditional use to having to give the maximum density. Thinking of language, the third paragraph down on staff recommendations where it says, "may be replaced at the same density on a per-unit basis with affordable housing units." Replace, may be replaced up to the same density, depending on site-specific circumstances. What I don't want is to have

to approve the full density. Ms. Santamaria asked if she would be proposing any site specific criteria below or are looking towards the major conditional use? Commissioner Lustberg stated that is her question, and she does not have all of the criteria for the major conditional use to see what aligns with what she's trying to do.

Ms. Schemper then read the 9 criteria for major conditional uses. Commissioner Lustberg stated she thinks that works, but would also want to be sure if we're allowing for the increase in density, that it's not for the broad affordable, but the specific affordable. And, that we're not, through variances, getting rid of all of the other protections for the neighborhood. It's not something she can address right now, but she has seen where the conditional use is for one thing, it gets tweaked and changed, not having to come back before the Board, and two years down the road it's a totally different proposal. She is not sure how that is fixed, but would want to make sure we couldn't take some increase in density that was thought to be for a very specific purpose, and allow it to be tweaked over time to something we would never have approved. Ms. Santamaria stated that would need to be added as a requirement into the policy. Commissioner Ramsay-Vickery stated it's an important issue, but since we're changing direction, maybe we need to absorb it a little more and not send Ms. Santamaria back with direction when we haven't thought it through ourselves. Commissioner Lustberg stated if we make the recommendation to the BOCC and we're looking at this, and when they look at this they've got all this other stuff that they have going on, they may do a whole new modification based on other things they're working on with affordable housing and density that we're not considering. Chair Werling stated taking time to digest this, since the affordable housing is before the BOCC, perhaps we should not rush to judgment on this. Commissioner Lustberg stated she would not wait on doing something until the BOCC has figured out how to fix everything. Chair Werling indicated she was referring just to the affordable housing item in front of them. Commissioner Wiatt indicated this was different. There is some agreement, but we don't want to apply grandiose language on this as it needs to be managed in a site-specific way. The question is how do we manage this in a site-specific way? If that means an applicant has to apply for a major conditional use permit, then how do we add language that will work. Hopefully that gives some direction on what we're thinking about.

Ms. Santamaria stated she is not sure exactly what the Board wants, but in the third paragraph where it says, notwithstanding Policy 101.8.2 to further the purposes and goals of the housing element of the comp plan, the transient density and units of hotel/motel uses recognized pursuant to this policy in Section 130-163 of the land development code may be replaced up to the same density on a unit-per-unit basis with affordable housing units, subject to obtaining affordable ROGO allocations and pursuant to a development agreement and a major conditional use. The Commissioners agreed, and Commissioner Wiatt added, the question is under the major conditional use language. If we're unhappy with the density, we would be able to turn the project down with the existing language there. We have to deny for a reason, so would there be a reason in the major conditional use permit language that we could hang our hat on in the event we want to disapprove a permit based on being unhappy with the increase in density or the ratio of low and median. Ms. Santamaria stated the ratio would be difficult in terms of hanging your hat on something. In terms of the density, the one you could use the most would be community character, though it is always subjective. Chair Werling asked if something could be put in about the ratio without naming numbers. Ms. Santamaria stated, something like the major conditional use shall establish the income percentages of the affordable housing to be developed. Chair Werling stated something that gives the ability to question the request. Commissioner Wiatt stated, using language we've used with respect to identifying the beneficiary income. Commissioner Ramsay-

Vickery asked about addressing 70 percent of income. Commissioner Wiatt stated the question is if we want to limit ourselves and tell everybody it has to be at least 50 percent low. Commissioner Ramsay-Vickery stated she was referring to where the income comes from to address the workforce employees. Commissioner Wiatt said that is all being done right now.

Ms. Santamaria had two more questions. Regarding variances, did you want that addressed? And did you want to address the V-Zone item? Commissioner Miller had the idea that staff could surprise us. Commissioner Wiatt stated he would love to discuss the V-Zone as he sees no reason that we can't build new construction affordable housing in V-Zone. Chair Werling stated because you can't protect it from flooding. Commissioner Wiatt believes the code does that, and what makes affordable housing special that you can't put it in the V-Zone if it's constructed properly. Commissioner Ramsay-Vickery responded, insurance rates for a low-income person. Commissioner Wiatt said that becomes whether or not the project is viable. It's a project-by-project scenario. At that point, the market determines whether you put affordable housing in the V-Zone, not some regulation. Commissioner Ramsay-Vickery stated that it's a fact of life. Chair Werling stated they would change the qualifications to a higher affordable housing to people who can pay the added insurance and knock out lower-income people. Those renting or buying, the insurance would be cost-prohibitive to lower-income people. Commissioner Wiatt said it would not be for the renter because the insurance is wrapped into the rent, and the rent is controlled by the affordable housing category the person is in. The rent argument doesn't hold water at all. Chair Werling stated they would be knocked out by building with the insurance. Commissioner Wiatt stated it then becomes a question of whether the project is economically viable, and that's up to the developer. Chair Werling stated it would end up going to the higher end of the affordable people. Commissioner Wiatt brought up that we haven't heard from FEMA yet. Commissioner Ramsay-Vickery stated we have the V-Zone prohibition and the prohibition in the coastal barrier resource system area. If you take it off of one, why not off the other. Now you're going to say you can't use public funds, but you can use private funds. If you build 100% privately funded, you don't have the insurance requirements.

Commissioner Wiatt stated he would have no problem saying you couldn't use public money to build these. And as to coastal barrier, that talks about things that provide bigger protection and environmental issues. To prohibit in a V-Zone is a stand-alone thing, not based on the environment, only that we don't want to put these folks in harm's way. So then, we shouldn't be building single-family homes in V-Zone. Commissioner Ramsay-Vickery stated that would be best addressed later when we get the new maps. Commissioner Lustberg asked if we are proposing changing the language as to V-Zones in (D). Commissioner Wiatt stated he prefers to take the language out as it already exists elsewhere. Ms. Santamaria stated it exists in that we do not provide affordable allocations in the V-Zone. Chair Werling said it's a no harm/no foul kind of thing. Ms. Schemper pointed out that (D) is worded differently in the comp plan amendment versus the code amendment, and wanted confirmation that the proposal was to take it out of both. Commissioner Wiatt stated it was not needed and the other Commissioners agreed.

Mr. Trepanier spoke up asking about certain concerns. What if there was a structure that could be converted from transient to residential in the V-Zone that didn't trigger the 50% requirement. Rather than deleting the V-Zone provision, say that all units located in the V-Zone must comply with the building criteria for a V-Zone, to preempt the next argument someone makes. If there's ever a unit in the V-Zone, it must comply with V-Zone standards. Ms. Santamaria stated if it's in the V-Zone and it's a ground level structure attempting to be changed to a permanent residential use, it would trigger the

substantial improvement or elevate the structure because you can't have habitable space under the flood zone.

Chair Werling said that covers everyone. Ms. Santamaria asked if she should use what the applicant recommended or what was stated, or delete it, or include that all units in the V-Zone should meet it? Commissioner Lustberg stated she liked the applicant's better, and Chair Werling agreed. After more discussion, Commissioner Ramsay-Vickery commented that, "Things are trying to get around things lately." Chair Werling questioned, "Lately?" Commissioner Ramsay-Vickery asked for Ms. Santamaria to read what was just stated. Ms. Santamaria stated, all units in the V-Zone shall meet building code and flood standards. That's all units in the V-Zone, not the entire site. Discussion continued based on entire site versus only in the V-Zone. Commissioner Lustberg stated the way it's written, someone outside the V-Zone on a piece of property wouldn't have to be redone, but the building in the V-Zone on the same property would need to be redone.

Chair Werling asked if all concerns were covered, and do we want to bring this back with all the input, if that would be more expedient. Ms. Santamaria stated it depends on what "expedient" means, but if you would like to see the language before you make the recommendation, then you would need to continue it to see the language the next time around, or make the specific recommendations to the BOCC. Chair Werling believes the Board should see it. Commissioner Lustberg stated what we've done is substantially different from what we started with and it would be good to allow for public input on the new version. Chair Werling stated this is a big deal and we shouldn't rush to judgment. Chair Werling asked for a motion.

Motion: Commissioner Wiatt made a motion to continue Item 5 to the October 26, 2016 meeting to allow staff to redraft the item. Commissioner Ramsay-Vickery seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Wiatt made a motion to continue Item 6 to the October 26, 2016 meeting to allow staff to redraft the items. Commissioner Ramsay-Vickery seconded the motion. There was no opposition. The motion passed unanimously.

7. MCDONALDS / DOLLAR TREE, 101000 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 101: A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE OF 15 FEET TO THE REQUIRED 25-FOOT PRIMARY FRONT YARD SETBACK, WHICH IS ADJACENT TO OVERSEAS HIGHWAY RIGHT-OF-WAY. APPROVAL WOULD RESULT IN A PRIMARY FRONT YARD SETBACK OF 10 FEET. THE VARIANCE IS REQUESTED FOR THE 24-FOOT-WIDE DRIVE AISLE ASSOCIATED WITH THE PROPOSED DEVELOPMENT OF A PROPOSED 3,116 SQUARE-FOOT COMMERCIAL RETAIL MCDONALD'S RESTAURANT WITH A DRIVE-THROUGH AND A NEW 5,000 SQUARE-FOOT RETAIL BUILDING. THE SUBJECT PROPERTY IS DESCRIBED AS THAT PORTION OF LOT 8 IN SECTION 28, TOWNSHIP 61 SOUTH, RANTE 39 EAST, ON KEY LARGO, ACCORDING TO MODEL LAND COMPANY'S PLAT BY P.F.JENKINS, CIVIL ENGINEER, RECORDED IN PLAT BOOK 1 AT PAGE 68, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, LYING NORTHWESTERLY OF STATE ROAD NO. 5 (U.S. NO. 1), KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00087350-000000. (File 2016-128)

(2:19 p.m.) Mr. Kevin Bond presented the staff report. To orient you to the property, it is located near Mile Marker 101 in Key Largo on the bay side. This map shows the zoning of the property. It's the triangular-shaped parcel where the current Dollar Tree store is located along with the Island Marketplace. This is one of two applications you'll be hearing. The other application is a major conditional use permit which is for the redevelopment of the property, but County code requires the variance to be heard first, which is why you're seeing this today before the major conditional use. This property has the Dollar Tree store and this aerial shows the area in question for the front setback variance. The property line adjacent to U.S. 1, right now, is almost entirely paved and is used for parking. The aerial shows some vehicles are parking in the U.S. 1 right-of-way. This is the proposed site plan for the redevelopment project. The buildings comply with setbacks. It's about 40 feet to the closest building to the front property line. The variances requested are to continue the existing access aisle that runs almost the entire length of the property along the front. As part of the redevelopment, everything else on the property would be brought into compliance. The variance request to reduce the front setback to 10 feet for that drive aisle would still provide all of the required buffer yard for this property, but would allow that drive aisle to remain where it is today, except it would be modified somewhat, providing buffers along the side of the property. The drive aisle has existed since the property was originally developed in the early 70s for a hardware store and lumberyard, so this is an existing nonconformity. Under the proposed development, that would be brought into compliance except for the 10-foot setback. The drive aisle also helps with on-site circulation. All of the parking for the property is in that front drive-aisle area. Under the redevelopment, parking would be moved to the side and rear behind the buildings. This would help alleviate some of the existing nonconformities with the parking being located in the front. The drive aisle is the code-required 24 feet in width. Failure to grant the variance would hamper vehicular circulation.

Staff does not anticipate that granting the variance request would result in increased public expense or create a public nuisance. In fact, it would help provide on-site circulation on the property including access by emergency vehicles. Staff has reviewed the variance request against the eight standards and found the request meets all eight standards. So staff is recommending approval with the two conditions outlined in the staff report. There are some representatives from CPH here in the second row.

Todd Hendricks, the civil engineer with CPH, spoke on behalf of the applicant. Mr. Bond's presentation highlighted the application and there are a couple slides to add. The Dollar Tree remains with the project, forcing the request for the variance to maintain circulation around the site and in front of the Dollar Tree. The blowup of the existing site plan shows the Dollar Tree store in red. The bold black lines are the property lines and the FDOT right-of-way. There is 40 feet between the property line and the building. The angled parking exists on the asphalt up to the parking line. Cars are backing in and out of the grass right-of-way to park in front of the store. The application coming up with the major conditional use improves that condition by removing the parking. The next slide adds landscaping to bring the site back into code. The proposed condition removes the angled parking, provides the 24-foot drive aisle, and a 10-foot landscape buffer between the drive aisle and the property line. ADA compliant sidewalks, ramps and access around the site will be added. When you see the major conditional use, all other aspects of the site including open space, landscaping, parking, drive aisles will all be brought into compliance with code. The one item we need support on today is the variance on the setback to allow for circulation around the site. Per staff's report, we've met the eight conditions to support the request for the variance. Myself, and the property owner are here to answer any questions you may have.

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

Commissioner Wiatt asked if staff had any concerns with respect to the variance from neighboring areas. Ms. Santamaria stated they had received none. Mr. Hendricks added that a community outreach meeting was noticed and held for the residents in the surrounding area. One person showed up with general interest in the project, but no opposition to the request. Commissioner Miller suggested giving out free hamburgers.

Motion: Commissioner Miller made a motion to approve based on the staff recommendation. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

8. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY YEAR 2030 COMPREHENSIVE PLAN POLICY 101.5.25, PROVIDING A MAXIMUM NET DENSITY OF ONE DWELLING UNIT PER PLATTED LOT WITH THE TRANSFER OF ONE TDR FOR THE DEVELOPMENT OF ONE TIER 3 PLATTED LOT WITH A RESIDENTIAL LOW (RL) FUTURE LAND USE MAP DESIGNATION AND WITHIN A SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (File 2016-107)

9. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 130-157, MAXIMUM RESIDENTIAL DENSITY AND DISTRICT OPEN SPACE, PROVIDING A MAXIMUM NET DENSITY OF ONE DWELLING UNIT PER PLATTED LOT WITH THE TRANSFER OF ONE TDR FOR THE DEVELOPMENT OF ONE TIER 3 PLATTED LOT WITHIN A SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (File 2016-108)

(2:27 p.m.) Ms. Schemper presented the staff report. This is a request from staff as directed by the BOCC to amend the comp plan and code to allow property owners in Residential Low future land use categories and Suburban Residential zoning categories to retire development rights on a property for one TDR and transfer those to a platted lot, Tier 3, SR zoning, in order to build a single-family residence. In March of this year the BOCC had a public hearing regarding a beneficial use determination for a property that had SR zoning, RL FLUM, but it was a platted lot that did not have enough land area to meet the density requirements of the comp plan and code. At that hearing, the BOCC directed staff to propose amendments to the comp plan and LDC that would allow owners of platted lots with SR zoning that lacked the minimum land area required for a single-family residence, to transfer in a TDR to be able to apply to build a house.

Within unincorporated Monroe County, we've got about 35 platted subdivisions that have either part or all SR zoning. These subdivisions were designated as SR when zoning maps were drawn in 1986. They were given RL FLUM when the future land use map was drawn in 1983. The density requirements for the RL FLUM and SR zoning require a site to have more land than a typical platted subdivision lot would have in order to build a single-family residence. For perspective, in the RL FLUM and SR zoning, a parcel would need two acres to build under their allocated density. They would need .4 acres to build under the current max net density. Example: A typical 50-by-100 lot, 5,000 square feet, is .11 acres, so it doesn't come close to being enough land to build a single-family residence.

Staff has developed the proposed amendment to the comp plan and also to the LDC to go with it which would allow Tier 3 platted lots to develop one dwelling unit under a new max net density standard with the transfer of one full TDR to the SR site. The use of the TDRs would require retirement of development rights on another lot, and the sender site and receiver site would have to be eligible under the current TDR requirements. Staff also recommends the parcels eligible for this must meet the sufficient legal access requirements in the comp plan. Policy 301.2.5 says in order to proceed with development a parcel shall have legal access to public or private roads, rights-of-way or easements, or such access shall be established.

On page 9 and 10 of the staff report, we've added into the Density/Intensity Table, an additional line under max net density for RL which says that in the SR zoning, the maximum net density standard currently is five dwelling units per buildable acre, and we're adding, or one dwelling unit per lot. Then there is a footnote with a lot of criteria. The footnote says within the Residential Low future land use category, the maximum net density for platted lots within the SR zoning district shall be one dwelling unit per platted lot provided all of the following conditions are met: (1) the parcel must be one full platted lot shown on a plat approved by the County and duly recorded. (2) the platted lot may not be identified for any other use or purpose on the plat; for example, a park, common area, et cetera. (3) a platted lot must have a tier designation of Tier 3. (4) notwithstanding Policy 101.13.2, the maximum net density may only be reached with the transfer of one full TDR to the SR lot, regardless of the size of the lot and the allocated density assigned to it. (5) the TDR must meet all requirements and procedures specified in Policy 101.13.3 and Section 130-160 of the land development code. That's the TDR sender and receiver criteria. And, (6) the subject parcel must comply with Policy 301.2.5 regarding legal access.

Staff did a preliminary analysis of platted lots with SR zoning and it shows there are about 136 parcels that don't meet the density requirements that did not necessarily take into account tier. A quick count took into account which ones are Tier 3, and also to see what is privately owned and currently vacant, and there were only about 34 parcels in the unincorporated County that meet all of these criteria. Staff has found that this amendment would be consistent with the comp plan, the principles for guiding development, Florida statutes and the land development code. For the LDC it's required because of new issues, the recognition of need for additional detail and for data updates. Specifically, the data updates are regarding the number of SR lots that do not meet the density requirements of the land development code and comp plan.

Staff recommends approval of both of these and welcomes any questions.

Commissioner Miller asked if once the development rights are severed from a piece of property, that piece of property becomes what? Ms. Schemper explained when you transfer the TDR off of a sender site, it either needs to be dedicated to the County or put under a conservation easement. It's not just for the residential. Commissioner Miller asked if under conservation easement, if nothing could be done with that property? Ms. Schemper answered, exactly. Ms. Santamaria stated once you send it off, that parcel becomes part of the County or conservation easement and you can't do anything further, in perpetuity.

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

Commissioner Lustberg asked if the property was big enough, could it transfer on five dwelling units. Ms. Schemper replied, yes, that currently the maximum net density is five dwelling units per buildable acre. The open space ratio is 50 percent, so buildable acreage is half of the gross acreage. If a parcel has 10 acres with SR zoning, the buildable area would be five acres. Those are not the parcels staff is concerned with. Only the small platted lots less than .4 acres. There is no need to use this policy if the lots are bigger than that because normally, the way this works is if you have allocated density that allows you to build half of a unit, then you only have to find half a TDR. These tiny properties don't qualify for that. This allows transferring in TDRs, but you need one full TDR, regardless of any little bits of allocated density that you have.

Motion: Commissioner Miller made a motion for approval as to Item 8. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Wiatt made a motion for approval as to Item 9. Commissioner Ramsay-Vickery seconded the motion. There was no opposition. The motion passed unanimously.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 2:38 p.m.