PLANNING COMMISSION
June 24, 2020

Meeting Minutes

The **Planning Commission of Monroe County** conducted a virtual meeting on **Wednesday, June 24, 2020,** beginning at 10:00 a.m.

CALL TO ORDER by Chair Coward

PLEDGE OF ALLEGIANCE

ROLL CALL by Ilze Aguila

PLANNING COMMISSION MEMBERS

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

STAFF

Emily Schemper, Senior Director of Planning and Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Steve Williams, Assistant County Attorney
Peter Morris, Assistant County Attorney
John Wolfe, Planning Commission Counsel
Mike Roberts, Assistant Director, Environmental Resources
Mayte Santamaria, Senior Planning Policy Advisor
Bradley Stein, Development Review Manager
Liz Lustburg, Planner
Ilze Aguila, Senior Coordinator Planning Commission

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

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

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Ilze Aguila confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff was sworn in by Mr. Wolfe.

CHANGES TO THE AGENDA

Ms. Ilze Aguila confirmed there were no changes to the agenda, and requested that Items 5 and 6 be read together.

DISCLOSURE OF EX PARTE COMMUNICATIONS
There were no disclosures of ex parte communications.

APPROVAL OF MINUTES
Motion: Commissioner Wiatt made a motion to approve the May 27, 2020, meeting minutes. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.

Commissioner Demes requested that the spelling of his name be corrected on page 18, line 3.

MEETING

NEW ITEMS:

1. A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION ADOPTING RULES AND PROCEDURES FOR THE ADMINISTRATION AND CONDUCT OF PROCEEDINGS AND HEARINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS AND PRIOR RESOLUTIONS ESTABLISHING RULES OF PROCEDURE; PROVIDING FOR AN EFFECTIVE DATE.

(10:05 a.m.) Mr. Peter Morris, Assistant County Attorney, stated the Planning Commission had formalized rules of procedure back in 2009 to 2011, and this resolution updates and formalizes the common acceptance of norms.

Mr. John Wolfe stated that these were excellently written, closed a lot of gaps, and asked when they would take effect. Mr. Morris presumed they would take effect upon approval, which would be the next regularly-scheduled Planning Commission Meeting.

Chair Coward asked for public comment.

Mr. Stuart Schaffer, President of Sugarloaf Shores Property Owners Association, stated he had sent a letter in back in February with four specific comments. Two are related to some changes in the timing deadlines for applicants and the public to provide submissions in advance of a Planning Commission meeting. One has been addressed. The public still has a little time to look at applicant submissions before making public submissions, but there is still a point regarding those deadlines. With the Planning Commission's agendas on the web page, often the agenda will be posted but it takes a while for the staff report to be attached to it. On some issues, staff can be contacted for the report in advance to online posting. Mr. Schaffer is proposing a deadline for staff to have the report posted online not less than seven calendar days prior to the public's deadline for submitting comments. Second, in 1B and 1C, the last sentence of each paragraph, there is language that can be read as saying something that he does not believe is intended. Because the words "if any" are used, the sentences can be read as saying if anybody fails to meet a requirement it may cause all of the materials submitted to not be properly submitted. Mr. Schaffer is proposing it say, with respect to any such information, "records or memoranda that are submitted in non-compliance." If some materials go in late, only those materials should not be considered. Third, there was a small change in 1F(2) which says, "The

Planning Commission may request proof of authority to speak on behalf of an organization or legal person, and may request proof of the legal existence of the organization or legal person." Mr. Schaffer is concerned that when he shows up to a meeting to make comments, he doesn't usually bring the bylaws or minutes of meetings that show he is an authorized speaker, and would like some guidance on what would be acceptable and if it could possibly be provided later. Also, he is not certain what "proof of legal existence" means.

Ms. Emily Schemper, Senior Director of Planning and Environmental Resources stated that she would prefer the staff report deadline not be put in as an ultimatum. Understanding that people need time to review items and the staff report is helpful for the public, if it gets put in as an ultimatum and the item gets pulled from the agenda that is not fair to the applicants and causes unnecessary delays. There are many reasons why a staff report can be delayed and she does not believe a simple deadline should be used to take something off the agenda. Additionally, the file for the application and everything submitted is available for review if the public wishes to comment on what was submitted by the applicant. The public comment is not necessarily a comment on staff's recommendation or analysis, but an opinion on the application.

Mr. Morris responded that agendas being posted online is not a requirement of Florida law but is done as a courtesy by the department. In many jurisdictions, members of the public request a copy of the agenda or an application rather than the staff report. Locally, people have grown accustomed to riffing their own analysis from staff reports. Even at the BOCC level there are no legal hard, drop-dead deadlines for a staff report to be submitted. As stated by Ms. Schemper, there are many legitimate reasons why a staff report is delayed by a few days. At an administrative level, Mr. Morris concurs that it would be very unfair to staff and applicants were a hard, drop-dead deadline imposed for staff reports. As to the proof of legal existence, Mr. Morris believes the intent is simply a sworn statement on the record is sufficient. Sometimes individuals show up and object on behalf of community associations which the Planning Commission is used to. Some are repeat players in this forum but some are created specifically as vehicles to object to certain applications, which is within their rights, but it would be good to have explicit in the rules of procedure some latitude for the Commission to request that a speaker speaking on behalf of an organization that no one has ever heard of to ask for the organization to have some sort of legal existence. As to the comment regarding noncompliance with the rules, Mr. Morris believes the plain meeting of 1B and 1C is clear. If something is submitted in an untimely fashion, it doesn't eliminate every other document that was submitted in a timely fashion.

Mr. Steve Williams added that inasmuch as the BOCC gives different time allotments to individuals versus groups, occasionally someone asserts that they represent a neighborhood association or group and it gets to be a very blurry line between one person showing up with three minutes to speak and someone on a loose collection of annoyed neighbors which isn't really an association under any of those forms outlined by Mr. Morris. Making a distinction between them is a good thing for recordkeeping purposes. If someone is present on behalf of a duly-formed organization, they will tell the Commission. If not, then they are present on behalf of themselves.

Mr. John Wolfe added that in terms of giving guidance to representatives of organizations, if the person speaking is an officer and it's shown on the SunBiz website, then that alone is dispositive. If they're not an officer and if they're concerned that someone will object, they could have the directors of the organization pass a resolution authorizing them to speak. Generally speaking, this has not really been an issue before the Planning Commission.

Commissioner Miller asked if a caveat could be added for former Planning Commissioners to be allowed five minutes as November would be his last meeting as a Commissioner.

There was no further public comment. Public comment was closed.

Commissioner Wiatt noted that if the staff report is delayed, it's delayed for everybody, the Commission, the public and the applicant. No one has an advantage and he does not see a need for a specific deadline.

Commissioner Demes noted that on conduct of meetings, paragraph 1B, to be consistent, the word "received" should be used rather than "submitted" to the Commission Coordinator. Under B, prohibited conduct, number 1, "Speakers may not refuse to yield the lectern and podium," the speakers speak at a lectern, not a podium and the Commission sits at the podium. The last comment would be under number 6, rules of debate, under B, a motion is not used to adjourn a meeting. The Chairman decides when to adjourn the meeting.

Mr. Morris responded that the revised edition of the Rules and Procedures cures Commissioner Demes' first concern with respect to the submission versus receipt issue. The lectern and podium were both used because some speakers, while they yield the lectern, they still hover at the stand and it can be distracting for subsequent speakers, or the applicant, or staff. This was to ensure that the entire range of the podium and the mic was cleared by the prior speaker. However, he is willing to reduce the language to lectern. As to adjourning the meeting, the Commission retains the right to depart from Robert's Rules regarding that aspect of the Rules of Debate and it is up to the Commission.

Ms. Schemper noted that the most recent draft posted was revised on 6/18, and under 1B and possibly 1C, it does use both "submitted" and "received" which she believes is what Commissioner Demes had spoken of. Mr. Williams thought that in the era of email, that it was bout a two-second difference. Commissioner Demes agreed, adding that he just wanted to raise those comments. Mr. Wolfe noted that the way it reads is fine and there is no ambiguity. Chair Coward thought "submitted" made more sense based on the calendar days, because ten days prior to the majority of the Planning meetings would fall on a Sunday. Ms. Schemper wanted to clarify that submitted meant the postmark date. Commissioner Demes stated that he had discussed with staff about the dates that fall on weekends and what submitted versus received means. Mr. Morris thought this was really an issue of administration and from a legal perspective he has no strong opinion one way or the other, it would be what the Commission and professional staff prefer.

Commissioner Miller asked about 4E, the failure to file a timely objection concerning the public, and what form that would take in a meeting. Mr. Morris responded that that provision codifies in

the form of a resolution what in the law is considered Rules of Forfeiture or Waiver. That puts the public and applicants on notice, that if they have a legal objection or dispute of facts with respect to an application or a quasi-legislative item presented to the Commission for consideration and approval, in order to preserve that disputed issue of fact or law, they must make that objection in the first instance to the Planning Commission. An objection cannot be concealed and then they appeal a decision of the Planning Commission for the first time in front of an Administrative Hearing Officer or Circuit Court Judge. Commissioner Miller asked if this could take the form of an objection during the Planning Commission Meeting. Mr. Morris responded that that was correct and gave an example. It protects the expectations of all parties involved. Commissioner Miller asked if the time for the public to speak was over and someone had an objection, how they would go about doing that in a meeting. Mr. Morris stated if someone had already used their speaker time and wished to lodge an objection or present the legal argument the Planning Commission, Mr. Williams, Mr. Wolfe, and he have always been accommodating. The individual would ask to speak again or address the Commission one more time. Mr. Wolfe agreed that wide latitude is allowed to preserve due process.

Chair Coward asked for a motion.

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

2. BEARDS & BREWS, LLC, 5450 MACDONALD AVENUE, STOCK ISLAND, MILE MARKER 5: A PUBLIC HEARING CONCERNING A REQUEST FOR A 2COP ALCOHOLIC BEVERAGE SPECIAL USE PERMIT. THE SUBJECT PROPERTY IS DESCRIBED AS A PARCEL OF LAND IN SECTION 35, TOWNSHIP 67 SOUTH, RANGE 25 EAST, STOCK ISLAND, MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00125170-000000. (FILE 2019-058)

(10:34 a.m.) Ms. Liz Lustberg, Planner, presented the staff report. This request is for a 2COP Alcoholic Beverage Special Use Permit to have beer and wine sales on premise and for package. Ms. Lustberg presented the diagram of the unit, explaining the alcohol sales would be in conjunction with a barber shop. The applicant has complied with all required criteria. Staff is recommending approval with the regular conditions.

Commissioner Demes asked to see slide three, indicating he had misunderstood the drawing and thought the four blacked-out units were the ones being discussed. Ms. Lustberg explained that she believed the site plan received for this application had been used for a permit for a different purpose when other units were being renovated, and the blacked-out portions have nothing to do with this application. This is for the one smaller unit highlighted in yellow, unit six. Chair Coward wanted confirmation that there were no other liquor licenses within the complex, acknowledging there were many in the surrounding area. Commissioner Scarpelli asked if the license was only for this one unit. Ms. Lustberg confirmed that was correct.

Chair Coward asked if the applicant wished to speak. Mr. Richard McChesney, attorney for the applicant, had nothing to add unless there were questions, and he thanked Ms. Lustberg for her

assistance, indicating that the staff report accurately outlined everything. Chair Coward asked for further questions from the Commissioners. There were none.

Chair Coward then asked for public comment. There was none. Public comment was closed. Chair Coward asked for a motion.

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

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE TO AMEND SECTION 101-1 AFFORDABLE HOUSING DEFINITIONS BY CREATING A DEFINITION FOR AREA MEDIAN INCOME, WORKFORCE AND WORKFORCE HOUSING; AMEND CHAPTER 139-1 TO CLARIFY THE AFFORDABLE AND EMPLOYEE HOUSING ADMINISTRATION, TO INCORPORATE NONRESIDENTIAL AND TRANSIENT INCLUSIONARY REQUIREMENTS BY PROVIDING REGULATIONS REGARDING THE PROVISION OF AFFORDABLE HOUSING FOR THE DEVELOPMENT AND REDEVELOPMENT OF NONRESIDENTIAL AND TRANSIENT USES; MODIFYING THE LINKAGE PROVISIONS; AMENDING AND/OR ADDING FOR CONSISTENCY PURPOSE RELATED PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-097)

(10:40 a.m.) Ms. Mayte Santamaria, Senior Planning Policy Advisor, presented the staff report. This item is to incorporate a nonresidential inclusionary requirement into the Land Development Code that the County has been working on for some time. This was reengaged and reinitiated with the Affordable Housing Advisory Committee who specifically recommended to the BOCC both in 2015 and 2016, to incorporate a nonresidential inclusionary requirement with two separate resolutions to the Board. In April 2016, the Board adopted the new Comprehensive Plan which included Policy 601.1.13, directing staff to evaluate extending the inclusionary housing requirement to include nonresidential development. In August 2016, the Board approved a contract with two consultants to develop the support studies that would provide the technical data and methodology to determine the need for workforce housing mitigation for the nonresidential developments. In November 2017, the Board was provided this information and a presentation was made by both consultants. In February 2018 the Board directed staff to work on these amendments.

In the Land Development Code today there is an inclusionary housing requirement for residential developments, and that's when three or more dwelling units or ten or more mobile homes either develop or redevelop, they must provide at least thirty percent of their units as affordable housing. Currently, there is no comparable inclusionary housing requirement for nonresidential uses. This proposal addresses workforce housing needs generated by the construction and expansion of nonresidential development by requiring those businesses to provide workforce

housing proportionate with the demand they create. These amendments are based on specific data and analysis, the 2016 employer survey, and a 2017 affordable housing support study, which provide the specific data and methodology to establish the proposed number of housing units or fees needed for every square foot of development or redevelopment for the different categories of nonresidential uses. That is specifically needed because data is required to provide a rational nexus for what the County is requesting from the developer based on the demand they are creating.

Ms. Santamaria went through highlights of the amendment. A definition for workforce and workforce housing is proposed. Workforce housing means dwelling units where people derive at least seventy percent of their income as members of the workforce in Monroe County and meet the affordable housing income categories of the Code. Both definitions were recommended by the Affordable Housing Advisory Committee. These definitions are used within the nonresidential inclusionary requirement by stating that any business that triggers this requirement must satisfy the demand with workforce housing. They could not build the general affordable housing with only an income category, it must be developed as workforce housing with not only an income cap but seventy percent of that income being derived within the County. This would apply to new developments, redevelopment with an expansion, redevelopment with a change in use increasing housing demand, redevelopment without an expansion but which increases in housing demand, and then an unspecified use category where the applicant can propose an independent calculation to show they are or are not increasing employee demand which would go before the BOCC for review prior to the application moving forward. Staff recommends a fifty percent mitigation requirement for all projects triggering a nonresidential inclusionary requirement. The Exemptions and Waivers Section includes certain categories that will not trigger the mitigation such as residential developments, nursing homes, assisted care living facilities, airport uses, agricultural uses and the redevelopment, remodeling, repair or cumulative expansion of a lawfully established nonresidential use by no more than 1,000 square feet. If projects think they do not create a housing demand and are not increasing workforce, they can go before the BOCC and request to reduce, adjust or waive the requirements, with five criteria for the Board to consider. Ms. Santamaria suggested edits on the fifth criteria, to simply state in the event of a declared state of local emergency, to give the Board more latitude as to when they can choose to waive the requirements.

The developments triggering the nonresidential inclusionary requirements can satisfy the mitigation by several options; construct housing on site, off site within a ten-mile radius or fifteen-mile radius providing there is a transit stop within a 300-foot walking distance, deed restrict existing units with the same radius requirements, donate platted lots for each unit of housing which the applicant needs to provide, or they can make a fee in lieu payment. Ms. Santamaria presented the categories of land uses, with fifty percent example scenarios providing round numbers. Another option was created to potentially reduce the inclusionary requirement for projects that have a requirement of five or more units providing they are built only for low and very low income categories, and Ms. Santamaria presented examples. Ms. Santamaria then presented a map visualizing the distance requirements of the five-mile, ten-mile and fifteen-mile radiuses. Staff is recommending ten miles, and fifteen with transit, to provide flexibility for developers and to incentivize deed-restricted housing while maintaining a reasonable commuting

distance for employees. Staff recommends approval of these amendments with the one suggested change to state of local emergency.

Chair Coward asked for Commission questions or comments. There were none. Chair Coward then asked for public comment.

Mr. Stuart Schaffer, speaking for SPOA, was in full support of this proposal. This is another tool supporting new workforce housing and it makes all the sense in the world to ask developers of nonresidential projects to put some skin in the game as they create the need for more workforce housing. His one concern is that development on Stock Island with allowing required workforce housing to be located within fifteen miles would go all the way up to Upper Sugarloaf. Fifteen miles is a long way to commute in this County to work. Mr. Schaffer would prefer minimizing traffic on U.S. 1 by requiring the new workforce housing to be as close as possible to the new nonresidential development project. Five miles seems to be preferred in the Comp Plan, though he recognizes there may not be a lot of choices of suitable locations for workforce housing within five miles. That said, if a developer puts up a big nonresidential project on Stock Island, Big Coppitt or Rockland, he would look to go as far as he can to build the workforce housing up the Keys because the land is much cheaper up the Keys. Enough incentive is not being created to put the housing as close as possible to the new development. The general rule is the new housing needs to be within ten miles, but there is an exception, so he is objecting to the exception of fifteen miles away with transit service. Transit service in the Lower Keys is not ideal and is inefficient as there are only ten stops a day in each direction. The reality is the employee would be driving to work. Mr. Schaffer would like to eliminate the fifteen-mile with bus service exception because it is unrealistic. Mr. Schaffer proposed the housing be within ten miles of the new project, or shorten the distance to five miles and allow up to ten miles with bus service. In any case, if an extension of the distance is kept for housing serviced by transit, there is a very specific requirement for the bus stop to be within 300 feet of the project, but only a requirement for the bus stop to be to the "area" of the nonresidential development, which sounds too broad. Another possibility would be to require the housing to be either within ten miles of the project or within five miles of the main employment centers in the Keys, which are Key West, Stock Island and Marathon. The principle should be to build housing where it's needed the most, which is near the main employment centers.

Mr. Jim Saunders stated he has been involved with the workforce housing task force going back to 2006, which has been trying to get this type of approval through for many years. Mr. Saunders is very happy to see this come to fruition and can assure the Commission that the other people involved with the task force would be equally as excited to see this finally get put through. The employers that are building new buildings need to be responsible to provide some housing for their employees. Mr. Saunders thanked Ms. Santamaria for finally bringing this to fruition and he heartily supports it.

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

Commissioner Demes stated that he had received a letter from Mr. Schaffer for SPOA, and that he also lives in Sugarloaf. Commissioner Demes referenced the Principles for Guiding

Development regarding the Naval Air Station and other military facilities that the Commission is charged with protecting, including the MIAI. Residential development is generally thought to be a negative thing from the standpoint of the high noise areas, and it's necessary to maximize the ability to develop workforce housing elsewhere. Many folks commute as far as Marathon or the upper Lower Keys, Big Pine and Ramrod area, where property is less expensive and they get more bang for their buck for living space for workforce housing. Realizing how many people travel far more than fifteen miles to work every day, Commissioner Demes proposes the fifteen-mile restriction be kept and remove the transit stop requirement to provide the maximum capability to meet the workforce housing need. Ms. Santamaria presented a map showing both the MIAI and the fifteen-mile area of impact. Chair Coward noted that the map showed it would be difficult to do any residential development through seven miles out from Stock Island. Commissioner Demes stated that the Naval Air Station has agreed that maximum density and intensity development is acceptable within the MIAI, but at the same time, the basic premise is less residential is a good thing. One way to do that is to maximize the ability to develop workforce housing outside of that area. The latest proposal of ten to fifteen miles is limiting toward that initiative. Ms. Santamaria confirmed Commissioner Demes' comments were correct. There are policies discouraging increased density within that boundary. Commissioner Scarpelli interjected that he had just done a residential facility near Key West Airport and a sound analysis engineer was required to design the installation and test the structure of the design to ensure it would substantially reduce the noise within the residences.

Commissioner Miller noted the Quarry Partners agreement where affordable housing units were transferred from Key West that circumvented the Comp Plan and the prohibition of putting affordable units in a V-Zone, and referenced the inter-local affordable rate of growth allocation assessments on page 13 of 35 of the report. Commissioner Miller would like to include a requirement that the prohibitions in the Comp Plan be observed as far as inter-local agreements. Ms. Santamaria recalled the item that Commissioner Miller spoke of and clarified that the Quarry had received allocations from the City of Key West pursuant to the hurricane evacuation MOU which stated any allocations that the City of Key West did not utilize year by year would be made available to the other local governments up the chain of islands based on the proportion of population and vacant lands. The City had several years of unused allocations and provided them to the developer of the Quarry. Only a small sliver portion of land on the northern end of Big Coppitt was part of the V-Zone. The applicant was working on a map change with FEMA on addressing that, though she does not know the outcome of that. Those allocations were allowed to be used within that small portion, which was a portion of the building in that top edge of the property. Because they came from the City of Key West, it did not have the limitation of awarding allocations within a V-Zone. Commissioner Miller agreed, reiterating that they had basically circumvented the Comp Plan, and he would like to see a caveat that any allocations received must follow the requirements of the Comp Plan. Ms. Santamaria pointed out that this has been added in, "The inter-local agreements may accept and transfer allocations pursuant to the hurricane evacuation clearance time, and all allocations made available to the jurisdiction must meet the applicable affordable housing requirements of the receiving jurisdiction's Land Development Regulations and Affordable Housing Ordinances." Comprehensive Plan can be added into that statement as well, although the Land Development Code also includes that provision of the V-Zone. Commissioner Miler responded that if that sentence covers the requirements in the Comp Plan, then that was fine, but he was upset that the Comp Plan had been

circumvented at the Quarry. Ms. Santamaria thought the scenario was covered by the language. Mr. Wolfe agreed.

Commissioner Miller then asked about the in lieu of funds and how that would be carried forth. Ms. Santamaria gave an example of how additional square footage would be calculated. Commissioner Miller stated that his question was regarding what would happen with the funds. Ms. Santamaria responded that it would go into the affordable housing fund to build housing, buy land for housing, or to provide programs for affordable housing such as the down payment for houses, but there is nothing in that fund today. Commissioner Wiatt stated that he thought there was bus service throughout the Keys, from Marathon to Key West, and from Homestead to upper Marathon, so the transit requirement could be pulled out and just a flat distance used of whatever everyone is comfortable with and not complicate matters with the available transit requirement. Commissioner Demes agreed and proposed the distance be within fifteen miles. Commissioner Scarpelli also agreed, noting that there is a push for bus service to be increased, and the bus stops have been redone to be more ADA compliant. He has taken the bus from Big Pine to Key West and it's not bad at all, an hour ride to get some work done. Chair Coward asked if the percentages for mitigation were satisfactory with everyone, adding that he personally thought it was a good number. Commissioner Scarpelli noted that the larger developments is where that number gets very big, but those larger developments have more opportunities to make those kind of moves. His concern was more for the local restaurant that needs to expand their restaurant's footprint 1,000 square feet and now have to provide a unit, but there are ways for people to mitigate that and present their case to the Planning Commission so it can be handled on a case-by-case basis. Having that opportunity to mitigate for the little guys provides some protection, and the requirement to provide workforce housing is protection for the Keys overall for the large developer. It also may be more beneficial to the large developer to include the housing in their mixed commercial use; and, the developer can come in and present their case as well. Commissioner Wiatt stated he was good with fifty percent. Chair Coward agreed. Commissioner Miller asked whether the earlier Beards and Brews approval would fall under the inclusionary requirement. Ms. Santamaria responded that they would not, as they were not expanding their square footage only adding an alcoholic beverage license. Commissioner Scarpelli asked where the numbers came from to calculate this. Ms. Santamaria responded that the consultants took information from the Census, the Department of Labor, the Department of Economic Opportunity, Department of Revenue and the Monroe County Property Appraiser. Industries were reviewed and categorized with typical square footages and numbers of employees per type of industry to do calculations and then come up with mitigation standards being used in this draft. Commissioner Scarpelli thought it was very impressive and very good work. Commissioner Wiatt agreed and thanked staff for all of their work on this item which was in the Affordable Housing Task Force, adding that he was surprised it made it because there were a lot of hurdles. He would clap but is not allowed to. Chair Coward asked for a motion.

Motion: Commissioner Demes made a motion to approve, using a flat fifteen miles, no requirement for a transit stop, and accepting the exemptions and waivers. Commissioner Wiatt seconded the motion. The motion passed unanimously.

4. TYLER GOODERE, 5650 LAUREL AVE, LLC, 5650 LAUREL AVENUE, STOCK ISLAND, MILE MARKER 5: A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE TO THE FRONT AND PRIMARY SIDE YARD SETBACK REQUIREMENTS IN SECTION 131-1 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, THE LOADING ZONE SIZE REQUIREMENT IN SECTION 114-69 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, AND TO ELIMINATE THE CLASS C DISTRICT BOUNDARY BUFFER REQUIRED IN SECTION 114-126 OF THE MONROE COUNTY LAND DEVELOPMENT CODE. THE REQUESTED VARIANCE WOULD ALLOW FOR PARKING WITHIN THE FRONT AND SIDE YARD SETBACKS, FOR THE DEVELOPMENT OF A PROPOSED MIXED-USE BUILDING WITH 2 AFFORDABLE UNITS AND LIGHT INDUSTRIAL SPACE. THE SUBJECT PROPERTY IS DESCRIBED AS LOT FIVE IN SQUARE THIRTY-ONE, MCDONALD'S PLAT OF STOCK ISLAND, AS RECORDED IN PLAT BOOK 1, PAGE 55, PUBLIC RECORDS MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00124390-000000. (FILE 2019-146)

(11:25 a.m.) Ms. Liz Lustberg, Planner, presented the staff report. This is for a variance on Laurel Avenue on Stock Island. There are several variances requested; for the front yard setback, side yard setback, eliminating the Class C buffer, and reducing the size of the loading zone. Ms. Lustberg presented a site plan and the related Code Sections. The building is proposed to have two affordable housing units and light industrial floor area. The building proposed complies with the setbacks and the variances are all to fit the parking on site. In the front, if the variance is granted, part of a parking space and a scooter space would fit in the front yard. On the side, the building complies with the ten-foot setback, but the parking spaces would go into that side yard setback leaving a two-foot setback remaining if the variance is granted. The blue area shows where the loading zone would be smaller. Normally there would be a buffer yard along the property line because the property next door is in a different zoning but the adjacent property is actually used for a light industrial use. If that buffer yard is removed through this variance, then the parking could fit in this space. The eight criteria that need to be met to grant a variance have all been met. Staff is recommending approval with the standard variance conditions.

Commissioner Wiatt asked if the neighbors had been contacted regarding this item. Ms. Lustberg responded that no public comment had been received, either positive or negative. Commissioner Scarpelli asked if the front yard setback variance would also require a variance for impervious area. Ms. Lustberg responded they would not because the open space is in compliance with the Code. Commissioner Miller asked about page 10, line 9 of the staff report which states the front yard setback portion of the variance would not be needed if the number of parking spaces were reduced, and also if a conditional use might be attached to require smaller vehicles for the loading area. Ms. Lustberg explained that the applicant had requested this variance for this number of parking spaces. Fewer parking spaces could be required but they would rather have this amount of parking. The understanding is that the neighbors prefer the parking stay on the actual site. The condition had to do with making an additional requirement that the deliveries only be made by smaller vehicles. This is an option if the Commission chooses but it was not included in the staff report because it is not required. Chair Coward asked for public comment.

Mr. Rick Milelli was connected through Zoom with Mr. Tyler Goodere and Mr. Mark Dipser, and Mr. Wolfe swore all three of them in. Mr. Milelli thanked Ms. Lustberg for her help and was really happy with the conclusion. The site next to the buffer yard is used for commercial, Keys Yamaha, and they would rather have more parking in the front setback because Keys Yamaha and boats are parked all over the street. Other than that, he would answer any questions.

Commissioner Scarpelli thought it was great that affordable housing was being provided with an industrial use. Chair Coward added that it was all positive and asked if there was public comment. There was none. Public comment was closed.

Commissioner Miller stated that he did not feel comfortable allowing a variance to the loading area unless there was a caveat requiring use of smaller vehicles, as suggested in the staff report. Otherwise, every business would want to have a smaller loading area. Mr. Milelli responded that the applicant was fine with that. Commissioner Demes added that the site was extremely tight so he understands the limits on the loading zone, and he applauded the efforts to get that many parking spaces. Knowing the challenges with parking in this particular area, it's a good thing to put as much parking on site as possible. Chair Coward agreed, noting the area is always littered with boats and trailers. Chair Coward asked for a motion.

Motion: Commissioner Demes made a motion to approve with the conditions. Commissioner Scarpelli seconded the motion. The motion passed unanimously.

Items 5 and 6 were read together.

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE / COMMERCIAL (MC), FOR PROPERTY LOCATED AT 105020, 105040, AND 105050 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 105, LEGALLY DESCRIBED AS BLOCK 3, LOTS 1-10, REVISED AMENDED PLAT OF RIVIERA VILLAGE (PLAT BOOK 2, PAGE 80), MONROE COUNTY, FLORIDA, HAVING PARCEL ID NOS. 00510550-000000, 00510560-000000, 00510570-000000, 00510590-000000, 00510610-000000 and 00510630-000000, AS PROPOSED BY ROBERT M. AND YVETTE DOHERTY, LORI STEPHENSON AND 3JL, LLC; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-191)

6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO MIXED USE (MU), FOR PROPERTY LOCATED AT 105020, 105040, AND 105050 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 105, LEGALLY DESCRIBED AS BLOCK 3, LOTS 1-10, REVISED AMENDED PLAT OF RIVIERA VILLAGE (PLAT BOOK 2, PAGE 80), MONROE COUNTY, FLORIDA, HAVING PARCEL ID NOS. 00510550-000000, 00510560-

000000, 00510570-000000, 00510590-000000, 00510610-000000, 00510630-000000, AS PROPOSED BY ROBERT M. AND YVETTE DOHERTY, LORI STEPHENSON AND 3JL, LLC; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-157)

(11:39 a.m.) Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. These two items are a FLUM amendment and a LUD amendment. The proposed map amendments are for ten parcels between Tarpon and Marlin Avenues. They are currently within the Residential Medium FLUM category and the Improved Subdivision Zoning District. The proposal is to change the FLUM from Residential Medium to Mixed Use Commercial, and change the zoning from IS to Mixed Use. The applicant has stated the reason for the proposed amendment is this would be more consistent with commercial uses. The applicant did provide further analysis in support for their reasons and are available to answer questions today. Ms. Cioffari described the ten parcels. The three parcels closest to Tarpon Avenue are vacant with the exception of a billboard on the northernmost parcel. The applicant has discussed doing some light industrial storage and warehousing type of use. The fourth parcel is a single-family residence. The next parcel is also a single-family residence but operates as Bayside Plumbing. There is a letter in the County records stating it is recognized as a single-family residence but if the property owners came in and obtained a home occupation permit they could keep some of the storage on this property. The next parcel south is currently under construction and permitted as a single-family residence.

Ms. Cioffari gave an overview of the area and presented a map showing parcels circled in blue as being predominantly residential consisting of the elementary school to the south, conservation area across the street, Residential Low, Residential High and Residential Conservation. The tiny parcel at the end next to Marlin Avenue was changed to Mixed Use Commercial, and just south of there is the doggie daycare. North up by Blackwater Drive, there is commercial such as Winn Dixie, the firing range and a church. In considering changes to the FLUM or Zoning District and going through the criteria, staff found this not to be consistent with community character as it is a generally residential area. The established uses on the property are predominantly residential with the exception of the billboard and the storage for Bayside Plumbing associated with a single-family residence. Staff did not find that there were any mapping errors as the properties were originally permitted as single-family residences. The other main issue is that the properties would become nonconforming to density. While there are three different owners spread across these ten lots, the County can't be sure as to how they would like to develop in the future, whether they would aggregate multiple lots or develop on their own, but with that, it becomes nonconforming to density. Staff recommends the proposed applications be denied. The applicants are present for comment.

Chair Coward asked if there were questions for Ms. Cioffari. There were none. Chair Coward asked if the applicant would like to speak. Mr. Wolfe noted that these are not legislative items so the speakers did not need to be sworn in.

Ms. Janet Lee stated that she and Ms. Laura Wells had sent an email to everyone on Sunday evening and she wanted to touch on a couple of notes. The Commissioners all confirmed they had not received that email. Ms. Lee stated she had sent them as a group and apologized that they did not receive it. Ms. Lee represents 3J, LLC, and is the owner of Bayside Plumbing which occupies the one large parcel, purchased in 2015. She purchased the three corner parcels 9, 10 and 11; parcel 11 not being a part of this application but is the small Mixed Use Commercial parcel. She has continued the process of building a single-family residence primarily because that was the permit in place when the property was purchased. There is no buffer between the three parcels. The intent and desire is to utilize the single-family residence as a vacation rental, which it would qualify for in Mixed Use Zoning. In communicating with many neighbors, they asked if there would be any adverse effects or objections to this and they thought it was a good idea due to the nice improvements already made. A residential building versus a commercial building seemed to fit that presentation. Ms. Lee had applied for a vacation rental permit for the corner property that is Mixed Use, but was denied because it had never been considered a residential use even though it was on a residential property when she had it converted. This would help to integrate the properties together with possibly deeding lots 9, 10 and 11 together. Mixed Use Commercial could facilitate the surrounding needs for vacation rentals or short-term rentals to facilitate people here for a weekend, two weeks, a month at a time, but not six months. The Bayside Plumbing building was purchased with the intent to use for her company building, which she has done. There is a large warehouse in the back used for storage. There is no traffic, per se, coming and going in and out of the property except for mornings and afternoons when her staff is picking up vans, changing over for the day and then coming in for the evening. Making this a Mixed Use Commercial property, the front residential building could be used for staff housing or owner housing and would be kept separate, so parcels 9, 10 and 11, would be separate from parcels 6, 7 and 8. The zoning would match the use of the property. Ms. Megan Sheriff has helped to represent Robert and Yvette Doherty as well as Laura Wells, who does occupy the residential property next door with her mother.

After having issues connecting Ms. Megan Sheriff and Yvette Doherty, Ms. Janet Lee continued, indicating they were friends as well as neighbors, and occupy this neighborhood. On the Dohertys' behalf, they have the three northern lots, and Mr. Robert Doherty would like to pursue a light storage facility that he could utilize in part for his own personal storage, as well as perhaps have maybe some small bays within the planning limitations of that development. They understand there is a lot of surrounding residential uses, but the residential neighborhoods are pushed farther back, with the exception of these properties. Ms. Lee also pointed out that within the residential properties there are a number of letters of use that are being used as commercial properties such as the Mercedes Benz shop, and a restaurant that is being sold as residential with a letter of use. While her properties are surrounded by residential properties, the mix of the adjacent properties and the way these properties fall along U.S. 1, their use is not residential, and they are very close to commercial uses such as Winn Dixie, the Catholic Church, Kiffney Firing Range and the Dollar Tree Store. Key Largo Baptist Church is developing a space for use of the church, not residential uses. On the corner of Bowen Drive, while zoned residential, it has business uses on the ground level with residential uses above it. While the map represents a highly residential use, the corridor itself and its actual use is not highly residential. The neighborhoods could benefit by an area that could give them some services. It would be developed to keep the Keys appeal and make it fit into this space to the best of her ability.

Mr. Steve Williams interjected and asked Ms. Lee to not send the email to each of the Planning Commissioners in one big batch email as it invites potential Sunshine violations; rather, email them each individually. Ms. Schemper indicated that staff also had not received that email. Ms. Lee stated she would attempt to send it again individually after the meeting.

Ms. Dottie Moses, a resident of Key Largo, supports staff on these items. There is no reason to change zoning to something that would create a density conflict and make a nonconforming situation worse. Ms. Moses is not familiar with this specific neighborhood, but is with a similar neighborhood, and any time there are density increases or commercial uses near a predominantly residential neighborhood, there are often conflicts. Even if not with this particular owner, there could be with future owners.

Ms. Megan Sheriff and Ms. Yvette Doherty were connected, and Ms. Doherty noted that she and her husband own lots 1, 2 and 3, lot 1 being a large lot with a billboard on it, and lots 2 and 3 being small 25-foot wide lots. The Doughertys' intent would be to maybe combine all three lots with an office space upstairs and storage downstairs for small light business such as landscapers and maybe some office.

Mr. Jim Saunders, representing Keys Lake Villas, the 110 unit affordable housing property to the north of this site, stated that they have no objection to this particular request. Ms. Schemper clarified the location of Keys Lake Villas to be approximately one mile north of this property, for the Commission.

There was no further public comment. Public comment was closed. Chair Coward asked for comment by the Commission.

Commissioner Miller wanted to make it clear that the Commission could not vote on what the owners of the property say they are going to do. The vote must be based on what would be permitted under the FLUM change. Commissioner Scarpelli agreed. Commissioner Wiatt stated that the one thing that concerned him was that a change to Mixed Use would prohibit the new house construction currently taking place. Ms. Cioffari responded that the use itself would be permitted as of right under Mixed Use Zoning, but the problem is the density. Under RM and IS it is one dwelling unit per lot. Under Mixed Use it is six dwelling units per acre and immediately becomes nonconforming to density. Commissioner Wiatt did not see how they could get past that, and Commissioner Scarpelli agreed. Commissioner Scarpelli also asked about the designation of Tier III-A, and changing a Tier III-A to Mixed Use. Ms. Cioffari responded that the same Tier Designation would be maintained. Regardless of the Zoning District or FLUM category, the clearing would be limited. There could be increased development pressure placed on the habitat, but they would still be required to comply with clearing regulations and open space provisions. Commissioner Scarpelli noted there had been a Code case on lot 1. Ms. Cioffari noted that those code cases were for storage and a bit of clearing, but they had been resolved.

Motion: Commissioner Miller made a motion to uphold the staff recommendation and deny Item 5. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.

Motion: Commissioner Scarpelli made a motion to uphold the staff recommendation and deny Item 6. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.

7. KEY LARGO OCEAN RESORT CONDOMINIUM ASSOCIATION, INC., 94825 OVERSEAS HWY, UNITS 1-285, KEY LARGO, FL 33037 MILE MARKER 94.8 OCEAN SIDE: A PUBLIC MEETING CONCERNING A REQUEST FOR AN AMENDMENT TO A DEVELOPMENT AGREEMENT BETWEEN MONROE COUNTY, FLORIDA AND KEY LARGO OCEAN RESORT CONDOMINIUM ASSOCIATION, INC. AS IT RELATES TO THE DEVELOPMENT OF 285 PERMANENT, MARKET-RATE DWELLING UNITS, AND ACCESSORY STRUCTURES/USES THERETO, ON THE PROPERTY. NO STRUCTURES WILL BE HIGHER THAN 40 FEET PURSUANT TO SECTION 131-2(b) OF THE MONROE COUNTY LAND DEVELOPMENT CODE. THE SUBJECT PROPERTY IS DESCRIBED AS A PARCEL OF LAND IN SECTIONS 13 AND 14, TOWNSHIP 62 SOUTH, RANGE 38 EAST, KEY LARGO, BEING PART TRACT 10 AND PART TRACT 11 OF SOUTHCLIFF ESTATES (PLAT BOOK 2, PAGE 45), MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00483401-0000000. (FILE # 2020-001)

(12:16 p.m.) Mr. Bradley Stein, Development Review Manager, presented the staff report. This is the third amendment to the Development Agreement and this project has a long history with the County. Construction has begun. There is a lot of infrastructure presently in place. The 285 existing units are permitted to be reconstructed. The main parts of the amendment to the Development Agreement are for a ten-year time extension, and the other main issue is to allow the height. Originally, the Development Agreement allowed 35 feet. In the meantime, the Land Development Code changed and allowed for voluntarily raising above base flood, potentially up to 38 feet for two habitable floors. This amendment will allow them to participate in that. There are other small changes throughout the design guidelines which govern the internal architectural review such as the allowable placement of non-combustible stairs on either side of the structures. All current code requirements would also need to be met.

Commissioner Miller asked about the approximate sixty-plus homes already built and whether they had been built to 38 feet already. Mr. Stein explained that because of the current restriction in the Development Agreement they would not have been permitted above a maximum of 35 feet, even voluntarily. Chair Coward asked whether it was 38 or 40 feet. Mr. Stein responded that theoretically under the code for new construction, 38 would be the max. If a substantial improvement were being done and then a voluntarily raise, that could be raised to potentially 40 feet. Ms. Schemper interjected that the 40-foot requirement is for existing dwelling units if they are retrofitting to meet or exceed the minimum BFE, but only if they need to go that high to get to up to three feet of voluntary elevation above BFE. If they are already three feet above BFE, there is no more room to retrofit to get up to three feet above BFE. Most likely, the units in this development would not qualify for the 40 feet. The Code does have an option to go up to 40 feet

and because Florida Statute requires the maximum height to be in there, that's why it was advertised at 40 feet. The actual language in the design manual that's adopted into the Development Agreement states that they can do their height according to the Monroe County Code requirements and the actual number isn't in there. So if something happened and it was changed in the future where everyone can go to 40 feet, theoretically, they would just have to follow the County Code. Chair Coward then asked for public comment.

Mr. Jim Saunders, agent for the applicant, Key Largo Ocean Resources Condo Association, was first sworn in by Mr. Wolfe, and stated that this was only to bring their guidelines into compliance with County Code as they move forward, and was probably the simplest Development Agreement he's ever done. There was no further public comment. Public comment was closed.

Commissioner Scarpelli thought it was great for them to have the ability to get higher and bring a larger development in line with County Codes. Mr. Williams stated that anything done amicably with KLOR is a good thing. Commissioner Wiatt agreed. Chair Coward asked for a motion.

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

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 12:26 p.m.