

DEVELOPMENT REVIEW COMMITTEE

Tuesday, March 28, 2023

MEETING MINUTES

The Monroe County Development Review Committee conducted a virtual meeting on **Tuesday, March 28, 2023**, beginning at 1:02 p.m. via Communications Media Technology (CMT).

CALL TO ORDER by Emily Schemper at 1:02 p.m.

ROLL CALL by Debra Roberts

DRC MEMBERS PRESENT

- Emily Schemper, Senior Director of Planning and Environmental Resources
- Cheryl Cioffari, Assistant Director of Planning
- Mike Roberts, Assistant Director, Environmental Resources
- Bradley Stein, Development Review Manager
- Rey Ortiz, Assistant Building Official
- Cassy Cane, Deputy Fire Marshal
- Craig Marston, Fire Marshal
- Judy Clarke, Engineering
- Shereen Yee Fong, FDOT Representative

STAFF MEMBERS PRESENT

- Peter Morris, Assistant County Attorney
- Devin Tolpin, Principal Planner
- Debra Roberts, Senior Planning Commission Coordinator

APPLICANTS & PUBLIC SPEAKERS PRESENT

- | | | | |
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| James Baxter | Stephanie Brown | Don Craig | Beatriz Duke |
| Beth Fennell | Christine Hurley | Julee Marzella | Alan Parker |
| Martha Parker | Carl Peterson | Alicia Putney | Gail Pomrink |
| Jim Simon | Millicent Simon | Shannon Steele | |

CHANGES TO THE AGENDA

Agenda Item 5 will be heard first.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, February 21, 2023, by Emily Schemper.

MEETING

5. 148 PALMETTO AVENUE, BIG PINE KEY (SENDER SITE); 31535 AVENUE C, BIG PINE KEY (SENDER SITE) AND 160, 170, 180 AND 190 SANDS ROAD, BIG PINE KEY (RECEIVER SITES): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT, ALLOWING THE TRANSFER OF ONE (1) MARKET RATE TRANSFERRABLE RATE OF GROWTH ORDINANCE (ROGO) EXEMPTION (TRE) FROM THE SENDER SITE LOCATED AT 148 PALMETTO AVENUE, BIG PINE KEY, LEGALLY DESCRIBED AS LOTS 15 AND 16, BLOCK 3, BIG PINE KEY INC. ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 4, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00256790-000000 AND ALLOWING THE TRANSFER OF THREE (3) MARKET RATE TRANSFERRABLE RATE OF GROWTH ORDINANCE (ROGO) EXEMPTIONS (TRE) FROM THE SENDER SITE LOCATED AT 31535 AVENUE C, BIG PINE KEY, LEGALLY DESCRIBED AS LOTS 1, 2, 3 AND 4, BLOCK 22, SANDS SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 65, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00302670-000000 TO THE RECEIVER SITES, LOCATED AT 160, 170, 180 AND 190 SANDS ROAD, BIG PINE KEY, LEGALLY DESCRIBED AS LOTS 1, 2, 17 AND 18, BLOCK 2, SAM-N-JOE SUBDIVISION, BIG PINE KEY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 76 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBERS 00300180-000100, 00300180-000200, 00300180-001700, 00300180-001800. (FILE 2023-065)

(1:03 p.m.) Ms. Emily Schemper, Senior Director of Planning and Environmental Resources presented the staff report. This is a request to transfer ROGO exemptions within Big Pine Key. Ms. Schemper reviewed the individual sender sites and where they would be transferred to on Big Pine Key. Market rate ROGO exemptions may be transferred and built on another site as market rate if replaced by affordable housing; or, the market rate ROGO can be transferred to another site and be built as affordable housing which is the situation here. These are being built for the Monroe County Employee Housing Rental Program for County employees, and will be affordable deed restricted. These sender and receiver sites all meet the requirements of the code and exemptions are documented. The land will be transferred to the County and is being coordinated as one process. These will be reviewed by the state before the transfers become effective. There were no questions, comments or concerns from the DRC members. Ms. Christine Hurley stated that the Land Authority Affordability is up to 160 percent of area median income, and the rules restrict to a lesser maximum than the Land Authority rules. Ms. Schemper confirmed that the general rental housing affordable threshold is 120 percent maximum of medium income.

Ms. Schemper then asked for public comment. There was none. Public comment was closed. Ms. Schemper stated that when this item is noticed that would start the 30-day appeal period, and it would then be sent to DEO for their review.

1. DOLPHIN RESORT (LITTLE PALM DOLPHIN RESORT DEVELOPMENT, LLC), 28550 OVERSEAS HIGHWAY, LITTLE TORCH KEY, FL 33042, MILE MARKER 28.5:

A PUBLIC MEETING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT BY DONALD CRAIG OF SPOTTSWOOD, SPOTTSWOOD, SPOTTSWOOD & STERLING ON BEHALF OF LITTLE PALM DOLPHIN RESORT DEVELOPMENT, LLC, FOR THE CONSTRUCTION OF A 38 UNIT RESORT WITH 8 EMPLOYEE DWELLING UNITS ON THE PROPERTY. THE SUBJECT PROPERTY IS DESCRIBED AS A PARCEL OF LAND IN SECTION 28, TOWNSHIP 66 SOUTH, RANGE 29 EAST, LITTLE TORCH KEY, MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00113570-000100. (FILE 2021-248)

(1:14 p.m.) Mr. Bradley Stein, Development Review Manager, presented the staff report. This is a request for a major conditional use permit to develop 38 hotel suites and eight affordable dwelling units for resort staff and back-of-house operations for Little Palm and Dolphin Resort. This property is located at the intersection of Pirates Road and U.S. 1. Mr. Stein presented the site plan. Staff finds the proposed conditional use is consistent with the purpose, goals, objectives and policies of the Comp Plan and Land Development Code. The land use district is suburban commercial zoning. Hotels providing 25 or more rooms are permitted as a major conditional use. The FLUM designation is mixed use commercial, Tier III infill area, and is currently used as the reception and shore station for Little Palm Resort. Mr. Stein reviewed the content of the site plan. Although previously not noted, the plan includes a fuel operation specifically only for the resort. Staff is requesting four items prior to going to Planning Commission. The letter of coordination from Solid Waste Authority has been received. The three remaining items are proof of permitting with FDOT addressing two areas that are FDOT property or portions of the right-of-way that contain improvements, site plan revisions showing shoreline open space calculations, and site plan revisions showing emergency access on U.S. 1 as requested by the Monroe County Fire Department that would be accessible only to the fire department. Mr. Stein noted that the boat ramp on site has an administrative variance that does not require the six boat trailer parking spaces. The condition would be that boat trailer parking is not going to be added to that variance if approved, and no one would be able to use that boat ramp as a guest of that resort, it would only be for the resort for resort boats.

Mr. Don Craig, agent for the applicant, stated that the proposed conditions are all acceptable to the applicant. At the suggestion by a neighbor, a right-hand turn lane off of Pirates Road to was reviewed by the applicant and consultant, Carl Peterson. The applicant agrees this would be a good idea and an improvement to both the neighborhood and the resort. The applicant will pursue this subject to not having to move one of the Keys Energy utility poles and if there is no huge amount of mangrove removal or fill. The applicant would also like the flexibility of applying for ROGO allocations for six of the proposed employee units rather than using the ones they have from Big Pine Key. If the affordable applications are not available, then they would transfer the six that they have on Big Pine Key. With the improvement to Pirates Road being at least 20 feet wide, the applicant is proposing 22 feet which would meet the requirements of fire code for access to the site without having to use the U.S. 1 existing access way. If that is acceptable to the Fire Marshal, the applicant would move ahead with that filling in of that existing access way with required buffer landscaping.

Ms. Schemper stated that there are a limited number of affordable applications remaining so the applicant should hold onto their six until the time comes. As to the height of the structures, Ms. Schemper noted that the applicant is measuring height from the crown of road on U.S. 1 which is acceptable as that is the roadway adjacent to the parcel. However, the definition of grade in Chapter 101, Section 101-1, indicates it should be measured from the crown or curb of the nearest road directly adjacent to the structure. The buildings on the south end of the property, which are closest to the neighborhood, are more appropriately measured from Pirates Road on the west side as that is the nearest road. This could result in a step down in height. Ms. Schemper is requesting these southernmost buildings be measured from Pirates Road which would take them down about ten feet. Mr. Craig responded that he could see her point and they have flexibility in roof designs and free board which can be looked at. However, when looking at the actual elevation from adjacent grade to the buildings, no building is more than 42 feet in height. U.S. 1 was the agreed-to reference point in a previous LDRD with the County several years ago and that's why it was used. Ms. Schemper pointed out that with three feet of voluntary free board which is extra flood elevation the height limit is 38 feet. When the new flood maps come out the BOCC has adopted a height policy of 40 feet as long as the building complies with the new flood map requirements.

Ms. Schemper then asked for clarification on the fuel tank proposal for the benefit of the community. Mr. Craig responded that he had previously stated that the fuel tanks for the marina use were being discontinued, but had been corrected. There are two existing fuel tanks on site, diesel and gas, both for the Little Palm Island boats. Those two concrete pads, which have been on at least three iterations of the site plan is where the fuel tanks will be placed to serve only the boats from Little Palm Island. Ms. Schemper confirmed that the actual tanks would be noted on the site plan. Ms. Schemper then asked for further questions or comments from DRC members.

Mr. Rey Ortiz, Assistant Building Official, asked to see the site plan noting that he had only seen one ADA parking space for the whole project and no ADA path to the swimming pool area. Mr. Craig pointed out where those were, adding that all state and local requirements for ADA would be followed, that the requisite handicap spots are on site along with a walkway to the pool. Mr. Ortiz then noted that the fuel dispensing areas did not look as safe as they could be and mentioned bollards between the parking area and dispensing units, nor does he see the storm water detail, and asked to have the affordable employee housing pointed out. Mr. Craig stated that any required bollards at the fuel station will be shown and he believes there will be no lost parking spaces, all of which will be detailed.

Ms. Shereen Yee Fong, FDOT, asked if the right turn lane had been requested yet at the FDOT's permit office. Mr. Craig responded that it had not been done yet, as they were waiting for staff and the local community to give assurance of reasonableness of the proposal. The applicant will pursue a full application with FDOT and submit it to both FDOT and the County as part of the right-of-way would be on County-owned property.

Mr. Craig Marston, Fire Marshal, requested that the existing entrance off of U.S. 1 be for emergencies only as that one means of ingress from Pirates Road would be inadequate for the fire department because there is so much going on there with arrivals and departures from the island as well as the activities once the development is finished. Ms. Schemper responded that

Mr. Stein would be providing that as a condition to the Planning Commission. Ms. Schemper then asked for public comment.

Mr. John Duke commented on the parking for the staff and the affordable units. Mr. Stein responded that there are 1.5 parking spaces per unit. Mr. Duke asked what height the fill would be brought up to. Mr. Stein responded the site plan shows filled to five feet according to the elevations. Ms. Schemper noted that the current site is three feet, adding two feet of fill to reach the five feet. Mr. Duke stated that that would be seven feet plus 40 feet is 47 foot on the units against the canal. Ms. Schemper did not understand where the seven feet was coming from. Mr. Duke pointed out that five foot coming up two plus 40 is 47 feet up, and the fill does not look to be five foot over the elevation of the canal. At high tide you have 2.5 feet before the water runs into the parking lot, and the neighborhood gets saltwater flooding on king tides.

Ms. Julee Marzella pointed out that the plan view presented does not show Blackbeard Road which is the closest adjacent road to the buildings, and asked if government vessels would still be launching from the boat ramp. Mr. Craig responded that on one occasion, members of FWC had requested to use the site. That has been allowed for state law enforcement agencies that come to the site and it is not on a regular basis. That would continue to be offered to FWC. It is not a public use, rather responding to law enforcement requirements. Ms. Marzella stated that according to the land development code, if government vessels are using the ramp, six truck and boat trailer parking spaces are required. Mr. Stein, whose wife works for FWC, agreed that if this use is still being allowed, there is no location for a trailer to park so the required boat ramp parking would be required to continue that use, even for a government use. Mr. Craig responded that if need be, the applicant would then no longer offer the ramp to FWC because there is no place on site to provide those parking spaces. Mr. Craig suggested those conditions be added to the approval. Ms. Schemper asked if this was in response to an emergency situation, because if Trauma Star has to land in the middle of a bridge, the road gets closed and they land in the middle of the bridge, and the County was not going to add conditions regarding law enforcement emergency needs. Ms. Marzella stated that presently, it is used on a daily basis by FWC, Border Patrol and various government agencies. Ms. Schemper responded that that is something different. Mr. Craig reiterated that if the County wants to condition that it could no longer be used for that purpose on a regular basis then that is what the applicant would do. Ms. Marzella suggested that it would be better to reduce the number of units to allow for the parking. Mr. Craig responded that the applicant will not do that. Ms. Marzella reiterated that the grade should be based on the elevation of Blackbeard Road, the nearest adjacent street. Ms. Schemper explained that per the code, that road is not adjacent to the parcel because it's across the canal. Ms. Marzella added that it had been referred to as an adjacent neighborhood. Mr. Stein clarified that the canal destroys adjacency.

Ms. Stephanie Brown first asked about the six additional ROGOs and whether that would be 38 units plus the eight, plus another six, expanding the total to 52 units. Mr. Craig responded that it is not an increase in density, only that the ROGO allocations would come from the County pool rather than the six Big Pine Key units which are presently being used for employees of Little Palm Island. Ms. Schemper clarified that the applicant was requesting affordable allocations to replace the market rate allocations they already have associated with the site, and those market rates could be sent to another site to build market rate housing. Mr. Stein further clarified that

the applicant was stating if the affordable allocations were not available the market rates would be transferred from Big Pine to build the already-requested eight affordable dwelling units. Ms. Brown was concerned that the total number of units would remain at 46. Ms. Brown then asked with FKAA's current level of water service below Comp Plan limits and the additional 46-plus units of water system capacity being not available, FKAA's current safety and reliability levels are placing the existing community at risk with substandard line pressures feeding bacterial growth and health hazards. Also, the lack of pressure and flow places homes and businesses at extreme fire risks in the Keys with our winds and in times of drought. Ms. Brown asked if these things were being considered and could the project be shelved until the potable water concurrency can be verified. Ms. Schemper responded that review for concurrency is done. She has not received any confirmation that the FKAA reduction in pressure is not meeting Comp Plan levels, nor that it is never going back up to what everyone is accustomed to. She is keeping an eye on this and trying to get updates. Ms. Brown then stated that her comments were hers alone. In May of 2022 she had shared comments from a collective group of Jolly Rogers Estates residents hoping to work with Little Palm Resort at which time the redevelopment was not in conflict to the community at large. In August of 2022, a letter was sent by Mr. Craig requesting the County's support despite any possible neighborhood objections. Though she appreciates that he is now listening a little, the unwillingness to apply for the variance to continue to use the U.S. 1 access is similar to what the fire department just stated and that there is still a lot going on there. Ms. Brown also wanted to address the affordable housing units which are not truly affordable housing units and is a misrepresentation. They are not affordable to Keys residents but rather serve the benefit of Little Palm and their retention of employees. Ms. Brown wanted to reiterate that the traffic studies had indicated Little Palm Cottages were located on Barry Avenue and the applicant has never resided on Barry Avenue, so the credibility of ACOM's March 24, 2022 Level 3 assessment states the May 2019 and the January 2022 studies are not the same. These inconsistencies bring forth the need for Monroe County to obtain an independent traffic study. At the October 22 community meeting Mr. Craig stated the resort could not improve its 15-foot gravel entrance from Pirates Road as the County would not allow it, yet at the February 2023 meeting, Mr. Craig disclosed the newest landscape plan where it has magically gone to 22 feet plus the resort entrance from Pirates Road. How would that impact the environmental impact that it was mitigating back in October of 2022, and how does it affect the mangroves, Key deer and marsh bunnies that inhabit that area. On the proposal there is a 49.39 NGGD allowable maximum height elevation. She appreciates those being staggered and being mindful of the 38 feet. There is a projected light bleed that impacts far more than those that currently exist on the site for the residents causing concern on the local sea turtle protection, and is inconsistent with the Lower Keys Livable CommuniKeys plan. The Pirates Road enhancement was encouraging to hear but should be without any of the stated contingencies because absent that, Little Palm and Dolphin Resort's self determination of Pirates Road will be the only primary access point to the property creates an unsafe vehicle and pedestrian impact. She personally experienced this on February 10, 2023, when her father was taken by ambulance from Jolly Rogers Estates to Key West Hospital. EMS was unable to exit Pirates Road onto U.S. 1 despite flashing lights, blaring sirens and the horn being held down while inching across U.S. 1 northbound as U.S. 1 southbound vehicles sped by at 50-plus miles per hour, and her father died. Making this accessible for the safety of the community is paramount.

Ms. Martha Parker stated she is becoming a new resident to this community. Turning left onto U.S. 1 south is very dangerous. Although a right-hand turn lane may be helpful, it would not resolve the issues being experienced. Safety is a concern without adding hundreds of cars to Pirates Road.

Mr. Alan Parker stated that he is concerned about the traffic. Weekends are already bad enough without adding more cars. One of the things he notices with trying to get these extreme variances is that limits are already pushed, including elevation, parking, and who can use the boat ramps. Another concern is groundwater runoff, and this is already pushing the limit saying this has parking for one and-a-half cars per unit when everyone knows it's not true, and what will be done about the groundwater runoff from all of these vehicles. Will it be contained, treated or end up running off into the water. The height elevation limits are being pushed. Working with FDOT to try to maybe get a lane, maybe a left-hand lane, there's a power pole in the way and that will be too expensive to move, the promises usually never come true and the people living there end up holding the bag. The size and scope of this project, trying to get these variances, and pushing these variances to the maximum is not what Little Torch Key is all about. This is a nice community and doesn't need a giant facility sitting at the entrance. The Key deer are an asset to this place and this facility will not be welcoming to Key deer. Every angle of this facility pushes the limits to the max and there's no give it's all take. The people that live on Blackbeard, despite what the code says that the canal separates it, that's their elevation and again there is no give and take. We know this is not affordable housing, rather only housing for people that work there. It's really not one and-a-half cars per unit it will be two cars per unit.

Mr. Craig interjected that the affordable housing is being provided for employees that currently work at Little Palm Island or will work at Dolphin Resort. They will be limited in income to 80 percent of the median of Monroe County. These are people who meet the requirements for affordable housing. To say otherwise is just not correct. These will meet every requirement for affordable housing that the County has, and the income level restrictions have been voluntarily restricted to 80 percent of the median which is not required.

Mr. Parker stated that this is for the employees, and to say the employees don't have a spouse or don't have children, what will be done with an employee who has five children and a spouse trying to live in one of these units. Mr. Craig responded that these are studio units. Mr. Parker then asked if there was an area for these children.

Ms. Schemper stated that this should not be a debate back and forth, adding that this project is not asking for any variances. The only change possibly was to parking for the boat ramp under the assumption there are no trailers. This now will be discussed based on this issue with FWC, but the project is not asking for variances. The applicant is developing within what is allowed in the zoning district here. Mr. Stein clarified that there is an administrative variance for the six trailer parking spaces required to go along with the boat ramp because the boat ramp will not be used by the guests. Ms. Schemper reiterated that the affordable units meet the requirements for Monroe County and eliminate the need for six additional employees to be driving to and from the site to get to and from work. Ms. Schemper understands this has an impact on the community. There used to be more going on at the site than there is right now, and it hasn't always been like this. Community input is being received and hopefully some of these needs can be addressed

though maybe some can't. The DRC is not the decision-making body. This will go before the Planning Commission so there will be one more public hearing. Ms. Schemper then stated there was not time today for speakers to make a second round of comments but that additional comments can be submitted by email and at the Planning Commission meeting.

Mr. Jim Simon stated that he, his wife Millicent Simon, and a neighbor James Baxter were all present. Mr. Simon stated that he was told by Mr. Stein that the U.S. 1 entrance had to be closed because it didn't meet the 250-foot threshold. The measurement from the abutment to the Big Pine Bridge to the entryway is only about ten feet short so there is no reason to close the entrance. Ordinances and statutes are based on the general health, welfare and safety of the community. Even though Blackbeard is across the canal, any kind of impact from a plan that is going to encroach on the safety and welfare of the community still needs to be considered. U.S. 1 doesn't need to be closed but if the resort plans on closing U.S. 1, there is an option that he asks this Committee to consider, that the U.S. 1 entrance can be shortened by ten feet. If they want to use Pirates Road as the main ingress/egress then he would recommend the private road leading to Pirates Road, make that the main road, closing off the entry to U.S. 1, and having the road reconfigured into the property. This plan as proposed places all of the traffic burden and emergencies on the residents of Little Torch Key. If the County agreed to closing off Pirates Road and U.S. 1 and reconfigure Pirates Road, that would lessen the burden. There would be a three-way configuration on the property burdening the resort with the traffic. When the construction starts taking place on what is an enormous project there will be staggering vehicle traffic. Why shouldn't the U.S. 1 roadway entrance be kept open or they can reconfigure Pirates Road onto their property. That would enhance the resort and reduce the emergency environment that they want to press onto Little Torch. Everything about this plan is designed to burden only the residents of Little Torch Key. Ms. Brown had a terrible incident. If the road was configured and the burden placed on the resort for ingress and egress and there were traffic control devices in place, the residents wouldn't have to be concerned about a lot of these burdens. This would also give the resort an opportunity to build further green belt or maybe some wetlands. This is part of their plan anyways. Mr. Simon has also heard about all of these agreements from Mr. Craig but once there is a development that is approved, they can go off and make changes without any input from the community. Mr. Simon asked Mr. Craig to grant covenants to the residents of Little Torch Key because the County is not going to be keeping them in check with the general health, safety and welfare elements of this development. The gasoline tanks could be taken away from the area close to residents of Little Torch Key and be placed over where the boats are going to be traversing back and forth. A covenant should be signed that says, as promised, none of their gas tanks will be bringing boats. He sees three boats used by Little Palm to carry people back and forth, but how many more will be permitted by the resort. There are no covenants to protect the residents. This whole plan is based on what the applicant submits. Ms. Schemper asked Mr. Simon to finish up as others wished to speak. Mr. Simon continued. Once this project is started there will be no place to put the workers or trucks or supplies. There will be parking on the berm of Pirates Road. These things should be addressed in this plan. Ms. Schemper again asked Mr. Simon to wrap it up. Mr. Simon continued. He has not heard anything about the lift station, water pressure, sewers or any studies on that. Given the present state of affairs and the age of the system, studies should have been presented for residents to feel more comfortable. Residents are relying on this commission to consider these matters.

Millicent Simon then asked to speak. She has seen people turning in to use Little Palm, miss the entrance and end up going down the street and using everybody's driveway on Little Torch because the entrance is too close to U.S. 1 and people can't make the turn that quick without jeopardizing everybody else. Where are the 108 off-street parking locations for the guests and where will the extra cars and trailers be parked? Mr. Jim Simon interrupted, asking where are the covenants to ensure residents will be protected. Ms. Schemper stated that his statements regarding covenants had been heard, but that is not how the County enforces conditions of permits. Ms. Schemper then moved to the next speaker.

Ms. Beth Fennell stated there are many valid reasons that this project should not be approved and the major conditional use should not be granted, the foremost being the lack of agreement and direct conflict with the goals, policies and objectives with both the 2030 Comp Plan and the Lower Keys Livable CommuniKeys document. Hundreds of Lower Keys citizens spent untold hours implementing both plans which reference each other and have concurrent policies to make sure the goals of both are followed. Ms. Fennell then read excerpts from the plan. Maintaining low density is mentioned twice on the first page. This project increases density on the site roughly fourfold. Ms. Fennell then read excerpts of Policy 101.19.1 of the Comp Plan. A fourfold increase in density at an already overburdened intersection is unsafe, adversely impacts this area, and radically changes the community character of this neighborhood denying the residents their given right of quiet enjoyment of their property. Ms. Fennell recommends this project not move forward and the major conditional use permit not be granted.

Mr. Shannon Steele agreed with the comments of Ms. Fennell. A lot of effort and time was put into the Lower Keys Livable CommuniKeys plan and everything about this development flies in the face of it. The idea was not to turn the Lower Keys into an extension of Stock Island yet along comes this proposal to build 46 units. Maybe it's consistent with code but it's not consistent with the CommuniKeys plan to maintain the low density and rural nature of the Lower Keys. This completely changes the community character of Jolly Rogers and denies everyone that lives there the lifestyle that they've become accustomed to. This giant facility makes no sense. It sounds like the residents have no choice and Mr. Steele does not know why these meetings are even being held if they can and will do this anyway with no discretion. It's like they will listen to the residents and maybe make changes or maybe not. But, if there is any discretion, use the discretion to benefit the residents being negatively impacted by this. Height has to be adjusted to the nearest road. Mr. Craig stated it could probably be brought down a couple of feet. Mr. Steele believes it should be exactly to the maximum of the code with no extra height allowed at all. It's obvious the applicant is using some sort of loophole in the code which allows measurements to be made off of U.S. 1 which, according to Ms. Schemper, it has to be the nearest road. This must be looked at and it can't be an inch over the maximum allowable. If there is discretion, then withhold approval until the applicant agrees to do that. It is a valid point to maintain the access of the boat ramp for FWC and the other government authorities and if that requires cutting back a unit or two to not maximize development, so be it. Everything is pushed to the limit and if there is any discretion to not do that, the County owes it to the citizens and residents of Jolly Roger to do that.

Ms. Beatriz Duke has been part of the Jolly Rogers community for 42 years and was part of the Livable CommuniKeys plan which she believed was for low density and the character of the

Torches, keeping the community safe with the rural atmosphere. This project does not fit in with these goals. Ms. Duke does not know how this plan came about. This will change the total character of this community. Safety wise it is a nightmare to make a left turn now so the traffic studies do not reflect what is happening now. Ms. Duke asks that the character of this neighborhood not be ruined with this monstrosity. This project is too much and is not part of the plan, it's inconceivable. Please listen to the residents who will be affected.

Ms. Alicia Putney, on behalf of the Key Deer Protection Alliance, stated that this group has participated in planning and development review processes over the past 33 years, including the development of the Livable CommuniKeys Plan. The process consisted of rigorous, well attended public hearings, focus groups and questionnaires. The resulting document went through the same development approval process as a Comp Plan amendment. The LCP's goals, objectives and policies carry the same legal weight of those of the 2030 Comp Plan. The Comp Plan supersedes the Monroe County Code. These LCPs cannot be legally ignored, yet this seems to be the case. This proposed development is not consistent with the mission statement of the Lower Keys plan which stresses low density, primarily residential development with controlled growth that preserves the environment and quality of life of the residents. The increased traffic will create serious problems at the already dangerous intersection of Pirates Road and U.S. 1 which will in turn increase the risk of Key deer mortalities. The proposed conditional use is out of scale for this location and does not ensure that Little Torch Key will remain low density, nor preserve the environment, quality of life or safety of the residents. This project should be denied.

Ms. Gail Pomrunk stated that she had no comments to add. There was no further public comment. Public comment was closed. There were no further questions or comments from the DRC members. Ms. Schemper summarized that there is some discretion on certain issues but there's not always infinite discretion on what can and cannot be changed in terms of what the code allows on a property. This item will proceed to the Planning Commission for a public hearing which is the body that actually approves or denies a major conditional use permit request and they may or may not attach conditions. It is important to submit comments and attend the Planning Commission hearing to ensure your voice is heard. Those can be emailed ahead of time in addition to attending the meeting. It is not scheduled yet but Planning Commission meetings are held both in person in Marathon and by Zoom and will be noticed.

2. AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO MONROE COUNTY LAND DEVELOPMENT CODE SECTION 134-2 AMENDING THE HOME OCCUPATION SPECIAL USE PERMIT REQUIREMENTS TO BE CONSISTENT WITH CHAPTER 2021-202, LAWS OF FLORIDA, SECTIONS 102-54-58, TO CLARIFY THE CONTINUING PURPOSE, REGISTRATION, AND REQUIREMENTS OF NONCONFORMING USES/STRUCTURES, SECTIONS 101-1-4, TO CLARIFY CONTINUING DEFINITIONS, RULES OF CONSTRUCTION, PURPOSE, AND APPLICABILITY, CHAPTER 114, ARTICLES I-VII., TO CLARIFY THE CONTINUING APPLICATION OF DEVELOPMENT STANDARDS TO DEVELOPMENT, SECTIONS 118-2(d)-(e), 118-4, 118-7, 118-9-10, 118-12-13, TO CLARIFY THE CONTINUING APPLICATION OF ENVIRONMENTAL PROTECTION REGULATIONS TO DEVELOPMENT, SECTIONS 130-1-2, 130-74, 130-156,

130-165, TO CLARIFY THE CONTINUING APPLICATION OF LAND USE DISTRICT REQUIREMENTS TO DEVELOPMENT, SECTIONS 131-1, 131-3, TO CLARIFY THE CONTINUING APPLICATION OF BULK REGULATIONS TO DEVELOPMENT; 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 2021-115)

(2:43 p.m.) Ms. Emily Schemper, Senior Director of Planning and Environmental Resources presented the staff report. The main topic of this proposed text amendment is based on state legislation from 2021. A bill was adopted that prohibits local governments from taking certain actions regarding regulation of home-based businesses. Ms. Schemper went over the criteria for a home-based business and explained that the local government is prohibited from regulating such businesses. The main portion of this amendment is to update Section 134-2 of Monroe County's existing home occupation regulations. Also rolled into this amendment is some clarification and cleanup in other sections and chapters of the code that are necessary for compliance with Florida Statute and to clarify where and when the land development code applies. Ms. Schemper presented some examples of the changes and clarifying definitions.

There were no comments or questions from the DRC members. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

3. 92330 OVERSEAS HIGHWAY, TAVERNIER, MILE MARKER 92 (SENDER SITE):
A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE TRANSFER OF SEVEN (7) MARKET RATE TRANSFERRABLE ROGO EXEMPTIONS (TRES) FROM THE SENDER SITE PROPERTY DESCRIBED AS LOTS 1, 2, 3, 4, 5 AND 6, TAVERNIER BEND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE(S) 74, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00487310-000000 TO BE HELD IN CERTIFICATE BY SUMMIT DEVELOPMENT SOUTH, LLC WITH NO DESIGNATED RECEIVER SITE. (FILE 2022-189)

(2:54 p.m.) Ms. Devin Tolpin, Principal Planner, presented the staff report. This item is a request for a transfer of seven market rate ROGO exemptions as described, with no designated receiver site at this time. The request is for the ROGO exemptions to be held in certificate until such time as a receiver site is designated. At that point, an additional minor conditional use permit will be required for the receiver site depending on how many ROGO exemptions will be located where. As documented in the 2018 letter of development rights determination the sender site contains eight attached market rate dwelling units, a restaurant and office. Ms. Tolpin reviewed the details of the six criteria evaluated for this transfer. Staff is recommending approval of this permit for the transfer that states that the transfer shall not be effective until a building permit has been issued and closed to either demolished and/or change the use for each of the units where the market rate ROGO exemptions are proposed to be transferred from. The applicant's intention is to convert the eight existing market rate units into seven affordable

housing development units. There is an affordable housing component for the transfer of ROGO exemptions. The applicant is intending to deed restrict the seven units. If that is not done, they would need to be transferred as affordable units or donate the sender site to the County. Staff recommends approval to transfer the seven market rate ROGO exemptions to be held in certificate with one added condition, that this conditional use permit will not become effective until such date that the building permit is closed for the demolition of the market rate dwelling units on the sender site and/or the change of use on the floor area to another use permitted within the zoning district on this property.

Ms. Schemper clarified that for condition number one where it says, “or the change of use of the floor area of the seven dwelling units to another permitted use,” that would include switching them over to affordable units if that is the plan. Ms. Tolpin confirmed that was correct. There were no questions or comments from DRC members. There was no public comment. Public comment was closed.

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY TIER OVERLAY DISTRICT MAP FROM TIER III-A TO TIER III AS REQUESTED BY SPOTTSWOOD, SPOTTSWOOD, SPOTTSWOOD & STERLING, PLLC ON BEHALF OF MARCIEJ JARZEBOWSKI FOR A PARCEL OF LAND LEGALLY DESCRIBED AS LOTS 2 AND 3 DOBIES SUBDIVISION AMENDED PLAT SUMMERLAND KEY PLAT BOOK 2 PAGE 135 AND A PARCEL OF LAND LEGALLY DESCRIBED AS BLOCK 2 PART OF LOT 21 SUMMERLAND KEY COVE ADDITION NO 2 PLAT BOOK 4 PAGE 100 SUMMERLAND KEY AND LOT 1 DOBIES SUBDIVISION PLAT BOOK 2 PAGE 95; HAVING REAL ESTATE NOS: 00188710-000000 & 00190940-000200 (FILE 2023-008)

(3:00 p.m.) Mr. Mike Roberts, Assistant Director, Environmental Resources, presented the staff report and a site plan of the parcel. There is no native upland habitat located on either site, and Mr. Roberts presented a current 2022 aerial of the current conditions which have been this way for quite some time. The Comp Plan and Chapter 130-130 of the Land Development Code provide the criteria for designating tiers. Tier I is natural area including old and new growth upland and native vegetated areas above four acres in area. Number three indicates lands located outside of Big Pine and No Name Keys that are not designated Tier I shall be designated Tier III. In item four, designated Tier III lands located outside of Big Pine and No Name Keys with tropical hardwood hammock or pinelands of one acre or greater in area shall be Tier III-A. The subject parcels do not meet the criteria for III-A and do not contain nor are contiguous to one acre or more of tropical hardwood hammock or pinewood. It is staff’s consideration that the tier designation of Tier III-A is not consistent with the Comp Plan policy, was not consistent with the policy at the time it was designated, and this appears to have been an error. The tier overlay district designation is utilized only to implement ROGO application, to score ROGO applications, and to establish clearing limits. As previously noted, these sites do not support native upland habitat and are still subject to ROGO. Staff’s opinion is that the tier designation would not impact community character in any way, and recommends approval.

Ms. Schemper clarified that there was no native vegetation and that it was not because it was cleared after being designated Tier III-3A. Mr. Roberts confirmed that to be correct. There were

no questions or comments from staff or DRC members. There was no public comment. Public comment was closed.

ADJOURNMENT:

The Development Review Committee meeting was adjourned at 3:08 p.m.