

DESIGNATION FROM RESIDENTIAL MEDIUM (RM) TO COMMERCIAL (COMM), FOR PROPERTIES LOCATED AT 106309, 106319, 106329, AND 106339 OVERSEAS HIGHWAY, KEY LARGO, FL, APPROXIMATE MILE MARKER 106, HAVING PARCEL IDENTIFICATION NUMBERS 00538470-000000, 00538460-000000, 00538450-000000, and 00538440-000000 AS PROPOSED BY ISLAND CONSTRUCTION MANAGEMENT, INC. ON BEHALF OF DEL SOL POINT, 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 FUTURE LAND USE MAP DESIGNATION (FLUM) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2023-086)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO COMMERCIAL 1 (C1), FOR PROPERTIES LOCATED AT 106309, 106319, 106329, AND 106339 OVERSEAS HIGHWAY, KEY LARGO, FL, APPROXIMATE MILE MARKER 106, HAVING PARCEL IDENTIFICATION NUMBERS 00538470-000000, 00538460-000000, 00538450-000000, and 00538440-000000 AS PROPOSED BY ISLAND CONSTRUCTION MANAGEMENT, INC. ON BEHALF OF DEL SOL POINT, 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 2023-087)

(1:03 p.m.) Ms. Devin Tolpin, Principal Planner presented the staff report. These items are two private applications to amend the Future Land Use Map and Land Use District Map for four lots located at mile marker 106 in Key Largo. These are four platted lots currently within IS zoning and designated as Residential Medium. The applicant is proposing to amend the zoning district to Commercial 1, and amend the Future Land Use Map to Commercial. The properties are designated as Tier III and are in an X flood zone.

The proposed amendment to the Commercial FLUM and zoning district would result in a decrease in allocated density of four dwelling units. Currently, the land development code allows for a density of one dwelling unit per platted lot. The zoning district proposed has no allocated density, but would result in the allowable development of non-residential uses on the property. The floor area ratio that could be permitted would range from 3,961 to 10,564 square feet based on the proposed non-residential development if the zoning change is permitted. The applicant has stated the reason for the proposed amendment is that the property should have been designated as non-residential. They are adjacent to U.S. 1 next to commercial uses in the commercial corridor. The zoning of the properties from 1973 to 1986 included the properties in a BU-1 or Light Business District. Ms. Tolpin presented a snap of the properties with the proposed C-1 zoning overlaid noting that the surrounding community character has an Improved Subdivision neighborhood to the southeast of the property, however there is also surrounding Suburban Commercial zoning around the property. The Suburban Commercial and the proposed Commercial 1 zoning districts are very similar in the different uses that could be permitted and at various intensities and Ms. Tolpin presented a table showing that the floor area ratios are

identical. This means if these proposed changes are approved it will result in the same permitted and conditional uses and at the same intensities as the surrounding area. The proposed change completely eliminates the residential density on the property which is how the application demonstrates consistency with the discouragement policy. This proposal would not create any additional residential uses or increase the residential development potential on the property. The proposed amendment has been reviewed for consistency with the Comp Plan and the Land Development Code, and would not reduce the level of service for concurrency for traffic, potable water, solid waste, schools or other facilities. Staff recommends approval of both amendments.

Ms. Schemper asked if any DRC members or staff had any questions or comments. There were none. Ms. Schemper asked if the applicant wished to speak. Mr. Don Horton, representing the applicant, attempted to speak but had poor internet connectivity. Ms. Roberts interjected that Mr. Horton had emailed her stating that he had nothing to report. Ms. Schemper then asked for public comment.

Ms. Dottie Moses of Key Largo stated that at the community meeting it was brought up that this intersection has been a problem for the neighborhood. There was a request that FDOT do a study on it and come up with some type of redesign for this intersection where mile marker 90.5 and the curve of U.S. 1 come together. She is concerned that this would aggravate the traffic problem or would not allow the redesign if this property was allowed to develop commercially. The neighborhoods on both sides of the highway are concerned about changing the intensity of use of the area.

Ms. Schemper responded that traffic for the specific site would be considered at the time of permitting of a business which is being operated there already. This portion of FDOT's redesign was completed and they have begun to implement some short-term solutions for this intersection but staff does not have the larger, big-picture redesign plan. Ms. Shereen Yee Fong of FDOT stated that she had not personally worked on this but would follow up with Ms. Schemper, who believed that Ramon had been working on this. Mr. Don Horton, representing the applicant, reconnected and stated he was available for any questions or discussion. Ms. Tolpin clarified that there has only been an approved office use on one of these three lots, and that the other lots have no approved use. Any development of the site would require compliance with the Land Development Code and Comp Plan at that time.

Mr. Spencer Slate asked if there was a time line when this would be approved and whether it would have any bearing on the study. One of the things the community is trying to prevent, which is actually already happening, are customers and boats and the business parking going down all of the streets in the neighborhood. This is a big deal because the boats are huge, the trailers are big and the trucks are dualies. This could add more customers as the property grows to a commercial use. Mr. Slate asked if there was a time line when this would get changed or fixed so the situation doesn't get worse.

Ms. Schemper explained that this is four separate lots and the business that is operating has not received permitting approval or review for site planning or parking requirements. There is also a code case open on the property. In order to get permits for this type of business they need to change the zoning. This is the first step toward that permitting. What is currently happening

there does not appear to meet the code requirements for parking, but it hasn't been reviewed yet. This is a long process to get through the zoning amendment, then permitting, and possibly even a conditional use permit. Ms. Schemper intends to follow up with Code Compliance to eliminate some of the things that are happening now but this could take four to six months, likely longer, to get through permitting. However, this is not linked to the intersection study. Staff will coordinate with FDOT if they are moving forward with ideas on this intersection. Mr. Slate added that the roads going through the neighborhoods are very narrow. Two cars passing is very close even without the trucks parking there, and the only place left to park is along U.S. 1 along the bike path. Ms. Schemper stated that she does not believe any parking along the right-of-way is allowed by FDOT.

Mr. Don Horton responded regarding the current number of vessels having been unanticipated. The owner of the property has acquired a parcel across the highway and has assured him that the congestion there is leaving and going across the highway. When the application is made for any future development after the zoning and FLUM changes are hopefully approved, this will be addressed through site plan approval. There has been approval on the one lot for a non-residential use. Ms. Schemper added that some of the issues currently happening may need to be addressed before getting to site plan approval because it's causing an issue due to not meeting site plan requirements. Mr. Horton stated that he, the owner, and Mr. Ty Harris are addressing these issues.

There was no further public comment. Public comment was closed. Ms. Schemper explained that this would go before the Planning Commission for recommendation and then before the BOCC for actual approval and adoption. This will be noticed again when it's headed to the Planning Commission.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY TIER OVERLAY DISTRICT MAP FROM TIER I TO TIER III, FOR A PORTION OF THE PROPERTY LOCATED AT 18 KAY DRIVE, KEY LARGO, MILE MARKER 101, DESCRIBED AS A STRIP OF LAND 125 FEET WIDE LYING IN SECTION 21, TOWNSHIP 61, RANGE 39 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, BEING PART OF TRACT 7, AND PART OF TRACT 8, LARGO SOUND-TARPON BASIN PROPERTIES, PLAT BOOK 4, PAGE 130, HAVING PARCEL ID 00086580-000000, AS PROPOSED BY RAFAEL BEZANILLA; 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 TIER OVERLAY DISTRICT MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2023-135)

(1:24 p.m.) Mr. Mike Roberts, Assistant Director, Environmental Resources, presented the staff report. This is a tier map amendment to modify the tier overlay district designation for a portion of the lot on 18 Kay Drive from Tier I to Tier III. Mr. Roberts presented an exhibit depicting the parcel, indicating that the left portion corresponds to the current RV zoning of the parcel. The current conditions consist primarily of a paved roadway. What had been Australian pines were recently cleared prior to review of this application. North of the property is Key Largo Trailer

Village. South of the property is Calusa Campground. To the east is existing publicly-owned hammock. To the west is mangrove wetland which is part of the Everglades National Park.

Tier boundary determinations are based on what is applicable to Tier I, and those properties which are not Tier I are to be designated Tier III. When applying the tier designation for a parcel, that designation is applied to the parcel as a whole except for where there is a distinct geographical feature that suggests or would encourage the break of the tier designation in that location. Staff's review suggested that the change in habitat as well as the development to the north and south of this portion of the parcel constituted such a geographic break and that was how the amendment application was evaluated. The criteria evaluated were: Vacant lands which can be restored to connect native upland habitat patches to reverse further fragmentation of native upland habitat, and there is no native upland habitat to the west of the property. As to lands required to provide an undeveloped buffer up to 500 feet in depth, this parcel does not buffer any existing hammock. Lands designated for acquisition, which this property is not under Florida Forever or any of the other public acquisition programs. Known locations of threatened and endangered species, and this parcel has not be identified as a known location. Conservation native area or sparsely settled, and as noted previously, the current designation of the property is RV. Areas with minimal development and infrastructure and, as indicated by the aerial, such is not the case. U.S. 1 is immediately to the east of the property, and to the north and south are heavily developed subdivisions. Those areas, lands outside of Big Pine and No Name that are not designated Tier 1 shall be designated Tier III. For those purposes, the subject parcel does not meet the criteria for Tier 1 and staff recommends approval of the proposed amendment.

Mr. Roberts explained that a community meeting had been held on August 24, 2023, which was well attended by the public. A number of folks in the community were concerned about the future development potential for the property. This is a tier map amendment which does not evaluate any proposed future uses of the property. It is only concerned with the tier criteria.

Ms. Schemper asked if DRC members had any questions or comments. There were none. Ms. Schemper then asked for any staff questions or comments. There were none. Ms. Schemper asked if the applicant wished to speak. Niuris Bezanilla, representing the applicant, stated that this is only a tier criteria change and as it does not fall under Tier I, it should naturally go to Tier III. Ms. Emily Mercedes Lozada, agent for the applicant, stated that she had no comments. Ms. Schemper then asked for public comment.

Ms. Lisa Reves of the law firm Becker and Poliakoff, representing Calusa Campground Condominium Association, Inc., wanted to draw attention to the fact that Section 130-130C, Tier Boundary Criteria, indicates that if land meets at least one of the following critieria it will be designated as Tier I. Criteria A: Vacant land which can be restored to connect upland native habitat patches and reduce further fragmentation of upland native habitat. The subject parcel is vacant land which can be restored to connect to the tropical hardwood hammock and reduce further fragmentation of the upland native habitat between the parcel to the east and the parcel to the west. Criteria D: No notifications of threatened and endangered species as defined in Section 101-1 identified on the Threatened and Endangered Plant and Animal Map for the Florida Keys. Carrying capacity maps were identified in on-site surveys. Included in the information provided by the applicant is Ms. Sutherland's environmental consultant report which

indicates that the subject parcel includes black mangroves and white mangroves, two species of special concern. Species of special concern warrant consideration, and allowing Tier III designation would allow for forty percent of those species to be removed. Also, Section 130-130E says that the clearing of tropical hardwood hammock or pinelands that result in the reduction of the area of an upland native habitat patch to less than one acre minimum shall not constitute sufficient grounds for amending the designation. The subject property is subject to code enforcement action due to the property owner's unpermitted clearing of native vegetation in many areas. Corrective action requires the property owner to restore that vegetation. Since it's been determined that the vegetation must be restored, changing to a Tier III designation would allow the removal of forty percent of the habitat which contravenes the intention of the restoration permit. If the property meets one of the criteria, it is to be designated as Tier I. Here, the subject property meets two criteria and the request for tier modification must be denied.

Ms. Schemper asked if Ms. Reves had submitted those comments by email, and she had not. Ms. Schemper stated that if Ms. Reves wanted to submit them by email, they would be reviewed, and then provided her with Mr. Roberts' email address. There was no further public comment. Public comment was closed. Ms. Schemper explained that this tier recommendation will go before the Planning Commission for recommendation and then before the BOCC for actual adoption, and would be noticed again for both of those hearings.

ADJOURNMENT:

The Development Review Committee meeting was adjourned at 1:38 p.m.