

DEVELOPMENT REVIEW COMMITTEE

Monday, February 24, 2025

MEETING MINUTES

The Monroe County Development Review Committee conducted a virtual meeting on **Monday, February 24, 2025**, beginning at 1:00 p.m. via Communications Media Technology (CMT).

CALL TO ORDER by Emily Schemper at 1:00 p.m.

ROLL CALL by Debra Roberts

DRC MEMBERS PRESENT

- Emily Schemper, Senior Director of Planning and Environmental Resources
- Mike Roberts, Assistant Director, Environmental Resources
- Cheryl Cioffari, Assistant Director of Planning
- Devin Tolpin, Planning & Development Review Manager
- Rey Ortiz, Assistant Building Official
- Craig Marston, Fire Marshal
- Brian Oppenheimer, Deputy Fire Marshal
- Judy Clarke, Engineering (Joined prior to Item 3)
- Christina Gardner, Naval Air Station Key West
- Shereen Yee Fong, FDOT Representative

STAFF MEMBERS PRESENT

- Peter Morris, Assistant County Attorney
- Barbara Powell, Senior Policy Advisor
- Matthew Restaino, Senior Planner
- Liz Lustberg, Senior Planner
- Devin L. Rains, Planning & Development Permit Services Manager
- Debra Roberts, Senior Planning Commission Coordinator

APPLICANTS & PUBLIC SPEAKERS PRESENT

- Item 3 Rachel, Applicant

- Item 4 Jess Goodall, Agent David Smail Andrew Tobin
- Chris Hogay (ph) Joan Scholz Douglas Daniels
- Melissa Kozak Ptomey Richard Barreto Raul Guerra

- Item 6 Jess Goodall, Agent

CHANGES TO THE AGENDA

None.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, January 21, 2025, by Emily Schemper.

MEETING

Items 1 & 2 were read together.

1. AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY 2030 COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT AND THE HOUSING ELEMENT TO MODIFY THE REQUIREMENTS RELATED TO THE 300 KEYS AFFORDABLE WORKFORCE HOUSING INITIATIVE EARLY EVACUATION UNIT BUILDING PERMIT ALLOCATIONS CREATED BY THE GOVERNOR OF FLORIDA, ATTORNEY GENERAL OF FLORIDA, CHIEF FINANCIAL OFFICER OF FLORIDA, AND FLORIDA AGRICULTURE COMMISSIONER ACTING IN THEIR CAPACITY AS THE FLORIDA ADMINISTRATION COMMISSION BY REMOVING THE 1-FOR-1 TAKINGS AND BERT HARRIS ACT LIABILITY REDUCTION EXCHANGE REQUIREMENT BY AMENDING, AS WELL AS CLARIFYING, POLICIES 101.2.2, 101.2.4, 101.3.1, 101.3.2, 101.3.3, 101.3.4, 101.3.10, 101.3.11, 101.3.12, 601.1, 601.1.1, 601.1.2, 601.1.8, 601.1.11, 601.5.1; 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 COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (FILE NO. 2024-213)

2. AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE AMENDING SECTION 138-24, RESIDENTIAL ROGO ALLOCATIONS, TO MODIFY THE REQUIREMENTS RELATED TO THE 300 KEYS AFFORDABLE WORKFORCE HOUSING INITIATIVE EARLY EVACUATION UNIT BUILDING PERMIT ALLOCATIONS CREATED BY THE GOVERNOR OF FLORIDA, ATTORNEY GENERAL OF FLORIDA, CHIEF FINANCIAL OFFICER OF FLORIDA, AND FLORIDA AGRICULTURE COMMISSIONER ACTING IN THEIR CAPACITY AS THE FLORIDA ADMINISTRATION COMMISSION BY REMOVING THE 1-FOR-1 TAKINGS AND BERT HARRIS ACT LIABILITY REDUCTION EXCHANGE REQUIREMENT; 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 NO. 2024-215)

(1:05 p.m.) Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. These amendments are for the Comprehensive Plan and Land Development Code to remove the one-for-one exchange requirement as directed by the BOCC at the December 11, 2024 meeting. There are also changes to create consistency with the name to be the Affordable Workforce Early Evacuation Unit. The community meeting was held on December 12, 2024 where feedback was received relating to enforcement of on-site management, prohibition of affordable units going into a coastal A-zone similar to the V-zone, and to maintain the limitation of transfer of early

evacuation affordable workforce units from municipalities to the County. Changes were made to remove the reference to Florida Department of Economic Opportunity to State Land Planning Agencies for consistency in the document should the State decide to change the name of the department. Affordable-workforce will be hyphenated for further clarity due to future amendments related to workforce market rate units. The big changes are in Policy 101.3.12 for the exchange requirement, where a significant amount of text has been taken out as it was specific to the one-for-one exchange. Language was added in to provide clarity for when the BOCC adopts the resolution related to the reservation that it can include conditions as it deems appropriate such as establishing income categories for the allocations granted. Changes reflected in the code mirror those in the comp plan. The main changes are in subsection (e) removing the one-for-one exchange. In response to the community's input staff discussed the potential of enforcement of the on-site management office which could be considered through the declaration of restrictive requirements or some sort of legal instrument. Staff will look to see if there is language that can be added clarifying what that on-site management needs to have. As to the prohibition of affordable units going into Coastal A-zones with the adoption of the new FEMA maps, staff is not recommending that change at this time as the Affordable Housing Committee may expand where affordable housing could go. For consistency, staff is trying to take the input of the community members as well as the committees to maintain a consistent direction. As far as maintaining the limitation of transferring those units between the municipalities and the County and vice versa, staff is maintaining that limitation.

Ms. Emily Schemper, Senior Director of Planning and Environmental Resources, stated that she had no questions, and asked for questions or comments from DRC members. There were none. Ms. Schemper then asked for public comment. There was none. Public comment was closed. Ms. Schemper explained that these items would proceed to the Planning Commission for their recommendation to the BOCC. Then the BOCC would hold a transmittal hearing for the Comp Plan portion that goes to the State for review. Then the Comp Plan Amendment and the Land Development Code Amendment both come back to the Board for final adoption. This may take four or five months before adoption with several more hearings for public input. Emailed comments are also accepted. There are lots of big amendments for ROGO happening right now.

3. BELLA CONSTRUCTION OF KEY WEST INC., 35 DIAMOND DRIVE, BIG COPPITT KEY, MILE MARKER 11: A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE DEVELOPMENT OF A PROPOSED 2,240 SQUARE FOOT GARAGE STRUCTURE, A LIGHT INDUSTRIAL USE. THE PROPERTY IS DESCRIBED AS A PARCEL OF LAND BEING A PORTION OF TRACT A AS SHOWN ON THE PLAT OF PORPOISE POINT SECTION FIVE, RECORDED IN PLAT BOOK 5, PAGE 119, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00156310-000100. (FILE 2021-214)

(1:16 p.m.) Mr. Matthew Restaino, Senior Planner, presented the staff report. Mr. Restaino presented a map of the subject property outlined in blue, located in the suburban commercial land use district where a light industrial use is permitted as a minor conditional use under LDC Section 130-93(b)(7). Mr. Restaino presented the site plan with the proposed garage circled in red. The other existing building serves as an office which was previously permitted as-of-right

per LDC Section 130-93(a)(1). Access to and from the property will be via the existing access drive on Diamond Drive previously permitted with the office building. The site plan demonstrates compliance with parking requirements pursuant to LDC Section 114-67, and with bulk regulations, setbacks, open space, height, and environmental criteria such as buffer yards, landscaping, et cetera. Full compliance with NROGO, floodplain management, energy and potable water conservation standards, ADA accessibility and inclusionary housing will be reviewed at the time of building permit review. Corrections may be required for those items at that time. No information was provided regarding any proposed outdoor lighting or signs. If either are proposed, they will also be reviewed at the time of building permit. Otherwise, the site plan demonstrates compliance with the Comp Plan and Land Development Code. Approval is recommended, pointing out that approval condition three includes an incorrect square footage of the proposed garage which was simply an oversight, but the condition has been updated for this presentation as well as a draft of the development order.

Ms. Schemper stated that she had no questions, and asked for questions or comments from DRC members. Mr. Rey Ortiz asked what occupancy was proposed for this site as it could trigger ventilation requirements for an industrial use. He saw no floor plan but wanted the applicant to be aware that there most likely will be these requirements along with whatever the Fire Marshal and Building Code require for fire suppression systems. Also, depending on the type of vehicles and equipment and what they run on will be considered. Ms. Rachel speaking for the applicant stated that they will be housing two large concrete boom pumps to ventilate as required. Ms. Christina Gardner, Naval Air Station Key West, made her standard comments that this is within the MIAI and is pretty close to the clear zone for one of the runways. Ms. Schemper then asked for public comment. There was none. Public comment was closed. Ms. Schemper explained that this is the last stop for this item before approval.

Items 4 and 5 were read together.

4. BLACKSTONE GROUP TAVERNIER 925, L.L.C. AND VC TAVERNIER, LLC, 92501 OVERSEAS HIGHWAY, TAVERNIER, MILE MARKER 92: A PUBLIC MEETING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE PROPOSED DEVELOPMENT OF A COMMERCIAL RETAIL USE AND INSTITUTIONAL OFFICE SPACE FOR A LOCAL NONPROFIT WITH UP TO 49,900 SQUARE FEET OF NONRESIDENTIAL FLOOR AREA AND 86 ATTACHED, DEED RESTRICTED AFFORDABLE WORKFORCE DWELLING UNITS. THE SUBJECT PROPERTY IS DESCRIBED AS PARCELS OF LAND IN SECTION 27, TOWNSHIP 62 SOUTH, RANGE 38 EAST, TAVERNIER, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBERS 00089490-000000 AND 00490250-000000. (FILE 2022-012)

5. BLACKSTONE GROUP TAVERNIER 925, L.L.C. AND VC TAVERNIER, LLC, 92501 OVERSEAS HIGHWAY, TAVERNIER, MILE MARKER 92: A PUBLIC MEETING CONCERNING A REQUEST FOR A DEVELOPMENT AGREEMENT BETWEEN MONROE COUNTY AND BLACKSTONE GROUP TAVERNIER 925, L.L.C. AND VC TAVERNIER, LLC. THE REQUESTED AGREEMENT RELATES TO THE DEVELOPMENT OF 86 ATTACHED, DEED RESTRICTED AFFORDABLE WORKFORCE

DWELLING UNITS AND UP TO 49,900 SQUARE FEET OF NONRESIDENTIAL FLOOR AREA. NO STRUCTURES WILL BE HIGHER THAN 38 FEET. THE SUBJECT PROPERTY IS DESCRIBED AS PARCELS OF LAND IN SECTION 27, TOWNSHIP 62 SOUTH, RANGE 38 EAST, TAVERNIER, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBERS 00089490-000000 AND 00490250-000000. (FILE 2024-041)

(1:25 p.m.) Ms. Devin Tolpin, Senior Planner, presented the staff report, first on the major conditional use permit and a medium intensity commercial retail use on the property. Following preparation of the major conditional use permit, staff received an updated version of the development agreement from the applicant that included reference to an approximately 350 square foot office space proposed within the previously proposed clubhouse for the accessory units, which will be fully discussed and analyzed in presentations from here on out. Ms. Tolpin presented an image of the subject property, noting that the County's GIS web application had not been updated yet, but that the interior parcel boundaries of the overall property have shifted. The eastern portion where the proposed affordable dwelling units will be located is owned by VC Tavernier, LLC. The western portion is owned by Blackstone Group Tavernier 925, LLC where the proposed non-residential structure will be located. The property is located within the suburban commercial land use district, designated as mixed use commercial and Tier III. This property is located in multiple overlays, the first being the Tavernier Corridor Overlay District described in Section 130-128 of the Land Development Code. All new development in this overlay requires consistency with the adopted design guidelines. The property is also located within the Tavernier Commercial Overlay District adopted by the BOCC last February through Ordinance 004-2024 establishing Land Development Code Section 130-143, allowing for development of up to 49,900 square foot structure or NROGO allocation and 86 workforce housing dwelling units. This overlay also requires a development agreement to construct a structure over 10,000 square feet to get to the maximum limit, and limits the total development potential to the development being proposed today. The eastern portion of the property is also located within the Tavernier Workforce Subarea One established in Comp Plan Policy 113.1.1 adopted with Goal 113 and Objective 113.1 in December of 2024. The property is also subject to the guiding policies and requirements of the Tavernier Livable CommuniKeys Plan.

Ms. Tolpin presented the proposed site plan with the 47,240 square foot medium intensity retail use in the center with a 2,100 attached liquor store. There are about 248 parking spaces proposed in the front of the development which exceeds the minimum required. The overall development meets the setback requirements of 25 feet off of the front property line. The site is accessed by U.S. 1. As part of the development agreement required, there is a requirement that the portion of the property along U.S. 1 must have a Class E district boundary buffer. The landscape plan is in compliance with that requirement. At the top of the screen are six residential buildings which have 188 off-street parking spaces. There is an accessory clubhouse at the bottom right of the plan, and a building where the 350 square foot office space is proposed requiring one parking space. There is 400 feet required between curb cuts on U.S. 1 for this portion of the highway. This curb cut will be less than 280 feet from Garden Street to the north and is not in compliance with the required access standards. The applicants have submitted a request for a variance requesting a reduction in that distance requirement. This will be scheduled to go before the Planning Commission at the same time as this major conditional use permit.

There is about 40 percent of upland open space proposed. The code only requires 20 percent. This development proposal with 49,640 square feet of nonresidential floor area and 86 affordable units is utilizing 99.6 percent of the development potential within the Tavernier Commercial Overlay. Ms. Tolpin presented an elevation for each of the proposed buildings. The supermarket has a height of 35 feet. Building A-2 has 12 dwelling units, Building A-1 has two dwelling units, Buildings B, C and D will have 16 dwelling units, and Building E will have 24 dwelling units, and then the accessory clubhouse and office space. None of the residential buildings will exceed a height of 38 feet and are in compliance with the County's Code and Tavernier Corridor design guidelines.

LDC Section 110-67 describes nine applicable standards to all conditional uses. The asterisk next to the standard describing consistency with the community character is a typo and is not alluding to a note somewhere else. There were two standards that the development proposal is not yet in compliance with, that being adequacy of public facilities and services regarding the transportation and traffic reviews. The submitted Level 3 traffic study, proposed mitigation and traffic safety study required have not yet been approved. Staff recommends that prior to this going before the Planning Commission these be approved by the Planning Department and the transportation consultant. The other standard applicable to all conditional uses is that the proposed use complies with all additional standards imposed on it by this particular revision of the Land Development Code authorizing such use and by all other applicable requirements. This standard has not been met yet due to the access drive situation. This standard will be addressed and will be in compliance if the Planning Commission authorizes approval of the variance to reduce the distance between required curb cuts. Staff is requiring that prior to scheduling of the Planning Commission hearing, all comments be addressed including but not limited to the requirement that the traffic study, traffic safety study, and proposed mitigation be accepted by the Planning Department. Assuming that is addressed and compliant, staff recommends approval with conditions one through sixteen listed on pages 26 and 27 of the staff report.

Mr. Rey Ortiz noted that the site plan provided was not very detailed, but he noticed that it seems a little tight. Possibly a study for turning radiuses of vehicles, especially fire department apparatuses, will be sufficient to navigate the site. He also did not see fire lanes around the perimeter of the building. He wants to make sure the applicant is aware as it may change the square footage of the building as this moves forward. Ms. Tolpin responded that the circulation is being reviewed at least for delivery trucks by the transportation consultant, and she has received letters of coordination from the fire marshal's office so the applicant has been communicating with them. Ms. Shereen Yee Fong, FDOT, added that the aerial view did not show the access onto U.S. 1 as marked on the site plan and wanted to know how it is operating now. Secondly, FDOT would also need to see the traffic and safety studies report, and the applicant may need to get a permit from FDOT. Ms. Tolpin responded that the site is currently being accessed from the same curb cut shown on the site plan, though there may be some modifications required to bring it up to the proposed standard. Ms. Yee Fong added that the applicant would then need to get a permit through FDOT.

Ms. Tolpin then discussed the proposed development agreement between Monroe County and Blackstone Group Tavernier 925, LLC and VC Tavernier, LLC. Code Section 110-132 states that development agreements provide assurance to a developer that upon receipt of his permits

under the County's Comp Plan and Land Development Code, he or she may proceed in accordance with existing ordinances and regulations subject to the conditions of a development agreement. This development agreement is also required for the proposed development per Code Section 130-143. The applicant's proposed development agreement was included as attachment one to the staff report that was posted on the website. The proposed development agreement with staff recommended edits was included as attachment two. Ms. Tolpin then went through the 32-page development agreement page by page, reviewing all of staff's edits in detail. The BOCC shall have authority to enter into a development agreement with any person having a legal or equitable interest in real property provided the five standards are met. Staff recommends approval of this request for development agreement going before the Planning Commission. The five standards must be addressed. One through three have had updates submitted on them, and Ms. Tolpin highlighted number four, the traffic study mitigation report and traffic safety study which must be approved and determined to be adequate. Once these concerns are addressed, staff recommends approval with staff-recommended edits depicted in attachment two. Staff reserves the right to request revisions as the process continues beyond DRC.

Ms. Schemper stated that she had no questions, and asked for questions or comments from DRC members. There were none. Ms. Schemper then asked if the applicant wished to speak. Mr. Jess Goodall, speaking on behalf of the applicant, had no comments, but thanked staff for their work on this item and looks forward to moving forward. Ms. Schemper then asked for public comment.

Mr. David Smail, a property owner for the past 24 years, is very concerned about this development and its impact on the community and driver's on Overseas Highway. He knows several individuals who spent years developing the Tavernier Livable CommuniKeys Plan and he believes the commercial side of this development does not meet several criteria of that plan. The proposed access would have an entrance on the northbound lane of U.S. 1 just south of Garden Street across from the Mobil gas station which is in the highway median. According to the December 24, 2024 traffic study, the project will generate approximately 5,362 daily vehicle trips. Assuming half of the visits come from the south, vehicles that want to head back south exiting the development will need to make a right-hand turn and go to the traffic signal at Burton Drive and make a left. There are traffic lights on both the north and southbound lanes at Burton Drive and a very small number of vehicles will fit in the median while waiting for the traffic light to change which will cause vehicles to back up on the northbound lane. Some drivers may decide it would be easier to cut through the Mobil station or Dairy Queen which will increase the number of traffic accidents. Prior to approval of this development the potential traffic problems must be solved by providing better access to the project and those changes should not make the traffic situation worse. Any changes to the Overseas Highway including additional lanes, traffic signals, traffic circles or other modifications should be paid for by the developer. The development should not be approved until the needed changes to the Overseas Highway are designed and approved. A certificate of occupancy should not be given to the project until all improvements to the Overseas Highway are completed. He is also very upset that the developer has started working on the property without a permit and has destroyed wetlands. He does not know how the developer can be trusted in the future. A supermarket is not needed as there is a beautiful new Publix ten miles north of the Winn Dixie Supermarket and a half a mile south.

Mr. Andrew Tobin thanked staff, stating that he had never seen a more complicated project, and he's been in the Keys since 1976, was the County's first Code Enforcement prosecutor, and has done development from Key West to Ocean Reef. He asked for clarification on a couple of technical issues. The site plan shows a 25-foot buffer, and the aerials show vegetation, so if there's vegetation, wouldn't there be a requirement for a 50-foot buffer from the wetlands. He has heard conflicting comments whether a 25-foot vegetative buffer is allowed versus a 50-foot buffer if, in fact, there is vegetation, though the code talks about scarified. The people on Orange Blossom want this project to be as far away from their homes as possible. There are 56 single-family homes surrounding this project and 20 are on Orange Blossom, so it is critical to those on Orange Blossom. Mr. Tobin asked for that to be clarified.

Mr. Peter Morris, Assistant County Attorney, stated that this is a public meeting, not a public hearing, and not subject to the strictures of a quasi-judicial proceeding, so he will advise his professional staff to only answer in the event that they have a high index of certainty of what the answer to that is. Given that they are already ensconced in 163-3213 litigation that is related to this admittedly onion of complicated. If staff has a high index of confidence of the answers, he defers to them, but otherwise advises not to offer any feedback given the litigation profile. Mr. Mike Roberts responded that the 25-foot buffer that has been included thus far, with a fairly high degree of confidence, during review of the plan to date, the area upland of the wetland line has been considered to be scarified in accordance with the land development code. That is why a 25-foot buffer has been established thus far. If, upon further evaluation or review, it is determined that the upland area of the wetland line is not in fact scarified land, then the buffer will be adjusted accordingly. To date, staff has no reason to believe that the land landward of the wetland line is anything other than what's been evaluated thus far which is scarified.

Mr. Tobin followed up asking if he could get the assurance of staff that they would recommend the hearing take place in Key Largo as there are a number of people very interested in this. He believes it would be very difficult for them to get to Marathon. Appreciating the fact they can appear by Zoom, his clients would like to appear in person and it would be a hardship for everyone to appear. Mr. Morris responded that that is the remit of the Planning Commission and not really for staff to recommend for or against per the code. Ms. Schemper added that the request has been forwarded to the Planning Commission and they will be considering that request at the February meeting tomorrow. They would need to schedule a special meeting to hold it in Key Largo. Additionally, there is a conditional use permit and a development agreement. The final approving authority on the major conditional use permit is the Planning Commission. The development agreement gets approved by the BOCC, so the Planning Commission only makes a recommendation on that. At this time, the plan for public hearings is that both items would go before the Planning Commission at the same time because they are almost inseparable to be able to know that everything is consistent and approvable, and that one thing will not affect the other if changes are made. So the Planning Commission would make their recommendation to the BOCC on the development agreement, but then plan to continue the hearing for the conditional use permit for a later date as that can't be approved until the development agreement has gone to the BOCC and gotten approval. There would then be a second date when the conditional use permit would get finished off by the Planning Commission. Mr. Tobin stated that he had heard somebody say "until certain conditions are met" staff is recommending that the Planning Commission not hear this next month, and asked if the timing

of what staff is looking to receive would impact whether or not this will go forward next month. Ms. Schemper confirmed that certain items needed to be received before advertising for Planning Commission, whether that be the regular date of March 26th, or a different date if the Planning Commission elects to set a special meeting. Staff has received some of the information but hasn't had a chance to fully review it yet. Mr. Tobin asked if he could appear by Zoom tomorrow at the Planning Commission meeting to support the application for a special meeting in Key Largo, and Mr. Morris responded that he could.

Mr. Chris Hogay (phonetic) who lives on Orange Blossom Road and whose lot sits right across from the walkway proposed on the site plan had suggestions and recommendations to this plan for housing and supporting the community. The plan is to develop as much of a business as possible with the housing area looking like a zit hanging off the back edge. He asked if this was really about housing and helping people in the community. He recommends reducing the size of the store and the parking area. Increased setbacks had already been asked about so he will leave that alone. If the size of the store and parking area are reduced and moved forward towards U.S. 1, it would enhance the green belt for visual effect. The first speaker discussed the vegetation on the side and the setback. Adding to that would reduce the audio and visual effects of what is going on. The major conditional use permit is supposed to minimize adverse impacts. This drops 86 dwelling units into an area that has 56 houses around it, with a grocery store and trucks coming in at 5:00 a.m. This housing for essential personnel that are supposed to be helped will be subject to this every single day. Move it forward and increase space between commercial and residential. Building E is sitting in the loading dock. It does say visual and sound barriers will be there, and if anyone believes that will help the people in Building A, please raise your hand because he does not see it. Reduce the footprint of Blackstone, increase the footprint of the housing. Restoration of the wetlands that were destroyed and damaged back in January should happen before anything else occurs. As part of that restoration, the Tavernier Community Association should be permitted, with the developer and the County, to visually check to see that it's been done. There should be physical barriers to stop trailer parking and work on vehicles where the road goes around the housing. Also, better protection should be provided for the wetland areas and expand the space for the housing.

Ms. Schemper clarified that regarding restoration requirements, there is a provision in the code that does not allow issuance of any building permits until the restoration planting is complete and inspected by the County. There was a temporary staging permit for a construction project that was approved by the BOCC last week. That is not a building permit and is not impacted by the restriction, and it is not for any structures. That is why they are still able to move forward with these earlier phase development approvals, but they will not be given any building permits until the restoration is planted, inspected and deemed to be compliant.

Ms. Joan Scholz of Islamorada believes this is inconsistent with the Tavernier Livable CommuniKeys plan. The project will have an adverse effect on the community, including Islamorada and the adjoining areas. Traffic safety is currently a huge issue without adding supermarket traffic, and the community doesn't need another supermarket. Mr. Smail brought up an amazing point that any FDOT work that has to be done as a result of this project should not be paid for by County residents, rather paid for by the developer. Also, if there is any way to add

the unpermitted clearing violation to this permit so everything is up front and everyone knows what happened, it should be.

Mr. Douglas Daniels, stated that Ms. Schemper had answered his question that the restoration would have to be done before final approval. Ms. Schemper clarified that it was to be done before the actual building permits are issued, that the two applications on this agenda, the conditional use permit and the development agreement, are both development approvals that are required before building permits and start of any work. These two items could be approved and completed, but then still need to go through a process to get the actual building permits. Those cannot be issued until the restoration is in place. Mr. Daniels asked if she could discuss how the restoration work would be done and what they could expect, or whether that would be at a different meeting. Mr. Morris responded that it is a separate matter, separate and apart from this process. That would be under the County Code Compliance case. County staff and the BOCC are aware of it, but the cases can't be mixed with development and review considerations. Mr. Daniels added that the developers have all the plans and they know the layout of where the wetlands are, yet they put somebody on the land and let them loose with equipment and this damage had been caused. At the same time, they're going ahead with this. There's got to be, at minimum, negligence on the developers to let this happen when they clearly knew where the boundaries were for the wetlands. The developers brought somebody on the property with equipment to tear stuff down. His concern is how this can go forward in good faith when it doesn't look like good faith was there to begin with. Ms. Schemper explained that the code doesn't have a restriction where if staff doesn't trust this developer anymore, they therefore can't approve their projects anymore. If the BOCC wants to put extra conditions in, that's something they could potentially do, but it's not something where the developer can be told, sorry, you're out of luck. There is the provision for restoration before building permits and that's as close as staff can get. Mr. Daniels understood, but stated that this needs to be made right because the damage done affects those on Orange Blossom. He would like to follow along with the restoration process. Ms. Schemper stated that even though they don't know the motivation behind the clearing or who was responsible, staff can require restoration of what was there, and staff has very good information about what was there. The site plans were all in place before any of that happened so the fact that vegetation was illegally removed is in no way affecting what's approved on the site plans. Staff is doing everything possible to keep the development within what the code does allow. The code case does not affect what was approved on the site plan because it was already determined. Mr. Daniels asked how he could follow up with the proper authorities to make sure the restoration is done properly. Ms. Schemper stated that Mr. Roberts is reviewing the restoration plan and will either approve it or deny it based on whether it meets the restoration requirements of the code. Mr. Daniels reiterated that he wants to make sure that the restoration takes place. Mr. Morris stated he could call and get the case numbers for those violations, and then he could look up online what restoration plans have been submitted. Beyond that, there will be additional layers of restoration requirements from either SFWMD or DEP and the County won't necessarily have possession of all of those documents.

Mr. Richard Barreto stated that the previous speaker had spoken to the heart of what he had to say, but he believes it should be as transparent as possible in revealing what the overall restoration is so the community understands that there has been sufficient restoration of the property that was damaged. Mr. Barreto is the president of the Tavernier Community

Association. He strongly believes the proposed development will have adverse impacts on this community. The staff report states that the project will lower the property values of the surrounding properties and he believes that that alone is an adverse impact. The Tavernier Livable CommuniKeys master plan clearly calls for limited redevelopment of commercial properties. The former industrial site had a few small buildings, very little traffic, and very little impact on the community. What is being proposed now is much larger in scale and much more in opposition of what the crafters of the Tavernier Livable CommuniKeys master plan had in mind. The proposed development is bordered to the north, south and east by single family residences, and to the west by limited commercial development; a small Circle K, a gas station and a Dairy Queen. Collectively, the square footage of all of those commercial properties does not equal the square footage of the combined grocery-liquor store being proposed. Another development in the Keys with a similar configuration cannot be found. The traffic study prepared by KBP Consulting Projects states the development will generate 5,362 daily trips. Adding that to an already congested highway, the previous arterial study that was not accepted said the highway is already at capacity and, if not, it's very close. The traffic study by KBP states that the impact of the traffic is already proposed to exceed remaining capacity in segment 21 for Plantation Key, so the impact will also be felt by Tavernier and the surrounding communities. While the project has many redeeming qualities, it is ill suited for the proposed location with a dangerous curve and limited egress and access. It is a huge traffic generator that will serve to change the flavor of Tavernier and the community that the framers of the LCP envisioned as one that maintained its small town and unique character. He asks that staff recommend denial of this major conditional use permit.

Ms. Melissa Kozak Ptomey asked for clarification on the current configuration for the major conditional use with the buildings showing in the back in the circle, Ms. Schemper stated that the plan had been reviewed for at least a year. Ms. Kozak Ptomey stated that she had looked at previous applications and it did not show the section in the back up until recently. She just wants clarification as to when this particular site plan was provided for the major conditional use, the one that has the buildings in the back in the circle. Ms. Schemper responded that she would have to go back and see what had changed over time, but she believes it has always been this proposal. This application dates back to 2022. Ms. Tolpin added that the site plans originally submitted did include buildings in the back, that the configuration does differ but in a minor manner from what is currently proposed. Ms. Kozak Ptomey asked when the configuration with the slight change was submitted. Ms. Schemper responded that she could not give that exact date because there have been probably more than ten updates to these plans. Ms. Kozak Ptomey asked for confirmation that staff had seen the site during the time that Mr. Phil Frank had done the wetland delineation. Ms. Schemper responded that this was getting too far into the code case. Ms. Kozak Ptomey believes it's not the code case because the wetland setback area is shown on the plans, which is important to the setback of the buildings. Ms. Schemper confirmed there is a setback from the wetland line which has been verified by the County Biologist as the correct line for the wetlands. Ms. Kozak Ptomey asked if that was before or after the wetlands that were removed on site. Mr. Morris interjected that this discussion had far eclipsed the scope of the criteria for either of these items and he does not believe they are materially relevant. In any event, this is not a public hearing. Ms. Schemper added that if there were not a code case, more detail may be able to be given, but she believes that Mr. Roberts has answered that question in public already. Perhaps she could go back and watch the BOCC meeting from last week because

this was a topic of discussion. Staff stands by the site plan as proposed with this conditional use permit as being compliant with the code as presented by Ms. Tolpin. There are a few more conditions and things the applicant needs to fulfill, but staff's recommendation is based on the site plan's compliance with the Land Development Code and the Comprehensive Plan.

Mr. Raul Guerra lives on Orange Blossom and personally does not trust the developer. If it hadn't been for one of his neighbors, there would be no mangroves left. They were taking the mangroves out of the wetland area, and he and his neighbors started calling every single office in the County to stop these people from destroying all of the natural mangroves that were in front of them. If they hadn't made noise that day there would be no mangroves left. The developer had no remorse and did it intentionally because they filled the wetland with lime rock. He's been building his house for seven and-a-half years going through many permits and such a long process, and this developer is destroying everything with no remorse and no regard for the neighbors across the street. He used to live in Kendall and they did the exact same thing that is going to happen here if they are allowed to do it. His house in Kendall is in Kendall Square. They built a project with a Publix and now at 4:00 o'clock in the morning, every single day he hears the truck backing up and unloading pallets. The noise is crazy. The houses around this project are worth over \$3 million and they pay a lot of taxes to sustain the neighborhood, and this is allowing Blackstone to build a massive Publix that isn't needed because there's a Winn Dixie a five-minute walk away. This is lunacy. Whoever is approving this must be getting a tremendous kickback because a Publix isn't needed here. A park or something for kids that closes at 9:00, 10:00 o'clock at night, a better movie theater or a storage facility, something that is necessary would be better here. If this hadn't been stopped that day, there would be nothing left, and no birds or animals. The neighbors have a lot of concern. They try to keep their houses in great shape and pay a lot of money in taxes, and this project is going to not only reduce the value in the neighborhood but will bring a tremendous amount of traffic, noise and mess. He is very frustrated with this whole project. He does not mind about the housing being built, but this major Publix is a big mess and it is not needed. Of course the mangroves need to be restored because if everyone knows if you get a chainsaw and you cut a branch of a mangrove you will probably go to jail and be sentenced to ten years in prison for cutting a piece of mangrove. These people have destroyed them intentionally and filled it with rock to cover the mess. He wants to see some type of fines and this whole thing restored. Ms. Schemper reiterated that this is the requirement of the code, to restore the mangroves. Mr. Guerra asked who is overseeing this project. Whoever is working the project has no idea what they're doing. If not for the neighbors calling there would be no mangroves left. They were pulling them out and covering the wetlands. They knew exactly what they were doing. They were trying to cover as much wetland as possible and doing it intentionally. Mr. Morris added that the professional staff can only travel on the tracks that are already laid before them as enumerated in the code and comp plan. When it comes to code violations, the law in effect is that no building permit can be issued until the restoration has been cured. Opposition to the project should be directed to the criteria in the code rather than importing issues in the code case.

Mr. Guerra then asked about a sidewalk. He had called Public Works to cut the trees that covers the entire road of Orange Blossom. He has to walk his kids to school through bushes because the road is very narrow and there is no sidewalk. Building another Publix will be the biggest mistake of our lives because it's not needed and he does not want to hear those trucks backing up

at 4:00 in the morning. He would like a sidewalk that he could walk his kids to school with no problem every morning without getting run over by a car. Ms. Schemper confirmed that, separate from the development project on this property, he was asking whether the County would put a sidewalk in on Orange Blossom, and explained that that request could be made to Roads and Bridges but that she did not know if there was room. Mr. Guerra was wondering if the developer would be willing to build the sidewalk. Ms. Schemper stated that he could request that from Roads and Bridges to see if a sidewalk could be put in, in the right-of-way.

There was no further public comment. Public comment was closed. Ms. Schemper explained that these items would next go to the Planning Commission. The date will be noticed and signage posted on the property. The conditional use permit gets voted on by Planning Commission for a final decision. The development agreement goes on to the BOCC, then back to Planning Commission after the development agreement gets approved. The Planning Commission will decide on a special meeting setting at tomorrow's meeting.

Mr. Tobin wanted to speak again, but Ms. Schemper stated he had already spoken and could submit more comments in writing if he desires.

6. 11100 OVERSEAS HIGHWAY, MARATHON, MILE MARKER 53 (SENDER SITE) AND 198 KEY HAVEN ROAD, MILE MARKER 5 (RECEIVER SITE): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS FOR THE TRANSFER OF ONE (1) PERMANENT MARKET RATE TRANSFERRABLE ROGO EXEMPTION (TRE) (COUNTY TRE IDENTIFIER #ILA-0012 AND MARATHON TBR IDENTIFIER TBR DP-21-19-01) FROM THE SENDER SITE PROPERTY DESCRIBED AS A PARCEL OF LAND COMPRISED OF PART OF LOTS 1, 2, 3 AND 4, BLOCK 1, KEY COLONY SUBDIVISION # 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 10, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00334490-000200 TO A RECEIVER SITE DESCRIBED AS LOT 1, BLOCK 2, KEY HAVEN EIGHTH-ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 61, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; LESS AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE COUNTY OF MONROE BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 327, PAGE 136, HAVING PARCEL IDENTIFICATION NUMBER 00138670-000000. THE TRANSFER OF THE TRE FROM MARATHON TO THE UNINCORPORATED COUNTY IS AUTHORIZED PURSUANT TO THE INTERLOCAL AGREEMENT BETWEEN MONROE COUNTY AND THE CITY OF MARATHON RATIFIED ON JUNE 19, 2019. (FILE NO. 2024-158)

(2:51 p.m.) Ms. Liz Lustberg, Senior Planner, presented the staff report. This is a request for a minor conditional use approval to transfer a market rate ROGO exemption from a property in Marathon to a property in Key Haven. The transfers of ROGO exemptions are governed by Land Development Code Section 138-22 which specifies the criteria for the receiver and sender sites, the process through which this happens, and the criteria that must be met prior to the market rate housing being built.

Ms. Lustberg presented a slide of the sender site which is permitted because of the interlocal agreement between the unincorporated County and the City of Marathon. This agreement approved the transfer of 34 affordable ROGO allocations from the County to the City in exchange for the transfer of the market rate ROGO exemptions back from the City to the unincorporated County in the Lower Keys Subarea. The affordable restrictions had specific criteria that were listed in the interlocal agreement. This was approved for eight different properties within the City of Marathon. This application is to transfer the market rate ROGO exemption for one of those properties. This property did have a declaration of affordable housing restriction that was amended and recorded with the Clerk of Court on November 12, 2024, that complies with the interlocal agreement. As such, this sender site meets the requirements to be a sender site based on the Monroe County Code. The receiver site also meets the requirements that the property be in the correct subarea, have adequate facilities and services, include all infrastructure, have a FLUM zoning that allowed for the use that provides for adequate density, be designated Tier III and not be located in a velocity zone or CBRS unit. This transfer is a market rate ROGO exemption transfer and has additional requirements that the receiver site be a platted lot and the zoning be either improved subdivision or urban residential mobile home, and that the property not be recreational or commercial working waterfront. This property is in improved subdivision, has a FLUM designation of residential medium, is Tier III in the AE flood zone, is in the Lower Keys subarea, and meets the requirements to be a receiver site. The transfer must be done based on both the County and the City requirements. Staff recommends approval from Marathon to Key Haven with two conditions; the City of Marathon must approve transfer, and this does not obligate County to approve any future building permits.

Ms. Schemper stated that the County has routinely gotten transfers based on the Saint Columba property in Marathon. This is a different but similar situation. Ms. Schemper asked if Marathon has a similar tracking and approval mechanism set up for this property. Ms. Lustberg responded that it was similar. The initial application involved the City signing off, and they are aware that this is being heard today. Assuming no issues with this today, Ms. Lustberg will reach out to City of Marathon for final approval, but does not have a list of tracking numbers at this point. It will not get signed off by County until Marathon also approves.

Ms. Schemper then asked for questions or comments from DRC members. There were none. Ms. Schemper then asked if the applicant wished to speak. Mr. Jess Goodall, agent for the applicant, thanked staff for the work done on this file. Ms. Gardner with NAS Key West wanted to put on record that this property is within the MIAI so any future development would need to meet all recommendations. There was no further public comment. Public comment was closed.

7. 1655 OVERSEAS HIGHWAY, MARATHON, MILE MARKER 48 (SENDER SITE) AND 123 N. BAHAMA DRIVE, DUCK KEY, MILE MARKER 61 (RECEIVER SITE): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS FOR THE TRANSFER OF ONE (1) PERMANENT MARKET RATE TRANSFERRABLE ROGO EXEMPTION (TRE) (COUNTY TRE IDENTIFIER #ILA-0011 AND MARATHON TBR IDENTIFIER TBR 13-1655) FROM THE SENDER SITE PROPERTY DESCRIBED AS A PARCEL OF LAND IN SECTION 09, TOWNSHIP 66 SOUTH, RANGE 32 EAST, MARATHON, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00326650-000000 TO THE RECEIVER

SITE DESCRIBED AS LOT 21, BLOCK 8, CENTER ISLAND, DUCK KEY SECTION 2-PART 1 TOMS HARBOR, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE(S) 82, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA HAVING PARCEL IDENTIFICATION NUMBER 00380980-000000. TRANSFER OF THE TRE FROM MARATHON TO THE UNINCORPORATED COUNTY IS AUTHORIZED PURSUANT TO THE SECOND CORRECTED INTERLOCAL AGREEMENT BETWEEN MONROE COUNTY AND THE CITY OF MARATHON APPROVED AUGUST 15, 2018. (FILE NO. 2024-225)

(3:02 p.m.) Ms. Liz Lustberg, Senior Planner, presented the staff report. This is a similar transfer of ROGO exemption request from the City of Marathon by a different interlocal agreement to a property also in the Lower Keys Subarea in Duck Key. This is also governed by the requirements of Land Development Code Section 138-22. Ms. Lustberg presented a slide of the sender site in Marathon. This interlocal agreement approved the exchange of 18 affordable ROGO allocations for 18 market rate ROGO exemptions coming back to the unincorporated County. In this case, the affordable housing requirement has been met for 16 of the 18. This is transfer number 11 and, as such, this sender site meets the requirement to be a sender site for the transfer seeking approval today. Ms. Lustberg presented a slide of the proposed receiver site, a platted lot in improved subdivision, masonry zoning, residential medium FLUM designation, Tier III with an AE flood zone, so this property meets the County's requirements to be a receiver site for this market rate ROGO exemption. This interlocal agreement also requires approval of both the County and the City. Staff is recommending approval with the same two conditions.

Ms. Schemper had no questions or comments, and asked if there were any questions or comments from the DRC members. There were none. Ms. Schemper asked if the applicant wished to speak and there was no response. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

ADJOURNMENT:

The Development Review Committee meeting was adjourned at 3:10 p.m.