



**MEMORANDUM**  
**MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT**  
*We strive to be caring, professional and fair*

**To:** Monroe County Planning Commission

**Through:** Emily Schemper, AICP, CFM  
Acting Senior Director of Planning & Environmental Resources

**From:** Cheryl Cioffari, AICP  
Principal Planner

**Date:** July 11, 2018

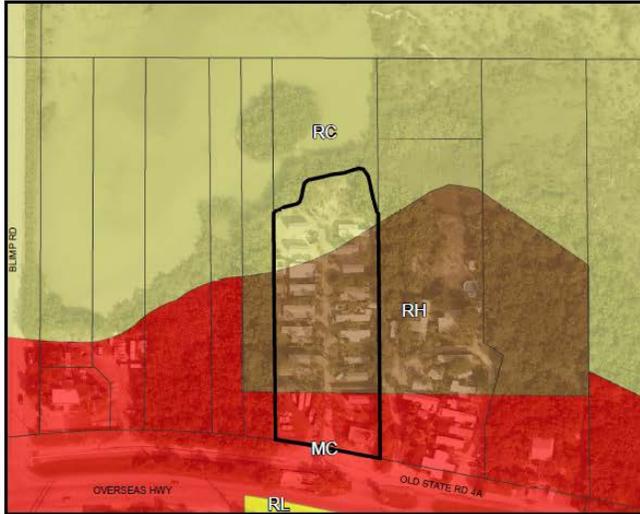
**Subject:** An Ordinance by the Monroe County Board of County Commissioners amending the Monroe County Future Land Use Map as a small-scale comprehensive plan amendment pursuant to Section 163.3187, Florida Statutes, from Residential High (RH) and Residential Conservation (RC) to Mixed Use / Commercial (MC), for property located at 21585 Old State Road 4A, Cudjoe Key, approximately Mile Marker 22, legally described as a portion of Lot 30, Sacarma a subdivision of Government Lots 3 and 4 in Section 29, Township 66 South, Range 28 East, Cudjoe Key, Monroe County, Florida, recorded in Plat Book 2, Page 48 of the Public Records of Monroe County, Florida, having real estate # 00174960-000000, as proposed by Smith Hawks, PL on behalf of Mobile Homes Holdings Coco, LLC; contingent on adoption and effectiveness of proposed Subarea Policy 107.1.7 of the Comprehensive Plan to provide limitation on development and specific restrictions on the subject property. (File #2018-051)

**Meeting:** July 25, 2018

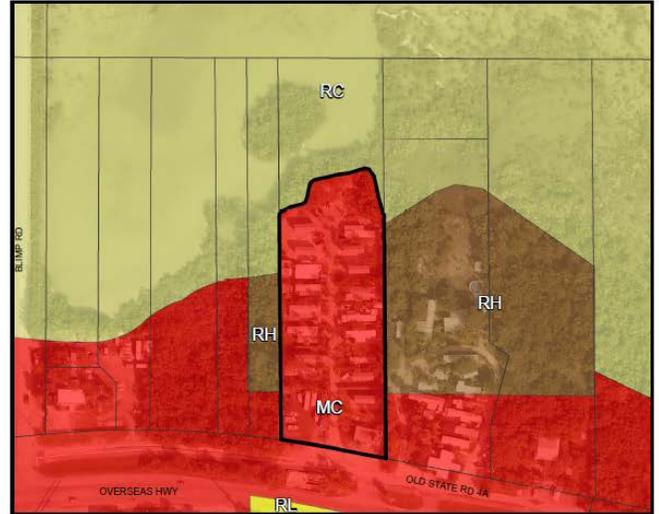
## **I. REQUEST**

On March 12, 2018, the Planning and Environmental Resources Department received an application from Smith Hawks, PL on behalf of Mobile Home Holdings Coco, LLC (the "Applicant") to amend the Monroe County Future Land Use Map (FLUM) from Residential High (RH; 1.1 acres) and Residential Conservation (RC; 0.6 acres) to Mixed Use / Commercial (MC; 1.7 acres) for a portion of property located at 21585 Old State Road 4A on Cudjoe Key. The Applicant has also requested a corresponding Land Use District (Zoning) map amendment for the subject property from Urban Residential Mobile Home (URM; 1.1 acres) and Native Area (NA; 0.6 acres) to Suburban Commercial (SC; 1.7 acres) and a Comprehensive Plan text amendment to create a subarea policy that would provide additional development restrictions on the subject parcel, including a limitation that the only permitted use on the property would be affordable housing and accessory uses (see

Exhibit 1). The proposed subarea policy and FLUM amendment would be processed as “small-scale comprehensive plan amendments” pursuant to Section 163.3187, Florida Statutes, based on the size of the site and the limitation of development to affordable housing. *The subject of this staff report is the proposed FLUM amendment.*



Existing FLUM Designation



Proposed FLUM Designation

## II. BACKGROUND INFORMATION

### Site Information:

**Location:** MM 22, Cudjoe Key

**Address:** 21585 Overseas Highway

**Description:** A portion of Lot 30, Sacarma, Plat Book 2, Page 48, Cudjoe Key, Monroe County, Florida

**Real Estate Numbers:** 00174960-000000

**Owner/Applicant:** Mobile Homes Holdings Coco, LLC

**Size of Property:** 2.3 acres upland, per survey by Island Surveying, Inc., dated 9/8/08 and signed 2/22/18. (2.34 acres per Monroe County Property Appraiser)

**Size of Affected Portion of Property:** 73,931 SF (1.7 acres) per survey by Frederick H. Hildebrandt, Island Surveying, Inc., dated 12/5/17.

**FLUM Designations:** Mixed Use/Commercial (MC), Residential High (RH) and Residential Conservation (RC)

**Land Use Districts:** Suburban Commercial (SC), Urban Residential Mobile Home (URM) and Native Area (NA)

**Tier Designation:** III

**Flood Zones:** AE (EL 10)

**CBRS:** No



**Existing Use:** Developed with 17 mobile homes which are deed restricted affordable to a Declaration of Affordable Housing Deed Restriction recorded in the Public Records of Monroe County at Official Records Book 2747, Pages 1667-1677.

**Existing Vegetation/Habitat:** Mangrove, Buttonwood, Developed Land and Submerged Land  
**Community Character of Immediate Vicinity:** Adjacent land uses include vacant land to the west, open water to the north, commercial and residential uses to the east, and single-family and multi-family residential uses to the south across US1.

The property currently has a Land Use District (Zoning) designation of Suburban Commercial (SC), Urban Residential Mobile Home (URM) and Native Area (NA) and a Future Land Use Map (FLUM) designation of Mixed Use / Commercial (MC), Residential High (RH) and Residential Conservation (RC). The property was partially within a BU-2 district (Medium Business) and RU-5P (mobile Home Park Residential) prior to September 15, 1986. The mobile home park area of the site was entirely within the RU-5P district. With the adoption of the Comprehensive Plan's FLUM in 1997, the property was given the current FLUM designation of Mixed Use/Commercial (MC), Residential High (RH) and Residential Conservation (RC).

The property was historically used as a mobile home and RV park (Rainbow's End Trailer Park) and restaurant (Coco's Cantina) dating back to the 1970s. The property is currently developed with 17 mobile homes and mostly scarified land. In the shoreline area of the property, there is mangrove habitat (based on GIS habitat data). A vegetation survey/existing conditions report was not submitted with the application to confirm the habitats.

The Applicant is also requesting a text amendment to the Monroe County Comprehensive Plan to establish a site specific subarea policy to accompany the proposed Future Land Use Map amendment for a portion of the property (the "Property") from Residential Conservation (RC) and Residential High (RH) to Mixed Use/Commercial (MC) and a proposed Land Use District (Zoning) Map amendment for a portion of the property from Urban Residential Mobile Home (URM) and Native Area (NA) to Suburban Commercial (SC). ***The subject of this staff report is the proposed FLUM amendment.***

The Applicant states that the reason for the proposed amendments is to limit the Property's permitted uses to affordable housing and accessory structures and uses, and to allow an increased density necessary to develop an additional sixteen (16) units of affordable housing. The Applicant cites the following documents/data:

1. Florida Housing data compiled by the University of Florida; and
2. Monroe County Affordable Housing Report dated November 2007.

This data indicates that in 2009, 37% of Monroe County households pay more than 30% of their income for housing and 18% of Monroe County households pay more than 30% of their income for housing<sup>1</sup>.

The Applicant's full explanation and justification of the proposed amendments is included in the file for the application (File #2018-051).

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<sup>1</sup> According to HUD, "cost-burdened" households pay more than 30% of their income for rent or mortgage costs.

Staff has reviewed the Applicant’s position and supporting documentation, and agrees with the position that inadequate availability of affordable housing is currently a primary issue facing permanent residents of unincorporated Monroe County. In 2015, the BOCC acknowledged the County’s workforce housing issues and adopted Resolution 189-2015, assigning additional duties to the Affordable Housing Advisory Committee directing the committee to make recommendations for steps the County may take to address the need for more workforce housing options. The committee presented their recommendations to the BOCC at their regular meeting on August 17, 2016. The BOCC held a special meeting on December 6, 2016, to discuss the recommendations, and provided direction to staff to move forward on several measures to encourage and incentivize the provision of affordable and workforce housing within the County.

The 2014 ALICE report indicates that renters in the Lower Keys areas are significantly housing burdened over 35%, as follows: by 68% in Key West, by 69% in Stock Island, by 72% in Big Coppitt, by 56% in the Lower Keys and by 42% in Big Pine Key.

**KEY FACTS AND ALICE STATISTICS FOR MONROE COUNTY**  
*(From the ALICE Florida Report: Study of Financial Hardship, Fall, 2014, Appendix H)*

<b>Big Coppitt Key /Monroe County</b>							
<i>Population</i>	<i>Households</i>	<i>Poverty %</i>	<i>ALICE %</i>	<i>Above ALICE Threshold %</i>	<i>Unemployment Rate</i>	<i>Housing Burden over 35% Owner</i>	<i>Housing Burden over 35% Renter</i>
<b>2016</b>	<b>833</b>	<b>12%</b>	<b>35%</b>	<b>53%</b>	<b>9%</b>	<b>55%</b>	<b>72%</b>
<b>Big Pine Key/Monroe County</b>							
<i>Population</i>	<i>Households</i>	<i>Poverty %</i>	<i>ALICE %</i>	<i>Above ALICE Threshold %</i>	<i>Unemployment Rate</i>	<i>Housing Burden over 35% Owner</i>	<i>Housing Burden over 35% Renter</i>
<b>3777</b>	<b>1619</b>	<b>10%</b>	<b>35%</b>	<b>56%</b>	<b>4%</b>	<b>44%</b>	<b>42%</b>
<b>Key West</b>							
<i>Population</i>	<i>Households</i>	<i>Poverty %</i>	<i>ALICE %</i>	<i>Above ALICE Threshold %</i>	<i>Unemployment Rate</i>	<i>Housing Burden over 35% Owner</i>	<i>Housing Burden over 35% Renter</i>
<b>24870</b>	<b>9322</b>	<b>9%</b>	<b>35%</b>	<b>56%</b>	<b>4%</b>	<b>44%</b>	<b>68%</b>
<b>Lower Keys/Monroe County</b>							
<i>Population</i>	<i>Households</i>	<i>Poverty %</i>	<i>ALICE %</i>	<i>Above ALICE Threshold %</i>	<i>Unemployment Rate</i>	<i>Housing Burden over 35% Owner</i>	<i>Housing Burden over 35% Renter</i>
<b>10394</b>	<b>4314</b>	<b>8%</b>	<b>23%</b>	<b>62%</b>	<b>5%</b>	<b>42%</b>	<b>56%</b>
<b>Stock Island/ Monroe County</b>							
<i>Population</i>	<i>Households</i>	<i>Poverty %</i>	<i>ALICE %</i>	<i>Above ALICE Threshold %</i>	<i>Unemployment Rate</i>	<i>Housing Burden over 35% Owner</i>	<i>Housing Burden over 35% Renter</i>
<b>3736</b>	<b>1111</b>	<b>14%</b>	<b>62%</b>	<b>24%</b>	<b>8%</b>	<b>53%</b>	<b>69%</b>

In 2017, the ALICE Report was updated with information based on 2015 American Community Survey. The new information affirms the trend of increased difficulty in being able to afford safe, well-constructed affordable housing.

Monroe County, 2012

Town	Total HH	% ALICE & Poverty
Big Coppitt Key CDP	833	47%
Big Pine Key CDP	1,619	44%
Key Largo CDP	4,517	53%
Key West	9,322	52%
Lower Keys CCD	4,314	38%
Marathon	3,371	55%
Middle Keys CCD	4,068	53%
North Key Largo CDP	510	31%
Stock Island CDP	1,111	76%
Tavernier CDP	953	52%
Upper Keys CCD	8,633	50%

# ALICE IN MONROE COUNTY

Population: 74,809 | Number of Households: 29,241  
 Median Household Income: \$53,637 (state average: \$45,040)  
 Florida Underemployment Rate for 2012: 16%  
 Gini Coefficient (zero = equality; one = inequality): 0.53 (state average: 0.48)

## How many households are struggling?

ALICE, an acronym for Asset Limited, Income Constrained, Employed, are households that earn more than the U.S. poverty level, but less than the basic cost of living for the county. Combined, the number of poverty and ALICE households equals the total population struggling to afford basic needs.

Poverty	ALICE	Above ALICE
3,557 HH 12%	10,664 HH 36%	15,020 HH 51%

STRUGGLING

## What are the economic conditions?

The Economic Viability Dashboard evaluates community conditions for ALICE in three core areas. Each is an index with a scale of 1 (worst) to 100 (best).

**Housing Affordability**  
poor (14)

**Job Opportunities**  
good (67)

**Community Support**  
poor (48)

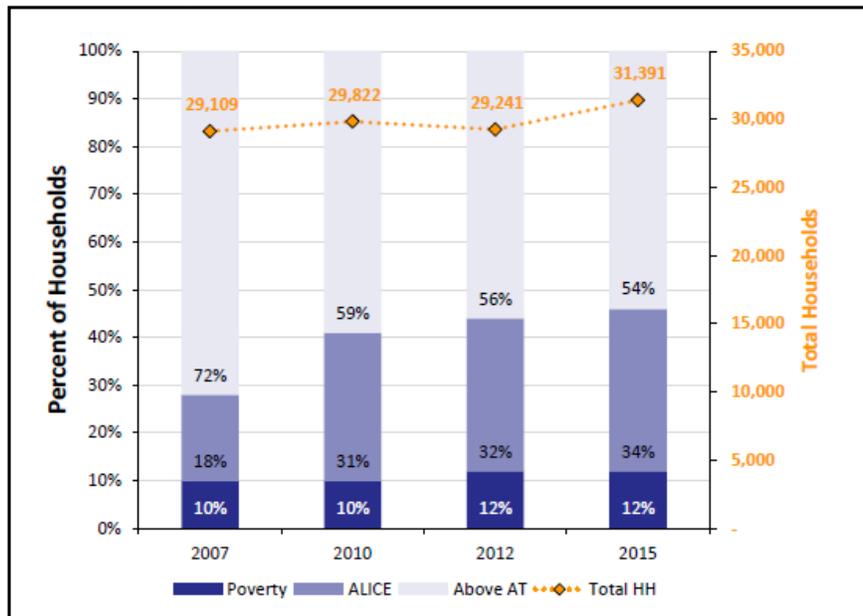
# ALICE IN MONROE COUNTY

**Population:** 77,482 | **Number of Households:** 31,391  
**Median Household Income:** \$61,020 (state average: \$49,426)  
**Florida Underemployment Rate for 2015:** 11.5%  
**Households Below ALICE Threshold:** 14,509 (46%)

## How many households are struggling?

ALICE is an acronym for Asset Limited, Income Constrained, Employed – households that earn more than the Federal Poverty Level, but less than the basic cost of living for the county (the ALICE Threshold, or AT). Combined, the number of poverty and ALICE households equals the total population struggling to afford basic needs. The percentage of households below the ALICE Threshold changes over time (left axis, blue bars) as does the total number of households (right axis, dotted yellow line). The Great Recession, from 2007 to 2010, caused hardship for many families. Conditions started to improve in 2010 and 2012 for some, but not for all.

Households by Income, 2007 to 2015



## What does it cost to afford the basic necessities?

The bare-minimum Household Survival Budget does not include any savings, leaving a household vulnerable to unexpected expenses. ALICE households typically earn above the Federal Poverty Level of \$11,770 for a single adult and \$24,250 for a family of four, but less than the Household Survival Budget.

Household Survival Budget, Monroe County		
	SINGLE ADULT	2 ADULTS, 1 INFANT, 1 PRESCHOOLER
<b>Monthly Costs</b>		
Housing	\$1,200	\$1,635
Child Care	\$-	\$1,200
Food	\$165	\$547
Transportation	\$322	\$644
Health Care	\$165	\$634
Miscellaneous	\$221	\$522
Taxes	\$361	\$564
<b>Monthly Total</b>	<b>\$2,434</b>	<b>\$5,746</b>
<b>ANNUAL TOTAL</b>	<b>\$29,208</b>	<b>\$68,952</b>
<b>POVERTY ANNUAL TOTAL</b>	<b>\$11,770</b>	<b>\$24,250</b>

Sources: 2015 Point-in-Time Data: American Community Survey. ALICE Demographics: American Community Survey; the ALICE Threshold. Budget: U.S. Department of Housing and Urban Development (HUD); U.S. Department of Agriculture (USDA); Bureau of Labor Statistics (BLS); Internal Revenue Service (IRS); Florida Department of Education, Office of Early Learning.

Monroe County, 2015		
Town	Total HH	% ALICE & Poverty
Big Coppitt Key CDP	880	45%
Big Pine Key CDP	1,922	49%
Cudjoe Key CDP	951	45%
Islamorada	2,613	47%
Key Colony Beach	391	31%
Key Largo CDP	4,207	49%
Key West	9,524	52%
Key West CCD	11,972	52%
Lower Keys CCD	4,978	44%
Marathon	3,003	56%
Middle Keys CCD	3,819	52%
North Key Largo CDP	401	23%
Stock Island CDP	1,162	66%
Tavernier CDP	897	54%
Upper Keys CCD	8,139	48%

Additionally, Monroe County suffered the loss of a significant number of housing units due to damage caused by Hurricane Irma on September 10, 2017. The BOCC has acknowledged that the pre-existing affordable housing issues facing the County are even greater and more immediate now due to storm-related losses.

As noted, this amendment is being proposed as a small scale amendment. Section 163.3187, F.S., establishes the process for adoption of a small-scale comprehensive plan amendment and provides the limitations and requirements (see below).

- (1) A small scale development amendment may be adopted under the following conditions:
  - (a) **The proposed amendment involves a use of 10 acres or fewer** and:
  - (b) The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year.
  - (c) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government’s comprehensive plan, but **only proposes a land use change to the future land use map for a site-specific small scale development activity**. However, *text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible* under this section.
  - (d) The property that is the subject of the proposed amendment is not located within an area of critical state concern, **unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1)**.
  
- (2) Small scale development amendments adopted pursuant to this section require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(11).

\* \* \*

(4) **Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177.** Corrections, updates, or modifications of current costs which were set out as part of the comprehensive plan shall not, for the purposes of this act, be deemed to be amendments.

While staff agrees with the position that inadequate availability of affordable housing is currently a primary issue facing unincorporated Monroe County, staff is also reviewing the proposed amendment for consistency with State Statutes (including 163.3187, F.S., above), Rules, internal consistency with the Comprehensive Plan and balancing all the requirements and policy issues.

**Community Meeting and Public Participation**

In accordance with LDC Sections 102-158(a) and 102-159(b), a community meeting was held on May 31, 2018 at 5:30 PM to discuss the proposed Future Land Use Map (FLUM) amendment, and corresponding Comprehensive Plan text amendment and Land Use District (Zoning) Map amendment, and provide for public participation.

**Development Review Committee and Public Input**

At a regular meeting held on May 29, 2018, the Development Review Committee (DRC) considered the proposed Future Land Use Map (FLUM) amendment, and corresponding Comprehensive Plan text amendment and Land Use District (Zoning) Map amendment, and provided for public comment.

**III. AMENDMENT REVIEW**

**Maximum Allocated Density and Intensity by Future Land Use Map Designation**

Existing FLUM	Type	Adopted Standards	Maximum development potential based upon density/intensity
<b>Residential High (RH)</b>  <b>Total Upland Area: 1.1 acres*</b> <b>(49,197 sf)</b>  <b>0.88 buildable acres</b> <b>(1.1 ac – 0.20 open space ratio)</b>	Residential Allocated Density	6 du (UR) 1du/lot (URM, URM-L)	6 units
	TDR/Market Rate Residential Max Net Density	12 du (UR) N/A (IS-D, URM, URM-L)	10 units
	Affordable Residential Max Net Density	25 du (UR) N/A (IS-D, URM, URM-L)	22 units
	Transient Allocated Density	0—10 rooms/spaces	11 rooms/spaces
	Nonresidential Maximum Intensity	0	0 sf
<b>Residential Conservation (RC)</b>	Residential Allocated Density	0-0.10 du (OS) 0.25 du (NA)	0 units

<b>Total Upland Area: 0.6 acres*</b> <b>(24,746 sf)</b>  <b>0.48 buildable acres</b> <b>(0.6 ac – 0.20 open space ratio)</b>	TDR/Market Rate Residential Max Net Density	N/A	0 units
	Affordable Residential Max Net Density	N/A	0 units
	Transient Allocated Density	0 rooms/spaces	0 rooms/spaces
	Nonresidential Maximum Intensity	0-0.20 FAR	4,949 sf
<b>Mixed Use/Commercial (MC)</b>  <b>Total Upland Area: .61 acres*</b> <b>(26,428 sf)</b>  <b>0.49 buildable acres</b> <b>(0.61 ac – 0.20 open space ratio)</b>	Residential Allocated Density	1 du (DR, MU, MI) 3 du (SC) 6 du (UC) Commercial Apartments (RV)	3 units
	TDR/Market Rate Residential Max Net Density	2 du (MI) 6-18du (SC) 12 du (UC) 12-18 du (MU) 18 du (DR)	8 units
	Affordable Residential Max Net Density	2 du (MI) 6-18du (SC) 12 du (UC) 12-18 du (MU) 18 du (DR)	8 units
	Transient Allocated Density	10-25 rooms/spaces	12 rooms/spaces
	Nonresidential Maximum Intensity	0.10 – 0.45 (SC, UC, DR, MU) <2,500 SF (RV) 0.30-0.60 (MI) FAR	15,586 sf
<b>Proposed FLUM</b>	<b>Type</b>	<b>Adopted Standards</b>	<b>Maximum development potential based upon density/intensity</b>
<b>Mixed Use/Commercial (MC)</b>  <b>Total Upland Area: 2.3 acres*</b> <b>(100,359 sf)</b>  <b>1.84 buildable acres</b> <b>(2.3 ac – 0.20 open space ratio)</b>	Residential Allocated Density	1 du (DR, MU, MI) 3 du (SC) 6 du (UC) Commercial Apartments (RV) <sup>(h)</sup>	13 units market rate**
	TDR/Market Rate Residential Max Net Density	2 du (MI) 6-18du (SC) <sup>(k)</sup> 12 du (UC) 12-18 du (MU) <sup>(k)</sup> 18 du (DR)	33 units market rate**

	Affordable Residential Max Net Density	2 du (MI) 6-18du (SC) <sup>(k)</sup> 12 du (UC) 12-18 du (MU) <sup>(k)</sup> 18 du (DR)	33 units affordable
	Transient Allocated Density	5-15 rooms or spaces	34 rooms/spaces**
	Nonresidential Maximum Intensity	0.10 – 0.45 (SC, UC, DR, MU) <2,500 SF (RV) 0.30-0.60 (MI)	60,215 sf
<b>Proposed FLUM with Proposed Subarea Policy</b>	<b>Type</b>	<b>Per Proposed Subarea Policy</b>	<b>Maximum Development potential based upon Subarea Policy Density</b>
<b>Mixed Use/Commercial (MC)</b>  <b>Total Upland Area: 2.3 acres*</b> <b>(100,359 sf)</b>  <b>1.84 buildable acres</b> <b>(2.3 ac – 0.20 open space ratio)</b>	Residential Allocated Density	0 du/acre	0 units market rate
	TDR/Market Rate Residential Max Net Density	0 du/acre	0 units market rate
	Affordable Residential Max Net Density	18 du/buildable acre	33 units affordable
	Transient Allocated Density	0 rooms or spaces /acre	0 rooms/spaces
	Nonresidential Maximum Intensity	0 FAR	0 sf
<b>Net Change in Development Potential Based on FLUM</b>	<b>Residential Market Rate Allocated: +4 units</b>		
	<b>TDR/Market Rate Residential Max Net: +15 units</b>		
	<b>Affordable Residential Max Net: +3 units affordable</b>		
	<b>Transient Allocated: +11 rooms/spaces</b>		
	<b>Nonresidential: +39,680 sf</b>		
<b>Net Change in Development Potential Based on FLUM with Proposed Subarea Policy</b>	<b>Residential Market Rate Allocated: -9 units</b>		
	<b>TDR/Market Rate Residential Max Net: -18 units</b>		
	<b>Affordable Residential Max Net: +3 units affordable</b>		
	<b>Transient Allocated: -23 rooms/spaces</b>		

**Nonresidential: -20,535 sf**

\*Per the submitted survey by Frederick H. Hildebrandt, dated 12/5/2017, the site has 2.30 acres (100,359 sf) of upland.

\*\*The proposed subarea policy to accompany this proposed FLUM amendment would eliminate all permanent and transient allocated density and all nonresidential intensity on the site. Per the proposed subarea policy, the only density on the site would be a maximum net density of 18 dwelling units per buildable acre for affordable housing units, which would bring the maximum development potential for the site to 33 deed restricted affordable dwelling units.

The above table provides an approximation of the development potential for residential, transient and commercial development. Section 130-156(b) of the Land Development Code states: “The density and intensity provisions set out in this section are intended to be applied cumulatively so that no development shall exceed the total density limits of this article. For example, if a development includes both residential and commercial development, the total gross amount of development shall not exceed the cumulated permitted intensity of the parcel proposed for development.”

As shown in the blue portion of the table, the proposed FLUM amendment *without* the proposed Subarea Policy would result in an increase of 4 units in permanent allocated residential development potential; an increase of 15 units in max net density residential potential for market rate units with the use of TDRs; an increase of 3 units in affordable residential development potential; an increase of 11 rooms or spaces for transient units; and a increase in nonresidential development potential of 39,680 square feet.

**As shown in the orange portion of the table, the proposed FLUM amendment *with* the proposed Subarea Policy would result in a decrease of 9 units in permanent allocated residential development potential; a decrease of 18 units in max net density residential potential for market rate units with the use of TDRs; an increase of 3 units in affordable residential development potential; a decrease of 23 rooms or spaces for transient units; and a decrease in nonresidential development potential of 20,535 square feet.**

Any proposed new residential use would be subject to the requirements of Chapter 138 of the Land Development Code related to the Residential Rate of Growth Ordinance (ROGO/NROGO) permit process. Any proposed affordable dwelling units would need to obtain a ROGO allocation (affordable ROGO allocations may be available) prior to issuance of a building permit.

### **Compliance with Comprehensive Plan Policy 101.5.26**

Policy 101.5.26 (discouragement policy) of the Comprehensive Plan was adopted by the BOCC on September 21, 2012, with an effective date of November 20, 2012, and would apply to this application for a FLUM amendment if it were not accompanied by the proposed subarea policy. Private applications which propose increases in allocated density must comply with the Policy requirements.

As stated earlier, the applicant’s proposed Subarea Policy would eliminate any increase in residential allocated density and development potential and therefore eliminate the need to mitigate under Policy 101.5.26.

### **Compatibility with the Surrounding Area**

- a. Existing Vegetation/Habitat: Developed land; Mangrove habitat; Buttonwood habitat
- b. Existing Tier Designation: III
- c. Number of Listed Endangered or Threatened Species: four
- d. Existing Use: 17 deed-restricted affordable mobile homes
- e. Community Character of Immediate Vicinity: Mixed Use. Adjacent land uses include vacant land to the west, open water to the north, commercial and residential uses to the east, and single-family and multi-family residential uses to the south across US1.

*The proposed FLUM is not anticipated to adversely impact the community character of the surrounding area.*

### **Concurrency Analysis (Comprehensive Plan Policy 101.1.1)**

#### Traffic Circulation (Comprehensive Plan Policy 301.1.1)

The subject property is located on Old State Road 4A on Cudjoe Key at approximate mile marker 22. The property is only accessible by Old State Road 4A via US 1. Pursuant to the Comprehensive Plan, the level of service standard for US 1 is LOS of “C.” According to the 2017 US 1 Arterial Travel Time and Delay Study, US 1 overall is operating at a LOS of “C” and Segment 6 on Cudjoe Key (MM 20.5 to MM 23) is operating at a LOS of “A.”

A trip generation analysis submitted by the Applicant states that a development of 16 additional residential units on the site would generate an additional 149 daily trips<sup>2</sup>. According to the 2017 US 1 Arterial Travel Time and Delay Study, the maximum reserve volume for Segment 6 is 3,188 trips. The maximum reserve volume for US 1 as a whole is 18,547 trips.

*A Level II traffic study is required; as the trip generation analysis shows a total 308 gross daily trips for 33 dwelling units. The proposed FLUM and Level II traffic study will be reviewed to determine if there are any anticipated adverse impacts to the Traffic Circulation LOS.*

#### Potable Water (Comprehensive Plan Policy 701.1.1)

Florida Keys Aqueduct Authority’s water treatment facility in Florida City has a maximum water treatment design capacity of 29.8 million gallons per day (MGD) and is capable of treating up to 23.8 MGD. There are also two saltwater Reverse Osmosis (RO) plants, located on Stock Island and Marathon, which are able to produce potable water under emergency conditions. The RO desalination plants have design capacities of 2.0 and 1.0 MGD of water, respectively. The annual average daily demand in Monroe County is 17.76 MGD.

The proposed FLUM amendment could result in a net increase in demand from this site of up to 36,512 gallons per day if developed to its maximum residential intensity. Currently there is sufficient capacity for such an increase.

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<sup>2</sup> The property contains 17 existing deed restricted affordable mobile homes.

FLUM	Potable Water Residential LOS Standard (Policy 701.1.1)	Max Potential Residential Development (dwelling units)	Persons/Household	Total Persons	Total LOS Demand	Net Change
<b>Current: RH</b>	100 gal/cap/day (224 gal/du/day)	22	2.24	49.28	<b>4,928 gal/day</b>	<b>+672 gal/day</b>
<b>RC</b>	100 gal/cap/day (224 gal/du/day)	0	2.24	0	<b>0 gal/day</b>	
<b>MC</b>	100 gal/cap/day (224 gal/du/day)	8	2.24	17.92	<b>1,792 gal/day</b>	
<b>Proposed: MC with Subarea Policy</b>	100 gal/cap/day (224 gal/du/day)	33	2.24	73.92	<b>7,392 gal/day</b>	

*The proposed FLUM is not anticipated to adversely impact the Potable Water LOS.*

Solid Waste (Comprehensive Plan Policy 801.1.1)

Monroe County has a contract with Waste Management authorizing the use of in-state facilities through September 30, 2024; thereby, providing the County with approximately six (6) more years of guaranteed capacity for solid waste. Currently, there is adequate capacity for solid waste generation. All commercial solid waste is handled by private contract.

*The proposed FLUM is not anticipated to adversely impact the Solid Waste LOS.*

Sanitary Sewer (Comprehensive Plan Policy 901.1.1)

The County has adopted water quality treatment standards for wastewater facilities and within the Sanitary Wastewater Treatment Master Plan, Exhibit 3-8, has stated the LOS standard for residential and nonresidential flow is 145 gallons per day per equivalent dwelling unit (EDU). The proposed FLUM amendment with the proposed subarea policy would increase the maximum net residential density for affordable housing on the site by 33 dwelling units, which would increase the required flow by 4,785 gallons per day. Any proposed development on the site will either need to connect to the Cudjoe Regional Wastewater system, or provide on-site sewage treatment and disposal that meets the LOS standards in Policy 901.1.1.

*The proposed FLUM is not anticipated to adversely impact the Sanitary Sewer LOS.*

**V. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, THE KEY LARGO COMMUNIKES PLAN, THE FLORIDA STATUTES, AND PRINCIPLES FOR GUIDING DEVELOPMENT**

**A. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe County Year 2030 Comprehensive Plan (Note: compliance with Policy 101.5.26 must be established prior to BOCC adoption of the proposed FLUM amendment). Specifically, it furthers:**

**Goal 101:** Monroe County shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources.

**Objective 101.3**

Monroe County shall regulate new residential development based upon the finite carrying capacity of the natural and man-made systems and the growth capacity while maintaining a maximum hurricane evacuation clearance time of 24 hours.

**Policy 101.3.3**

Monroe County shall allocate at least 20% of the annual allocation, or as may be established by the State of Florida, pursuant to Administration Commission Rules, to affordable housing units as part of ROGO. Any portion of the allocations not used for affordable housing shall be retained and be made available for affordable housing from ROGO year to ROGO year. Affordable housing eligible for this separate allocation shall meet the criteria specified in Policy 601.1.4 and the Land Development Code, but shall not be subject to the competitive Residential Permit Allocation and Point System in Policy 101.6.4. Any parcel proposed for affordable housing shall not be located within an area designated as Tier I as set forth under Goal 105 or within a Tier III-A Special Protection Area as set forth in Policy 205.1.1.

**Objective 101.5**

Monroe County shall regulate future development and redevelopment to maintain and enhance the character of the community and protect natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map.

**Policy 101.5.6**

The principal purpose of the Mixed Use/Commercial (MC) future land use category is to provide for the establishment of mixed use commercial land use (zoning) districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted. In addition, Mixed Use/Commercial land use districts are to establish and conserve areas of mixed uses, which may include maritime industry, light industrial uses, commercial fishing, transient and permanent residential, institutional, public, and commercial retail uses.

This future land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and nonresidential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. The County shall continue to take a proactive role in encouraging the preservation and enhancement of community character and recreational and commercial working waterfronts.

In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed;
2. a maximum floor area ratio of 0.10 shall apply to nonresidential development; and

3. maximum net residential density shall be zero.

In order to preserve and promote recreational and commercial working waterfront uses, as defined by [Section] 342.07, F.S., the following criteria shall apply to all lands designated with the Maritime Industries (MI) land use (zoning) district within this land use category:

1. When a mixture of uses is proposed for parcels designated as MI land use (zoning) district, working waterfront and water dependent uses, such as marina, fish house/market, boat repair, boat building, boat storage, or other similar uses but excluding transient uses, shall be preserved by maintaining a minimum of 35% of the upland area of the property for those uses.  
To incentivize additional preservation of recreational and commercial working waterfront uses, the following shall be available:
  - i. For the preservation of 36—50% of the upland area of property for working waterfront and water dependent uses, up to 20,000 square feet of nonresidential floor area from the NROGO bank shall be provided to the property; and
  - ii. For the preservation of 50% or more of the upland area of property for working waterfront and water dependent uses, the residential density on the property may be developed pursuant to the maximum net density standard without the use of TDRs.
2. Parcels within the MI zoning district that have existing wet slips shall preserve at least 20% of the wet slips for vessels involved with recreational and commercial working waterfront uses, excluding live-aboard vessels solely used as a residence and not for navigation.
3. Parcels within the MI zoning district creating new wet slips shall preserve at least 10% of the wet slips for vessels involved with recreational and commercial working waterfront uses, excluding live-aboard vessels solely used as a residence and not for navigation.
4. The preservation of dockage for recreational and commercial working waterfront uses shall be documented on the final development plan and shall be a written condition of any permit approval.
5. For permanent residential development, parcels within the MI zoning district shall be limited to commercial apartments or employee housing. Commercial apartment means an attached or detached residential dwelling unit located on the same parcel of land as a nonresidential use that is intended to serve as permanent housing for the owner or employees of that nonresidential use. The term does not include a tourist housing use or vacation rental use.
6. The preservation of a public access walkway, and a public access boat launch if one already exists, shall be required for all parcels with direct access to the water. Consideration shall be given to security and the physical constraints of the parcel. The public access walkway shall be documented on the final development plan to link a continuous walkway and shall be a written condition of any permit approval.
7. Parcels within the MI zoning district shall be limited to commercial retail uses of less than 5,000 square feet of floor area.

### **Policy 101.5.25**

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the FLUM and described in Policies 101.5.1 - 101.5.20.

Future Land Use Densities and Intensities				Minimum Open Space Ratio <sup>(c)</sup>
Future Land Use Category And Corresponding Zoning	Residential <sup>(l)</sup>		Nonresidential	
	Allocated Density <sup>(a)</sup> (per upland acre)	Maximum Net Density <sup>(a) (b)</sup> (per buildable acre)	Maximum Intensity (floor area ratio)	
* * *				
Mixed Use/Commercial (MC) <sup>(f)(g)</sup> (SC, UC, DR, RV, MU and MI zoning)	1 du (DR, MU, MI) 3 du (SC) 6 du (UC) Commercial Apartments (RV) <sup>(h)</sup> 5-15 rooms/spaces	2 du (MI) 6-18du (SC) <sup>(k)</sup> 12 du (UC) 12-18 du (MU) <sup>(k)</sup> 18 du (DR) 10-25 rooms/spaces	0.10-0.45 (SC, UC, DR, MU) <2,500 SF (RV) 0.30-0.60 (MI)	0.20

Notes:

- (a) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net density bonuses shall not be available.
- (b) The Maximum Net Density is the maximum density allowable with the use of TDRs, or for qualifying affordable housing development. TDRs can be utilized to attain the density between the allocated density standard up to the maximum net density standard. Deed restricted affordable dwelling units may be built up to the maximum net density without the use of TDRs. "N/A" means that maximum net density bonuses shall not be available. Buildable acres means the portion of a parcel of land that is developable and is not required open space.
- (c) Additional open space requirements may apply based on environmental protection criteria; in these cases, the most restrictive requirement shall apply.
- (d) Future land use categories of Agriculture/Aquaculture, Education, Institutional, Preservation, Public Buildings/Lands, and Public Facilities, which have no directly corresponding zoning, may be used with new or existing zoning districts as appropriate.
- (e) Within the Mainland Native future land use district, campground spaces and nonresidential buildings shall only be permitted for educational, research or sanitary purposes.
- (f) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing future land use categories, the maximum floor area ratio shall be 0.10 and the maximum net density bonuses shall not be available.
- (g) A mixture of uses shall be maintained for parcels designated as MI zoning district that are within the MC future land use category. Working waterfront and water dependent uses, such as marina, fish house/market, boat repair, boat building, boat storage, or other similar uses, shall comprise a minimum of 35% of the upland area of the property, adjacent to the shoreline, pursuant to Policy 101.5.6.
- (h) In the RV zoning district, commercial apartments shall be allowed, not to exceed 10% of total spaces allowed or in existence on the site, whichever is less.
- (i) The allocated density for the CFSD-20 zoning district (Little Torch Key) shall be 1 dwelling unit per acre, or 1 dwelling unit per parcel for those parcels existing as of September 15, 1986, whichever is less, and the maximum net density bonuses shall not be available. Residential density shall be allowed in addition to the permitted nonresidential uses and intensity (i.e., density and intensity shall not be counted cumulatively).
- (j) Within IS subdivisions with primarily single family residential units, IS-D zoning may be used with a RM future land use designation for platted lots which have a duplex that was lawfully established prior to September 15, 1986.
- (k) The maximum net density shall be 25 du/buildable acre for the UR zoning district and shall be 18 du/buildable acre for the MU and SC zoning district for development where all units are deed restricted affordable dwelling units. For the UR zoning district market rate housing may be developed as part of an affordable or employee housing project with a maximum net density not exceeding 18 du/buildable acre.
- (l) Vessels, including live-aboard vessels, or associated wet slips are not considered dwelling units and do not count when calculating density.

**Policy 101.5.26**

In order to continue to implement the Florida Keys Carrying Capacity Study, Monroe County shall promote the reduction in overall County residential density and the preservation of Monroe County’s native habitat by enacting legislation which implements the following policy statements for private applications for future land use map amendments which increase allowable residential allocated density. Private application(s) means those applications from private entities with ownership of the upland development and parcel(s) of land or includes private upland development on County-owned land.

Private applications requesting future land use map designation amendments received after the effective date of this ordinance (Nov. 20, 2012), which propose increases in allocated residential density shall be required, upon amendment approval, to comply with either option (1) or (2) below:...

\* \* \*

**Goal 102:** Monroe County shall direct future growth to lands which are most suitable for development and shall encourage conservation and protection of environmentally sensitive lands (wetlands, beach berm and tropical hardwood hammock).

**Policy 105.2.1**

Monroe County shall designate all lands outside of mainland Monroe County, except for the Ocean Reef planned development, into three general categories for purposes of its Land Acquisition Program and smart growth initiatives in accordance with the criteria in Policy 205.1.1. These three categories are: Natural Area (Tier 1); Transition and Sprawl Reduction Area (Tier II) on Big Pine Key and No Name Key only; and Infill Area (Tier III). The purposes, general characteristics, and growth management approaches associated with each tier are as follows:

\* \* \*

3. Infill Area (Tier III): Any defined geographic area, where a significant portion of land area is not characterized as environmentally sensitive as defined by this Plan, except for dispersed and isolated fragments of environmentally sensitive lands of less than four acres in area, where existing platted subdivisions are substantially developed, served by complete infrastructure facilities, and within close proximity to established commercial areas, or where a concentration of nonresidential uses exists, is to be designated as an Infill Area. New development and redevelopment are to be highly encouraged, except within tropical hardwood hammock or pineland patches of an acre or more in area, where development is to be discouraged. Within an Infill Area are typically found: platted subdivisions with 50 percent or more developed lots situated in areas with few sensitive environmental features; full range of available public infrastructure in terms of paved roads, potable water, and electricity; and concentrations of commercial and other nonresidential uses within close proximity. In some Infill Areas, a mix of nonresidential and high-density residential uses (generally 8 units or more per acre) may also be found that form a Community Center.

**Policy 105.2.2**

Monroe County shall maintain overlay map(s) designating geographic areas of the County as one of the Tiers in accordance with the guidance in Policy 105.2.1, which shall be incorporated as an overlay on the zoning map(s) with supporting text amendments in the Land Development Regulations. These maps are to be used to guide the Land Acquisition Program and the smart growth initiatives in conjunction with the Livable CommuniKeys Program (Policy 101.19.1).

**GOAL 203**

The health and integrity of living marine resources and marine habitat, including mangroves, seagrasses, coral reefs, other hard bottom communities and fisheries, shall be protected and, where possible, restored and enhanced. [§163.3177(6)d.2.d., F.S.; §163.3177(6)d.2.e., F.S.; §163.3177(6)d.2.j., F.S.]

**Objective 203.1**

Monroe County shall protect its mangrove wetlands by continuing to implement regulations which will further reduce disturbances to mangroves and which will mitigate the direct and indirect impacts of development upon mangroves. [§163.3177(6)d.2.d., F.S.; §163.3177(6)d.2.e., F.S.; §163.3177(6)d.2.j., F.S.]

**Policy 203.1.1**

The open space requirement for mangrove wetlands shall be one hundred (100) percent. No fill or structures shall be permitted in mangrove wetlands except for elevated, pile-supported walkways, docks, piers and utility pilings. [§163.3177(6)d.2.d., F.S.; §163.3177(6)d.2.e., F.S.; §163.3177(6)d.2.j., F.S.]

**Policy 203.1.2**

Monroe County shall require minimum vegetated setbacks of fifty (50) feet to be maintained as an open space buffer for development occurring adjacent to all types of wetlands except for tidally inundated mangrove fringes and as provided for in Policy 204.2.3, 204.2.4 and 204.2.5. If a 50-foot setback results in less than 2,000 square feet of principal structure footprint of reasonable configuration, then the setback may be reduced to allow for 2,000 square feet of principal structure footprint of reasonable configuration, provided that the setback is not reduced to less than twenty-five (25) feet. On properties classified as scarified adjacent to wetlands, the wetland setback may be reduced to twenty-five (25) feet, without regard to buildable area, if the entire setback is managed in accordance with County regulations approved by the County Biologist and is placed under conservation easement. [§163.3177(6)d.2.d., F.S.; §163.3177(6)d.2.e., F.S.; §163.3177(6)d.2.j., F.S.]

**Goal 205:** The health and integrity of Monroe County's native upland vegetation shall be protected and, where possible, enhanced.

**Policy 212.2.4**

Permitted uses and performance standards within the shoreline setback shall be as follows:

Except as provided herein, principal structures shall be set back as follows:

1. Along lawfully altered shorelines including manmade canals, channels, and basins, principal structures shall be set back at least twenty (20) feet as measured from the mean high water (MHW) line;
2. Along lawfully altered shorelines including manmade canals, channels, and basins, for parcels less than 4,000 square feet that are developed with a lawfully established principal use, the required setback may be reduced to a minimum of ten (10) feet provided that the structure is sited so as to protect community character and minimize environmental impacts by maintaining open space and protecting shoreline vegetation.
3. Along open water shorelines not adjacent to manmade canals, channels, or basins, and which have been altered by the legal placement of fill:
  - a. Where a mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of the property, principal structures shall be set back at least thirty (30) feet as measured from the mean high water (MHW) line or the landward extent of the mangroves, whichever is further inland.
  - b. Where no mangrove fringe exists, principal structures shall be set back at least thirty (30) feet from the mean high water (MHW) line, provided that native vegetation exists or is planted and maintained in a ten (10) foot width across the entire shoreline as approved by the County Biologist, and is placed under conservation easement; otherwise the setback shall be fifty (50) feet as measured from the mean high water (MHW) line.
  - c. On infill lots surrounded by significant development where principal structures are set back less than fifty (50) feet from mean high water (MHW) or the landward extent of mangroves, the Director of Planning and Environmental Resources may evaluate the community character, the presence or absence of environmental features, and the setbacks on adjacent developed properties within two parcels on either side of proposed development, and may allow principal structures to be set back as far as practicable or in line with adjacent principal structures. In no event shall the setback be less than twenty (20) feet. On shorelines where the existing pattern of setback is greater than thirty (30) feet, the greater setback shall apply.
3. Along unaltered and unlawfully altered shorelines, principal structures shall be set back fifty (50) feet as measured from the mean high water (MHW) line or the landward extent of the mangroves, whichever is further landward;

Accessory structures within the shoreline setback shall be designed to meet the following criteria:

1. Along altered shorelines, including manmade canals, channels, and basins:

- a. In no event shall the total, combined area of all structures occupy more than sixty (60) percent of the upland area of the shoreline setback;
  - b. Accessory structures, including, pools and spas shall be set back a minimum of ten (10) feet, as measured from the mean high water (MHW) line;
2. Along open water shorelines which have been altered by the legal placement of fill, and where a mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of the property:
  - a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent of the upland area of the shoreline setback;
  - b. Accessory structures other than docks and erosion control structures shall be set back a minimum of fifteen (15) feet, as measured from the mean high water (MHW) line or the landward extent of the mangroves, whichever is further landward;
3. Along unaltered shorelines:
  - a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent of the upland area of the shoreline setback;
  - b. Accessory structures other than docks and erosion control structures shall be set back a minimum of twenty-five (25) feet, as measured from the mean high water (MHW) line or the landward extent of the mangroves, whichever is further landward;
4. Any proposed development within the shoreline setback shall include a site-suitable stormwater management plan for the entire developed parcel which meets the requirements of the land development regulations;
5. All structures within the shoreline setback shall be located such that the open space ratios for the entire parcel and all scenic corridors and bufferyards are maintained;
6. Structures shall be located in existing cleared areas before encroaching into native vegetation. The remaining upland area of the shoreline setback shall be maintained as native vegetation or landscaped areas that allow infiltration of stormwater runoff;
7. Side yard setbacks must be maintained for all structures in the shoreline setback except for docks, sea walls, fences, retaining walls, and boat shelters over existing boat ramps;
8. No enclosed structures, other than a dock box of five (5) feet in height or less, a screened gazebo, and a screen enclosure over a pool or spa, shall be allowed within the shoreline setback. Gazebos must be detached from any principal structure on the

parcel. No decks or habitable spaces may be constructed on the roof of any gazebo in the shoreline setback;

9. Pools, spas, fish cleaning tables, and similar pollutant sources may not discharge directly into surface waters. Where no runoff control structures are present, berms and vegetation shall be used to control runoff. Native vegetation shall not be removed to install berms or runoff control structures;
10. All boat ramps shall be confined to existing scarified shoreline areas of manmade canals, channels, and basins with little or no native vegetation, and shall be located and designed so as not to create a nonconformity for other structures set back from the new mean high water (MHW) line created by the boat ramp; and
11. The roof and supporting members of a boat shelter constructed in compliance with Section 118-10 of the Land Development Code, as amended (hereby incorporated by reference), may extend two (2) feet into the shoreline setback around the perimeter of a boat basin or ramp. This area shall be subtracted from the total area allowed for all structures within the shoreline setback.
12. Shoreline structures shall be designed to protect tidal flushing and circulation patterns. Any project that may produce changes in circulation patterns shall be approved only after sufficient hydrographic information is available to allow an accurate evaluation of the possible impacts of the project. Previously existing manmade alterations shall be evaluated so as to determine whether more hydrological benefits will accrue through their removal as part of the project.
13. No development other than pile supported docks and walkways designed to minimize adverse impacts on marine turtles shall be allowed within fifty (50) feet of any portion of any beach berm complex which is known to serve as a nesting area for marine turtles:
  - a. The fifty (50) foot setback shall be measured from either the landward toe of the most landward beach berm or from fifty (50) feet landward of MHW, whichever is less. The maximum total setback will be one hundred (100) feet from MHW.
  - b. Structures designed to minimize adverse impacts on marine turtles shall have a minimum horizontal distance of four (4) feet between pilings or other upright members and a minimum clearance of two (2) feet above grade. The entire structure must be designed to allow crawling turtles to pass underneath it moving only in a forward direction. Stairs or ramps with less than the minimum two (2) feet clearance above grade are discouraged. If built, these portions of the structure shall be enclosed with vertical or horizontal barriers no more than two (2) inches apart, to prevent the entrapment of crawling turtles.
  - c. Beaches known to serve as nesting areas for marine turtles are those areas documented as such on the County's threatened and endangered species maps and

any areas for which nesting or nesting attempts ("crawls") have been otherwise documented. Within mapped nesting areas, the Director of Planning and Environmental Resources may, in cooperation with FDEP, determine that specific segments of shoreline have been previously, lawfully altered to such a degree that suitable nesting habitat for marine turtles is no longer present. In such cases, the Director may recommend reasonable measures to restore the nesting habitat. If such measures are not feasible, the Director will waive the setback requirements of this paragraph. Restoration of suitable nesting habitat may be required for unlawfully altered beaches.

#### 14. Special Approvals:

- a. For structures serving commercial uses, public uses, or more than three dwelling units, the Planning Commission may approve deviations from the above standards as a major or minor conditional use. Such approval may include additional structures or uses provided that such approval is consistent with any permitted uses, densities, and intensities of the land use district, furthers the purposes of this section, is consistent with the general standards applicable to all uses, and the proposed structures are located in a disturbed area of an altered shoreline. Such additional uses are limited to waterfront dining areas, pedestrian walkways, public monuments or statues, informational kiosks, fuel or septic facilities, and water-dependent marina uses. Any such development shall make adequate provision for a water quality monitoring program for a period of five (5) years after the completion of the development.
- b. For structures serving three or fewer dwelling units, the Director of Planning and Environmental Resources may approve designs that address unique circumstances such as odd shaped lots, even if such designs are inconsistent with the above standards. Such approval may be granted only upon the Director's written concurrence with the applicant's written finding that the proposed design furthers the purpose of this section and the goals of the Monroe County Comprehensive Plan. Only the minimum possible deviation from the above standards will be allowed in order to address the unique circumstances. No such special approval will be available for after-the-fact permits submitted to remedy a Code Enforcement violation.
- c. All structures lawfully existing within the shoreline setback along manmade canals, channels, or basins, or serving three or fewer dwelling units on any shoreline, may be rebuilt in the same footprint provided that there will be no adverse impacts on stormwater runoff or navigation.

Docks or docking facilities lawfully existing along the shoreline of manmade canals, channels, or basins, or serving three or fewer dwelling units on any shoreline, may be expanded or extended beyond the size limitations contained in this section in order to reach the water depths specified for docking facilities in Policy 212.4.2. Any dock or docking facility so enlarged must comply

with each and every other requirement of this Policy and Section 118-12 of the Land Development Code, as amended (hereby incorporated by reference). [§163.3178(2)(g), F.S.]

**Goal 601:** Monroe County shall adopt programs and policies to facilitate access by residents to adequate and affordable housing that is safe, decent, and structurally sound, and that meets the needs of the population based on type, tenure characteristics, unit size and individual preferences.

**Policy 601.1.4**

All affordable housing projects which receive development benefits from Monroe County, including but not limited to ROGO allocation award(s) reserved for affordable housing, maximum net density, or donations of land, shall be required to maintain the project as affordable for a period of 99 years pursuant to deed restrictions or other mechanisms specified in the Land Development Code, and administered by Monroe County or the Monroe County Housing Authority.

**Policy 601.1.8**

Monroe County shall allocate at least 20% of the annual ROGO allocation, or as may be established by the State of Florida, pursuant to Administration Commission Rules, to affordable housing units, as specified in Policy 101.3.3. Affordable housing eligible for this separate allocation must meet the criteria established in the Land Development Code.

**Policy 601.1.9**

Monroe County shall maintain land development regulations which may include density bonuses, impact fee waiver programs, and other possible regulations to encourage affordable housing.

**Objective 601.2**

Monroe County shall adopt programs and policies to encourage housing of various types, sizes and price ranges to meet the demands of current and future residents [F.S. § 163.3177(6)(f)1., 3.].

**B. The proposed amendment is consistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statutes.**

For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the principles for guiding development and any amendments to the principles, the principles shall be construed as a whole and no specific provision shall be construed or applied in isolation from the other provisions.

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
  - 1. The Florida Keys Aqueduct and water supply facilities;
  - 2. Sewage collection, treatment, and disposal facilities;
  - 3. Solid waste treatment, collection, and disposal facilities;
  - 4. Key West Naval Air Station and other military facilities;
  - 5. Transportation facilities;
  - 6. Federal parks, wildlife refuges, and marine sanctuaries;
  - 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
  - 8. City electric service and the Florida Keys Electric Co-op; and
  - 9. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(I) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is consistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle.

**D. The proposed amendment is consistent with Part II of Chapter 163, Florida Statutes (F.S.). Specifically, the amendment furthers:**

163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

163.3161(6), F.S. – It is the intent of this act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

163.3187, F.S. – Process for adoption of small-scale comprehensive plan amendment.—

- (1) A small scale development amendment may be adopted under the following conditions:
  - (a) The proposed amendment involves a use of 10 acres or fewer and:
  - (b) The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year.
  - (c) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land

use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section.

- (d) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1).
- (2) Small scale development amendments adopted pursuant to this section require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(11).
- (3) If the small scale development amendment involves a site within a rural area of opportunity as defined under s. 288.0656(2)(d) for the duration of such designation, the 10-acre limit listed in subsection (1) shall be increased by 100 percent to 20 acres. The local government approving the small scale plan amendment shall certify to the state land planning agency that the plan amendment furthers the economic objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to the plan amendment shall undergo public review to ensure that all concurrency requirements and federal, state, and local environmental permit requirements are met.
- (4) Comprehensive plans may only be amended in such a way as to preserve the internal consistency of the plan pursuant to s. 163.3177. Corrections, updates, or modifications of current costs which were set out as part of the comprehensive plan shall not, for the purposes of this act, be deemed to be amendments.
- (5)(a) Any affected person may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57 to request a hearing to challenge the compliance of a small scale development amendment with this act within 30 days following the local government's adoption of the amendment and shall serve a copy of the petition on the local government. An administrative law judge shall hold a hearing in the affected jurisdiction not less than 30 days nor more than 60 days following the filing of a petition and the assignment of an administrative law judge. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervenor. In the proceeding, the plan amendment shall be determined to be in compliance if the local government's determination that the small scale development amendment is in compliance is fairly debatable. The state land planning agency may not intervene in any proceeding initiated pursuant to this section.
  - (b) 1. If the administrative law judge recommends that the small scale development amendment be found not in compliance, the administrative law judge shall submit the recommended order to the Administration Commission for final agency action. If the administrative law judge recommends that the small scale development amendment be found in compliance, the administrative law judge shall submit the recommended order to the state land planning agency.
    2. If the state land planning agency determines that the plan amendment is not in compliance, the agency shall submit, within 30 days following its receipt, the recommended order to the Administration Commission for final agency action. If the state land planning agency determines that the plan amendment is in compliance, the

agency shall enter a final order within 30 days following its receipt of the recommended order.

(c) Small scale development amendments may not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments may not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance.

(d) In all challenges under this subsection, when a determination of compliance as defined in s. 163.3184(1)(b) is made, consideration shall be given to the plan amendment as a whole and whether the plan amendment furthers the intent of this part.

163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory authority. It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of regulations for the development of land or the adoption and enforcement by a governing body of a land development code for an area shall be based on, be related to, and be a means of implementation for an adopted comprehensive plan as required by this act.

## **VI. PROCESS**

Comprehensive Plan Amendments may be proposed by the Board of County Commissioners, the Planning Commission, the Director of Planning, or the owner or other person having a contractual interest in property to be affected by a proposed amendment. The Director of Planning shall review and process applications as they are received and pass them onto the Development Review Committee and the Planning Commission.

The Planning Commission shall hold at least one public hearing. The Planning Commission shall review the application, the reports and recommendations of the Department of Planning & Environmental Resources and the Development Review Committee and the testimony given at the public hearing. The Planning Commission shall submit its recommendations and findings to the Board of County Commissioners (BOCC). For a small-scale comprehensive plan amendment, pursuant to Section 163.3187, F.S., the BOCC holds one public hearing to consider the adoption of the proposed comprehensive plan amendment, and considers the staff report, staff recommendation, and the testimony given at the public hearing.

## **VII. STAFF RECOMMENDATION**

Staff recommends approval of the proposed FLUM amendment from RH and NA to MC, contingent on adoption and effectiveness of the proposed corresponding subarea policy restricting development on the site to affordable housing dwelling units at a maximum of 33 units.

## **VIII. EXHIBITS**

1. Proposed corresponding Comprehensive Plan Subarea Policy.