

MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission

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

From: Devin Rains, Planning and Development Permit Services Manager

Date: November 28, 2018

Subject: **Edwin Handte, 1791 Narcissus Avenue, Big Pine Key, Florida, mile marker 30 Gulf-side:** A public hearing concerning an appeal, pursuant to Section 102-185 of the Monroe County Land Development Code, by an owner of the subject property to the Planning Commission concerning a Letter of Understanding to establish the lawfulness of a non-conforming use dated August 13, 2018, by the Senior Director of the Planning & Environmental Resources Department. The subject property is legally described as Block 18, Lot 9, Eden Pines Colony (Plat Book 4 Page 158) Big Pine Key, Monroe County, Florida, having Property ID Number 00268790-000000. (File # 2018-178)

Hearing date: December 12, 2018

1 **I. DECISION BEING APPEALED:**

2 The appellant and instant property owner, Edwin Handte (the “Appellant” or “property
3 owner”), is appealing an administrative decision of the Senior Director of the Planning &
4 Environmental Resources Department (“Senior Director”) dated August 13, 2018, in which
5 the Planning & Environmental Resources Department was unable to recognize in a Letter of
6 Understanding the establishment of the lawfulness of the non-conforming vacation rental use.
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8 *Subject Property (outlined in blue) with Land Use Districts Overlaid (Aerial dated 2018)*
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11 **II. BACKGROUND INFORMATION:**

12 **Location/Address:** 1791 Narcissus Avenue, Big Pine Key, near Mile Marker 30 (Gulfside)

13 **Legal Description:** Block 18, Lot 9, Eden Pines Colony (Plat Book 4 Page 158) Big Pine
14 Key

15 **Property ID Number:** 00268790-000000

16 **Property Owners:** Edwin R. and Janice E. Handte

17 **Appellant:** Edwin Handte

18 **Agent(s):** Susan Rohe and Jerrell Phillips, Esq.

19 **Size of Site:** 5,100 square feet of residential waterfront per the Property Appraiser's office
20 Property Record Card

21 **Land Use Map (Zoning) District:** Improved Subdivision (IS)

22 **Future Land Use Map (FLUM) Designation:** Residential Medium (RM)

23 **Tier Designation:** II – Transition and Sprawl Reduction Area on Big Pine Key or No Name
24 Key

25 **Flood Zone:** AE-8

26 **Existing Uses:** Two (2) Residential dwelling units

27 **Existing Vegetation / Habitat:** Developed/disturbed

28 **Community Character of Immediate Vicinity:** Surrounding uses are: To the west
29 environmentally sensitive lands designated as Area Critical County Concern (ACCC); single-
30 family residential to the north, south and east.

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32 **III. RELEVANT PRIOR COUNTY ACTIONS:**

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34 County building permit # A15787 issued on July 29, 1986, and re-issued February 21, 1990,
35 along with Certificate of Occupancy # 93-2 issued on April 23, 1993 for a 1,518-square-foot
36 duplex.

37
38 08/26/2015, the County created Case No. CE15080086, based on a complaint that the subject
39 property was being used for short term vacation rentals.

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41 On August 17, 2017, the Department received the Appellant's request for a Letter of
42 Understanding (LOU) to establish the lawfulness of a non-conforming use. (File 2017-127).

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44 By Letter of Understanding dated August 13, 2018, the Senior Director sent the Appellant
45 notice that based on a review of pertinent records, the Planning & Environmental Resources
46 Department determined the evidence submitted does not support the establishment of the
47 non-conforming vacation rental use prior to September, 15, 1986, pursuant to LDC Section
48 102-56. *See* Section 102-56(a)(1) Monroe County LDC (Attachment C). The notice informed
49 the Appellant that the Senior Director's decision may be appealed within 30 calendar days.

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51 On August 30, 2018, the Department received the Appellant's application for appeal to the
52 Planning Commission.

56 **IV. REVIEW OF APPLICATION:**

57 The review of the application is contained as presented in the document “Appellee’s
58 Response to Appellant’s Statement of Basis for Appeal to the Planning Commission”
59 prepared by Peter Morris, Esq., Assistant County Attorney, Monroe County Attorney’s
60 Office, incorporated herein as if fully stated herein.

61
62 **V. BASIS OF APPEAL:**

63 The Agent(s) for the Appellant provided the Notice of Appeal and exhibits, which is included
64 in the Planning Commission package.

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66 **VI. RECOMMENDATION:**

67 The decision by the Senior Director was based on the criteria provided in the Land
68 Development Code and the findings of fact as presented in the document “Appellee’s
69 Response to Appellant’s Statement of Basis for Appeal to the Planning Commission”
70 prepared by Peter Morris, Esq., Assistant County Attorney, Monroe County Attorney’s
71 Office. Based upon considered review of all of the available information, Planning &
72 Environmental Resources Department staff recommends that the Planning Commission
73 **UPHOLD** the decision of the Senior Director of the Planning & Environmental Resources
74 Department dated August 13, 2018, in which the Planning & Environmental Resources
75 Department was unable to recognize in a Letter of Understanding the establishment of the
76 lawfulness of the non-conforming vacation rental use at/of the subject property.

77
78 **VII. EXHIBITS:**

- 79 ■ **Attachment A** – File 2017-127, Appellant’s request for a Letter of Understanding to
80 Establish the Lawfulness of a Non-Conforming Use.
- 81 ■ **Attachment B** – Letter of Understanding dated August 13, 2018
- 82 ■ **Attachment C** – Relevant Monroe County Land Development Code excerpts
- 83 ■ **Attachment D** – Building Permit A15787
- 84 ■ **Attachment E** – Certificate of Occupancy dated April 23, 1993
- 85 ■ Incorporated as if fully stated herein – “Appellee’s Response to Appellant’s Statement of
86 Basis for Appeal to the Planning Commission” prepared by Peter Morris, Esq., Assistant
87 County Attorney, Monroe County Attorney’s Office.