



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Development Review Committee

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

From: Devin Tolpin, AICP, CFM, Principal Planner; & Michael Roberts, CEP, PWS, CFM, Assistant Director/Environmental Resources

Date: September 6, 2022

Subject: *Amendment to a Major Conditional Use Permit, KLF RE, LLC, 1313 Ocean Bay Drive, Mile Marker 99, Ocean Side, Key Largo, Parcel Identification #s 00502870-000000, 00497620-000000, & 00497600-000000 (File # 2021-166)*

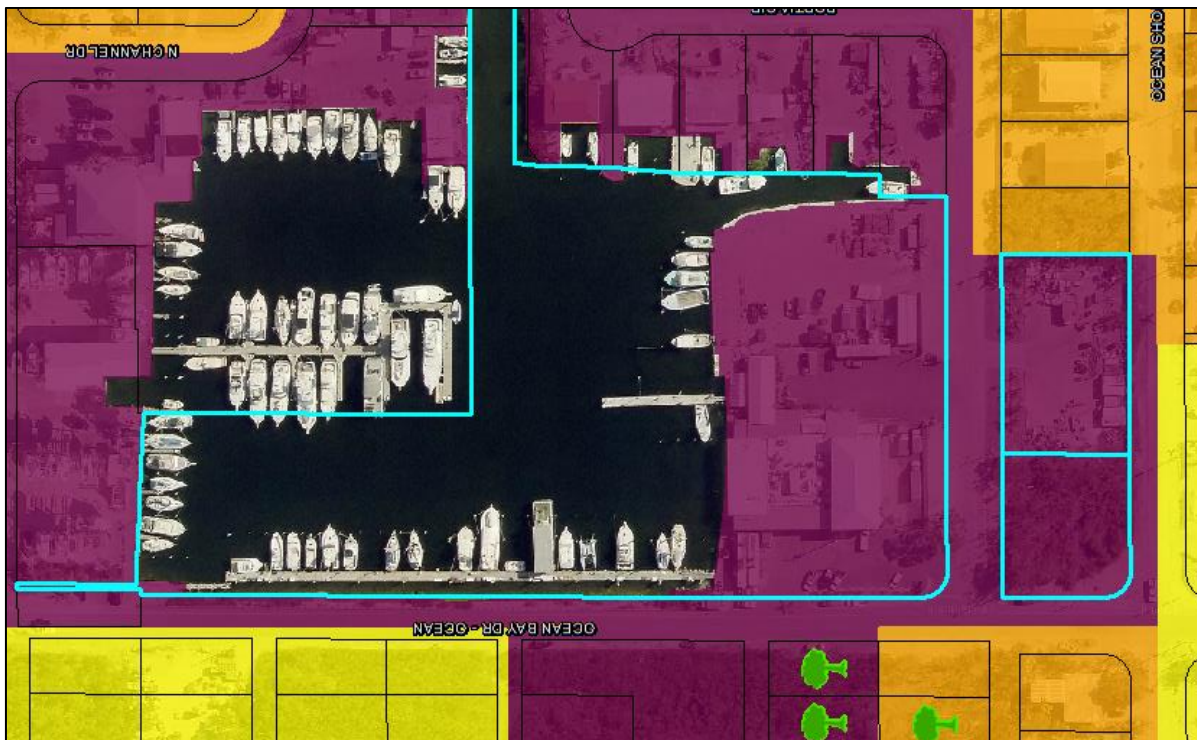
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**Meeting: September 28, 2022**

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1 I REQUEST:

2 The requested Amendment to a Major Conditional Use Permit is for the expansion of a  
3 restaurant and site improvements on a property that is currently operating as a marina with  
4 accessory uses such as commercial fishing, a restaurant, and fish market, located within the  
5 Commercial Fishing Special District (CFSD5) Land Use (Zoning) District, pursuant to Section  
6 130-79(3)(b) of the Monroe County Land Development Code (LDC).  
7



8 *Upland Portion of Subject Property (blue outline) with Land Use (Zoning) Districts (2018 Aerial)*  
9

1 **II BACKGROUND INFORMATION:**  
2

3 **Location:** Mile marker 99, Oceanside

4 **Address:** 1313 Ocean Bay Drive, Key Largo

5 **Legal Description:** Lots 1, 2, 3, 4 and 5, in Block 9, in Key Largo Beach Addition, according  
6 to the Plat thereof, as recorded in Plat Book 4, Page 22, of the Public Records of Monroe  
7 County, Florida, and 1, 2, 3, 4 and 5, Block 1, in Amended and Extended Plat of Key Largo  
8 Ocean Shores, according to the Plat thereof, as recorded in Plat Book 4, Page 18, of the Public  
9 Records of Monroe County, Florida and Tract, L, Tract M, Tract N, and the East 5 feet of Tract  
10 A, and part of Lake Largo, of Key Largo Beach, according to the Plat thereof, recorded in Plat  
11 Book 2, Page 149, of the Public Records of Monroe County, Florida (*see full legal description*  
12 *in application file*)

13 **Parcel Identification Numbers:** 00502870-000000, 00497620-000000, 00497600-000000

14 **Property Owners/Applicants:** KLF RE, LLC

15 **Agent:** Barton W. Smith, Esq./ Smith Hawks, PL

16 **Size of Site:** 107,819.10 SF (2.475 acres) of upland and 256,931.4 SF (5.90 acres) of  
17 submerged lands. As a note, Parcel 4 as depicted on the submitted boundary survey is not  
18 included as part of this development.

19 **Land Use (Zoning) District:** Commercial Fishing Special District 5 (CFSD5)

20 **Future Land Use Map (FLUM) Designation:** Mixed Use/Commercial Fishing (MCF)

21 **Tier Designation:** III Infill Area

22 **Existing/ Uses:** Permitted Marina and commercial fishing

23 **Existing Vegetation / Habitat:** Developed land, exotic

24 **Flood Zones:** AE-8

25 **Community Character of Immediate Vicinity:** Commercial fishing, marina, restaurant,  
26 single family residences, undeveloped land

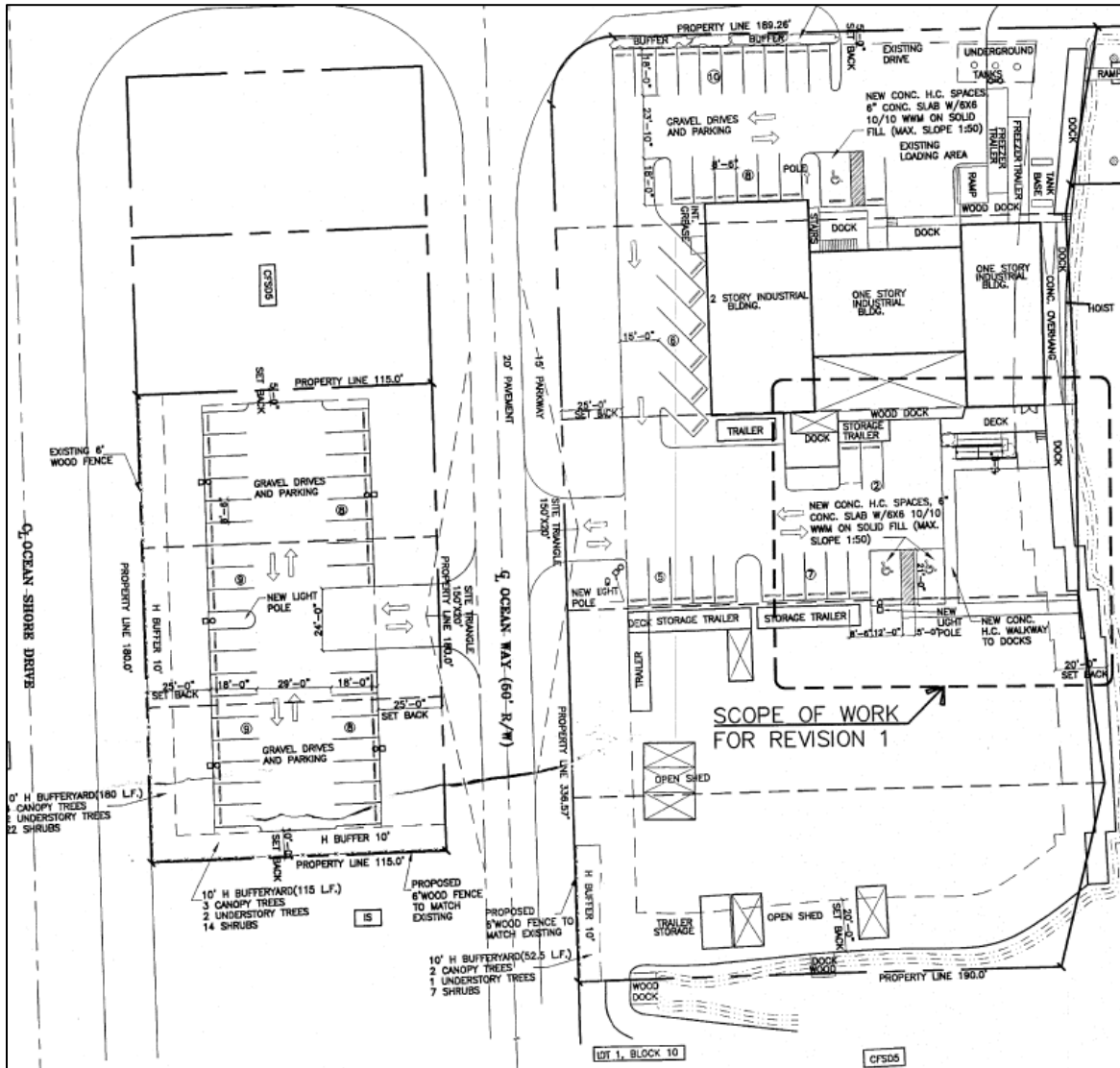
27  
28 **III RELEVANT PRIOR COUNTY ACTIONS:**  
29

30 On March 24, 1972, Monroe County Building Permit #26063 was issued to construct the existing  
31 fish house on the subject property.  
32

33 On January 28, 2003, a Letter of Understanding, written by the Director of Planning, was issued  
34 concerning a dock expansion and additional wet slips at the existing commercial fishing marina.  
35

36 On July 25, 2007, the Monroe County Planning Commission approved the request for an  
37 Amendment to a Major Conditional Use Permit (CUP) to add 11 dock slips and provide 70 parking  
38 spaces on the subject property. This Major CUP was passed and adopted through Planning  
39 Commission Resolution No. P36-07. This approval included an Off-Site Parking Agreement  
40 (Official Record Book #2381, Page #2011), to allow for the parking for the existing marina and  
41 commercial fishing establishment to be located on property having Parcel ID # 00497620-000000.  
42

1 On January 23, 2009, Monroe County Building Permit #08302384, was issued for work that  
2 included the development of the above referenced off-site parking lot. Below is a snapshot of the  
3 approved site plan:  
4



5  
6  
7 On January 12, 2011, the Monroe County Planning Commission approved a 2COP (beer and wine,  
8 on premises and package) alcoholic beverage special use permit, for the subject property, passed  
9 and adopted through Planning Commission Resolution No. P04-11. It should be noted that there  
10 was no approved outdoor seating or service area at this time.  
11

12 On August 15, 2014, Monroe County Building Permit #13302124 was issued to construct a wood  
13 framed tiki hut. The Planning Department approval conditions read " 1. Approval only for the  
14 construction of a 1,320 SF tiki to be used as food service area as shown on site plan..." The  
15 approved floor plan included 77 restaurant seats.  
16

1 On October 6, 2021, Monroe County Building Permit #21301981 was issued for the removal of  
2 exotic and nuisance vegetation on parcels 00497600-000000 and 00497620-000000. This permit  
3 remains open at the time of this Staff Report.

4  
5 On May 10, 2022, Monroe County Building Permit #22300666 was issued for the restoration of  
6 native vegetation removed in conjunction with the exotic removal conducted under Permit  
7 #21301981. The initial inspection of the required planting has not been conducted at the time of  
8 this Staff Report. This permit will remain open for three years from the date of the passed initial  
9 inspection.

10  
11 **IV REVIEW OF APPLICATION:**

12  
13 Section 110-67 of the Monroe County Land Development Code (LDC) provides the standards  
14 which are applicable to all conditional uses. When considering applications for a conditional  
15 use permit, the Planning Director and the Planning Commission shall consider the extent to  
16 which:

- 17  
18 (a) *The conditional use is consistent with the purposes, goals, objectives and policies of the*  
19 *Comprehensive Plan and this Land Development Code;*

20  
21 Policies from the *Monroe County Year 2030 Comprehensive Plan* that directly pertain to  
22 the proposed conditional use include:

23  
24 Policy 101.5.7: *The principal purpose of the Mixed Use/Commercial Fishing (MCF)*  
25 *future land use category is to provide for the maintenance and enhancement of*  
26 *commercial fishing and related traditional water-dependent and water-related uses*  
27 *such as retail, storage, and repair and maintenance which support the commercial*  
28 *fishing, sport fishing, and charter boats industry. Residential uses are also permitted.*  
29 *In order to protect environmentally sensitive lands, the following development controls*  
30 *shall apply to all hammocks, pinelands, and disturbed wetlands within this land use*  
31 *category:*

- 32  
33 *1. only low intensity commercial uses shall be allowed;*  
34 *2. a maximum floor area ratio of 0.10 shall apply to nonresidential development; and*  
35 *3. maximum net residential density shall be zero.*

36  
37 Policy 217.1.1: *The strategy to preserve and protect commercial fishing and*  
38 *recreational and commercial working waterfront uses shall include the following:*

- 39  
40 *1. Exemptions from the requirements of the Permit Allocation System for new*  
41 *nonresidential development, pursuant to Policy 101.4.5;*  
42 *2. Providing for the preservation of recreational and commercial working waterfront*  
43 *uses within the Mixed Use Commercial and Mixed Use Commercial Fishing Future*  
44 *Land Use categories, pursuant to Policy 101.5.6 and Policy 101.5.7;*  
45 *3. Maintaining land development regulations to allow lawfully established water-*  
46 *dependent and water-related commercial uses which are identified as a source of*  
47 *economic sustainability within a Livable Communities Plan to be rebuilt, even if*

1           100% destroyed, providing they meet the replacement criteria established in the  
2           adopted LCP, are rebuilt to the preexisting use, and are registered and recognized by  
3           the Planning & Environmental Resources Department as lawful nonconforming uses  
4           and structures; and

5           4. Implementation of marina siting criteria for new marinas. [F.S. § 163.3178(2)(g)]  
6

7 Provisions from the LDC that directly pertain to the proposed conditional use include:  
8

9           LDC Section 130-32- Purpose of the Commercial Fishing Special District(CFSD):

10           *The purpose of the CFSD district is to establish areas where various aspects of*  
11           *commercial fishing have been traditionally carried out while prohibiting the*  
12           *establishment of additional commercial fishing uses that are inconsistent with the*  
13           *natural environment, immediate vicinity or community character of the area. Each*  
14           *individual sub-district has unique characteristics relating to the fishing and maritime*  
15           *industry of that particular location.*  
16

17 IN COMPLIANCE  
18

19 (b) *The conditional use is consistent with the community character of the immediate vicinity*  
20 *of the parcel proposed for development;*  
21

22           The subject property is located at U.S. 1 Mile Marker 99 ocean side. The surrounding area  
23           is characterized by a mix of commercial fishing, restaurants, and single family residences.  
24           This property is located within the Key Largo Livable CommuniKeys planning area, and  
25           is listed as an existing water related and water dependent commercial use. Strategy 7.1 of  
26           the Key Largo Livable CommuniKeys Plan includes the identification and evaluation of  
27           commercial waterfront businesses that support the tourist-based economy and the  
28           traditional waterfront areas of the planning area and provides for their preservation and  
29           continued viability where appropriate.  
30

31           Additionally, this property is located within the Commercial Fishing Special District 5,  
32           which is only sited at this location, and the existing and proposed uses are consistent with  
33           the existing community character.  
34

35 IN COMPLIANCE  
36

37 (c) *The design of the proposed development minimizes adverse effects, including visual*  
38 *impacts, of the proposed use on adjacent properties;*  
39

40           This application is requesting to expand and provide improvements of the restaurant use  
41           on the property. The main design aspects that will help minimize any adverse effects on  
42           adjacent properties are setbacks, landscaping, bufferyards, and the means of ingress and  
43           egress to the proposed development.  
44

45           The development proposal includes a Class G bufferyard on the three sides of the proposed  
46           parking area that do not face the fish house and restaurant, and parking lot landscaping on

1 the fourth side. The proposed deck expansion is outside of the non-shoreline setbacks and  
2 is not anticipated to have an adverse effect on adjacent properties.

3  
4 IN COMPLIANCE

5  
6 (d) *The proposed use will have an adverse effect on the value of surrounding properties;*

7  
8 There is no evidence at this time indicating that the proposed development would have an  
9 adverse impact on the value of the surrounding properties.

10  
11 IN COMPLIANCE

12  
13 (e) *The adequacy of public facilities and services;*

14  
15 1. *Transportation/Roadways:*

16  
17 Localized Impacts & Access Management: The submitted Level 3 Traffic Study,  
18 prepared by Karl Peterson, P.E., KBP Consulting, Inc., and updated in August, 2022,  
19 indicates that each of the surrounding study intersections are operating and will  
20 continue to operate at an acceptable Level of Service (LOS).

21  
22 The submitted plans have been reviewed by Judy Clarke, P.E., Director of Engineering  
23 Services. In an email provided to staff on September 2, 2022, it was determined that  
24 the development proposal demonstrates adequacy related to localized impacts and  
25 access management.

26  
27 Level of Service (LOS): According to the 2021 US1 Arterial Travel Time and Delay  
28 Study, Segment 22, Key Largo (MM 91.5 through 99.5) currently operates at a LOS A.

29  
30 The submitted Level 3 Traffic Study, prepared by Karl Peterson, P.E., KBP Consulting,  
31 Inc., and updated in August, 2022, indicates that the existing and proposed  
32 development is projected to generate 578 daily vehicle trips on Segment 22 in Key  
33 Largo. It has been determined that there is adequate roadway capacity for the proposed  
34 development.

35  
36 It should be noted that the submitted traffic study does not include the 1,039 square  
37 foot office that is ancillary to the commercial operations on site; however it is  
38 conceivable that any trips attributed to this office area are included and addressed in  
39 the study.

40  
41 2. *Solid Waste:* The applicant submitted a coordination letter dated February 15, 2022  
42 from the Monroe County Solid Waste Department.

43  
44 3. *Potable Water:* The applicant submitted a preliminary coordination letter dated  
45 November 12, 2021, from the Florida Keys Aqueduct Authority.

- 1 4. *Sanitary Sewer*: The applicant submitted a coordination letter dated November 19,  
2 2021 from the Key Largo Wastewater Treatment District.  
3  
4 5. *Drainage/Stormwater*: According to the conceptual drainage plan dated June 9, 2022,  
5 Sheet C-2.0, the proposed development complies with both the water quality and water  
6 quantity stormwater management criteria as required by LDC Section 114-3.  
7  
8 6. *Schools*: Sufficient school classroom capacity is available to accommodate the  
9 proposed uses, according to the 2021-2023 Monroe County Public Facilities Capacity  
10 Assessment Report.  
11  
12 7. *Recreation and Open Space*: Sufficient recreation and open space capacity is available  
13 to accommodate the proposed uses, according to the 2021-2023 Monroe County Public  
14 Facilities Capacity Assessment Report.  
15

16 (f) *The applicant for conditional use approval has the financial and technical capacity to*  
17 *complete the development as proposed and has made adequate legal provision to*  
18 *guarantee the provision and development of any improvements associated with the*  
19 *proposed development;*  
20

21 There is no evidence to support or disprove the applicant's financial and technical capacity.  
22

23 IN COMPLIANCE  
24

25 (g) *The development will adversely affect a known archaeological, historical or cultural*  
26 *resource;*  
27

28 The proposed development would not adversely affect a known archaeological, historical  
29 or cultural resource.  
30

31 IN COMPLIANCE  
32

33 (h) *Public access to public beaches and other waterfront areas is preserved as a part of the*  
34 *proposed development; and*  
35

36 The property is not adjacent to any public beaches but is adjacent to other waterfront areas.  
37 It should also be noted that the subject property includes the entirety of a private canal,  
38 adjacent many private waterfront homes. See aerial image of Parcel ID# 00502870-000000,  
39 highlighted in blue, below:  
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No change to public access of waterfront areas is proposed as part of this application.

**IN COMPLIANCE**

(i) *The proposed use complies with all additional standards imposed on it by the particular provision of this Land Development Code authorizing such use and by all other applicable requirements.*

- 1. Residential Rate of Growth Ordinance (ROGO) (LDC Chapter 138, Article II): *N/A*
- 2. Nonresidential Rate of Growth Ordinance (NROGO) (LDC Chapter 138, Article III): *In compliance.*

No new residential floor area is proposed through this application.

- 3. District Purpose (LDC Section 130-40): *In compliance, subject to approval of the requested Major CUP*

The subject property is located within the Commercial Fishing Special District 5 Land Use (Zoning) District. The purpose of the CFSD district is to establish areas where various aspects of commercial fishing have been traditionally carried out while prohibiting the establishment of additional commercial fishing uses that are inconsistent with the natural environment, immediate vicinity or community character of the area. Each individual sub-district has unique characteristics relating to the fishing and maritime industry of that particular location.

- 4. Permitted and Conditional Uses (LDC Section 130-93): *In compliance, subject to approval of the requested Major CUP*

The requested Amendment to a Major CUP is required for the proposed expansion of restaurant use and associated site improvements. The site currently operates with an approved Major CUP for the marina use with a fish market, restaurant, and other accessory uses related to commercial fishing.



Pursuant to LDC Section 130-79(d)(3)(a), marinas are permitted as a major conditional use within the CFSD 5 zoning district provided that:

1. The parcel proposed for development has continuous access to water of depths of at least four feet below mean sea level at mean low tide.
2. The sale of goods and services is limited to fuel, food, boating, diving and sport fishing products.
3. Vessels docked or stored shall not be used for live-aboard purposes, except when a permitted sewage pump-out facility is available on-site, and where the waste is treated in a permitted sewage treatment facility.
4. All outside storage areas are screened from adjacent residential uses by a solid fence, wall or hedge at least six feet in height.
5. Each nonwaterside perimeter setback of the parcel proposed for development must have a class C bufferyard within a side yard setback of ten feet.
6. There is no displacement of existing commercial fishing dockage or area;
7. No less than 50 percent of the dock area shall be devoted exclusively to commercial fishing; and
8. No less than 50 percent of the district land area shall be used for other commercial fishing activities, such as the storage and manufacture of traps.
9. If marina slips are leased on any basis longer than month-to-month, the marina shall lease at least 20 percent of its docking slips on a month-to-month basis, and commercial fishing boats shall be given priority for those slips.
10. Each marina owner or operator, shall maintain a waiting list for commercial fishing boats and give them first priority at the end of each one-month leasing period.
11. The following message shall be posted on one two-foot by four-foot sign, on the seaward end of the most visible pier or mooring, and on the landward end of each pier, at each marina:

|   |           |
|---|-----------|
| FISHING BOATS   |           |
| If you have problems finding dockage or if you have questions, contact: |           |
| Name  | Phone No. |
| _____   | _____     |

Pursuant to LDC Section 130-79(d)(3)(b), restaurants, dive shops, and other commercial uses of less than 1,600 square feet per shop are permitted as a major conditional use within the CFSD5 district provided that:

1. There is no displacement of existing commercial fishing dockage or area;
2. No less than 50 percent of the dock area shall be devoted exclusively to commercial fishing; and
3. No less than 50 percent of the district land area shall be used for other commercial fishing activities, such as the storage and manufacture of traps. Such uses shall be considered subordinate to the existing principal commercial fishing use, and shall only be allowed so long as the principal fishing use remains and is integrated into the design of the development and would reinforce the commercial fishing industry;
5. Required Open Space (LDC Sections 130-157, 130-162 & 130-164): *In compliance*

The minimum required open space ratio (OSR) within the CFSD District is 0.20 or 20%. According to the proposed site plan, the property consists of 107,819.10 square feet of upland area. At least 21,563.82 square feet of the total upland area must remain open space. The submitted site plan indicates there would be 51,876.41 square feet square feet or 48% of total open space.

It should be noted that the submitted boundary survey includes an additional parcel, labeled Parcel 4 [Lots 1, 21 and 22, Thompson’s Subdivision], that totals 14,999.3 square feet. Parcel 4 is not included in this development nor is part of the subject property.

6. Land Use Intensities (LDC Chapter 130, Article V): *In compliance*

| Use within CFSD5                                 | Maximum FAR | Area of Upland (square feet) | Total Amount of Floor Area Allowed (square feet) | Total Area Proposed (square feet) | Percent Used |
|--|-------------|------------------------------|--|-----------------------------------|--------------|
| Medium Intensity Commercial Retail or Restaurant | 0.25        | 72,707.9 [subject parcel]    | 18,176.98  | 1,334                             | 7.34%        |
| Commercial Fishing                               | 0.40        | 72,707.9 [subject parcel]    | 29,083.16  | 9,939                             | 34.17%       |

1 7. Required Setbacks (LDC Sections 118-12, 131-1 & 131-3): *In compliance*

2  
3 Pursuant to LDC Section 131-1, the required non-shoreline setbacks within the CFSD  
4 Land Use District are:  
5

| <i>Setback<br/>Type</i>  | <i>Minimum<br/>Required<br/>(feet)</i> |
|--|--|
| Primary Front Yard<br><i>(along Ocean Way Drive, both sides)</i> | 25                                     |
| Secondary Front Yard<br><i>(along Ocean Bay Drive)</i>           | 15                                     |
| Secondary Front Yard<br><i>(along Ocean Shores Drive)</i>        | 15                                     |
| Secondary Side Yard<br><i>(along eastern property lines)</i>     | 5                                      |

6  
7 The Planning Director had determined that the existing parking and loading area may  
8 remain in the front yard setback as their location demonstrates compliance to the  
9 maximum extent practicable in accordance with LDC Section 114-67(k).  
10

11 Pursuant to LDC Section 101-1, *setback* means the area between a building or structure  
12 and the property line of the parcel of land on which the building or structure is located,  
13 unoccupied and unobstructed from the ground upward, except for fences or other  
14 development permitted in the area as provided for in this Land Development Code. In  
15 measuring a setback, the horizontal distance between the property line and the  
16 furthestmost projection of the building or structure shall be used. Further, the setback  
17 shall be measured at a right angle (90 degrees) from the property line.  
18

19 8. Shoreline Setback (LDC Section 118-12): *In Compliance*

20 Pursuant to LDC Section 118-12, the shoreline setbacks for the subject property are 20'  
21 from the MHWL for principal structures (118-12(b)(1)), and 10' feet for accessory  
22 structures (118-12(c)(1)).  
23

24 The existing development within the shoreline setback is lawfully non-conforming to  
25 the above referenced Code criteria and pursuant to 118-12(o)(1) is authorized to remain  
26 under the existing Major Conditional Use approval as amended in Planning  
27 Commission resolution P36-07. The proposed additions are outside the 20' shoreline  
28 setback as depicted on the plans (Sheets C-1.0 thru C-3.0) dated September 7, 2022 are  
29 in compliance with the current setback provisions of Section 118-12. Staff recommends  
30 that the waterfront dining area as depicted on Sheet A1.2 be approved with this  
31 Amendment to a Major Conditional Use Permit in accordance with LDC Section 118-  
32 12(o). A water quality monitoring program will be required for a period of five (5)  
33 years following establishment of the dining areas. The required water quality  
34 monitoring should include, at a minimum, quarterly visual inspections for refuse and  
35 debris that may contribute to water quality degradation.  
36

1 9. Maximum Height (LDC Sections 101-1 & 131-2): *In compliance.*

2  
3 No structure or building shall be developed that exceeds a maximum height of 35 feet.  
4 Pursuant to LDC Section 101-1:

5  
6 *Height* means the vertical distance between grade and the highest part of any structure,  
7 including mechanical equipment, but excluding the following: chimneys; spires and/or  
8 steeples on structures used for institutional and/or public uses only; radio and/or  
9 television antenna, flagpoles; solar apparatus; utility poles and/or transmission towers;  
10 and certain antenna supporting structures with attached antenna and/or collocations as  
11 permitted in Chapter 146. However, in no event shall any of the exclusions enumerated  
12 in this definition be construed to permit any habitable or usable space to exceed the  
13 applicable height limitations. In the case of airport districts, the height limitations  
14 therein shall be absolute and the exclusions enumerated in this definition shall not  
15 apply.

16  
17 *Grade* means the highest natural elevation of the ground surface, prior to construction,  
18 next to the proposed walls of a structure, or the crown or curb of the nearest road  
19 directly adjacent to the structure, whichever is higher. To confirm the natural elevation  
20 of the ground surface, prior to construction, the county shall utilize the Light Detection  
21 and Ranging (LiDAR) dataset for Monroe County prepared in 2007 and other best  
22 available data, including, but not limited to, preconstruction boundary surveys with  
23 elevations, pre-construction topographic surveys, elevation certificates and/or other  
24 optical remote sensing data.

25  
26 The elevation plan submitted, Sheet A1.3, does not depict the grade nor maximum  
27 height elevations, however it is apparent that the proposed deck addition will not  
28 exceed the maximum height restriction. At the time of building permit application, the  
29 elevation plan will be required to include grade and maximum height elevations as  
30 measured in NGVD29.

31  
32 10. Surface Water Management Criteria (LDC Section 114-3): *In Compliance*

33  
34 The Concept Drainage Plan (Sheet C-2.0 dated 06/09/22) is in compliance with the  
35 water quantity and water quality criteria of Section 114-3.

36  
37 11. Wastewater Treatment Criteria (LDC Section 114-4): *Full compliance to be*  
38 *determined by KLWTD and Building Department prior to the issuance of a building*  
39 *permit*

40  
41 12. Fences (LDC Section 114-13): *Full compliance to be determined upon building permit*  
42 *application review*

43  
44 13. Floodplain Management (LDC Chapter 122): *Full compliance to be determined upon*  
45 *building permit application review*

1 All new structures must be designed to current floodplain management standards,  
 2 pursuant to LDC Chapter 122. According to the Monroe County GIS database, the site  
 3 is located within the AE-8 flood zone on the Federal Emergency Management Agency  
 4 (FEMA)'s flood insurance rate maps.  
 5

6 14. Energy Conservation Standards (LDC Section 114-45): *Full compliance to be*  
 7 *determined upon building permit application review*  
 8

9 15. Potable Water Conservation Standards (LDC Section 114-46): *Full compliance to be*  
 10 *determined by FCAA and Building Department prior to the issuance of a building*  
 11 *permit*  
 12

13 16. Environmental Design Criteria and Mitigation Standards (LDC Sections 118-6, 118-7  
 14 & 118-8): *TBD*  
 15

16 The site is primarily developed and no native plant communities are present on site.  
 17 However, native plants were removed without authorization under Permit #21301981.  
 18 Subsequent to the unpermitted removal of native vegetation, Permit #22300666 was  
 19 issued for the restoration of native vegetation removed. Mitigation will be required for  
 20 the removal of native vegetation planted pursuant to Permit #22300666.  
 21

22 17. Required Off-Street Parking (LDC Section 114-67): *In compliance.*  
 23

24 The proposed development is subject to the required number of off-street parking  
 25 spaces pursuant to LDC Section 114-67(c). The table below lists the number of parking  
 26 spaces to be provided for each of the proposed uses:  
 27

| <i>Specific Use Category</i>                                     | <i>Minimum Required Number of Parking Spaces</i>   | <i>Proposed Use</i> | <i>Required Spaces</i> |
|--|--|---------------------|------------------------|
| Eating and drinking establishments, such as restaurants and bars | For areas devoted to food/beverage service, 1.0 space per 3 seats or 3.0 spaces per 1,000 sq. ft. of nonresidential floor area, whichever total amount is higher.  | 180 Seats           | 60                     |
|  | For other areas, 3.0 spaces per 1,000 sq. ft. of nonresidential floor area within the building separate from the seating area and devoted to activities other than food/beverage service (including, but not limited to, kitchen, office, retail sales not related to food or beverage and storage). | 1,334 SF            | 4                      |
| Warehousing  | 1.0 space per 1,000 sq. ft. nonresidential floor area within the building  | 8,900 SF            | 9                      |
| Offices  | 3.0 spaces per 1,000 sq. ft. of nonresidential floor area within the building  | 1,039 SF            | 3                      |

| <i>Specific Use Category</i>              | <i>Minimum Required Number of Parking Spaces</i>              | <i>Proposed Use</i> | <i>Required Spaces</i> |
|---|---|---------------------|------------------------|
| Marinas and commercial fishing facilities | 1.0 space per berth plus 1.0 space per four dry storage racks | 35 wet slips        | 35                     |
| Total Required                            |   |                     | 111                    |

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According to the shared parking calculation below, the development requires 87 parking spaces. The development is proposing a total of 92 parking spaces and is in compliance with LDC Section 114-67.

|  | Nighttime             | Weekday                      |                                 | Weekend                      |                                 |
|--|-----------------------|------------------------------|---------------------------------|------------------------------|---------------------------------|
|  | Midnight to 6:00 a.m. | Day (9:00 a.m. to 4:00 p.m.) | Evening (6:00 p.m. to Midnight) | Day (9:00 a.m. to 4:00 p.m.) | Evening (6:00 p.m. to Midnight) |
| <b>Specific Use Categories</b>   |                       |                              |                                 |                              |                                 |
| Marinas  | 1.75                  | 24.5                         | 3.5                             | 35                           | 7                               |
| Office/industrial  | 0.6                   | 12                           | 1.2                             | 1.2                          | .06                             |
| Drinking and eating/entertainment/recreation (theaters, bowling alleys, meeting halls) | 6.4                   | 25.6                         | 64                              | 51.2                         | 64                              |

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Pursuant to LDC Section 114-67(f), the number and design of handicapped parking spaces shall be in accordance with the provisions of County Code Chapter 6, which incorporates by reference the Florida Building Code.

Design and dimensional requirements of parking spaces and aisle widths are set forth in LDC Section 114-67(b). Standard 90-degree parking spaces are 8.5 feet in width and 18 feet in length. The proposed 90-degree parking spaces meet the minimum space and aisle dimensions.

Wheel stops are indicated pursuant to LDC Section 114-67(j).

Required off-street parking spaces for nonresidential uses shall be located on the same parcel of land as the nonresidential use which the parking spaces serve or at an off-site parking facility in accordance the provisions of subsection (h) of this section. LDC Section 114-67(h) provides the requirements for an offsite parking facility.

1           **The proposed off site parking facility is in compliance, provided an off site parking**  
2           **agreement is written and recorded in accordance with LDC Section 114-68. It**  
3           **should be noted that an off-site parking agreement had previously been recorded**  
4           **for the existing development, but it does not include the entire off site parking**  
5           **facility as proposed.**  
6

7           18. Required Loading/Unloading Spaces (LDC Section 114-69): *In compliance*  
8

9           Pursuant to LDC Section 114-67(k)(1), When any change of use or expansion of the  
10           use occurs, the site shall come into compliance with the parking and loading  
11           requirements of this article to the greatest extent practicable (considering sufficient land  
12           is available on the site to accommodate some or all of the parking deficiencies), as  
13           determined by the Planning Director on a case-by-case basis.  
14

15           No changes to the loading area are proposed from that was approved through the  
16           existing Major CUP that was passed and adopted through Planning Commission  
17           Resolution No. P36-07. The Planning Director has determined that the parking/ loading  
18           area adjacent Ocean Bay Drive may remain in its current configuration.  
19

20           19. Bicycle Parking (LDC Section 114-71): *In compliance*  
21

22           According to the site plan submitted, Sheet C-1.0, one (1) bicycle rack is proposed.  
23           Pursuant to LDC Section 114-71, one (1) is required.  
24

25           Pursuant to LDC Section 114-71, the bicycle parking rack criteria are:

- 26           (1) Bicycle parking racks must be designed to accommodate a minimum of four (4)  
27           bicycles;
- 28           (2) All bicycle parking racks shall be separated from vehicular traffic by at least five  
29           feet or a physical barrier;
- 30           (3) Bicycle racks shall be located within 100 feet of the building entrance at a location  
31           that does not interfere with pedestrian traffic; and
- 32           (4) The minimum dimensions for a bicycle parking rack shall be two-foot-wide by six-  
33           foot-long stalls with a minimum aisle width of five feet. Location criteria can be  
34           modified by the Planning Director if he or she determines that a superior alternative  
35           exists.  
36

37           20. Required Landscaping (LDC Chapter 114-108): *In Compliance*  
38

39           The parking lot landscaping depicted on Sheet C-1.0 is in compliance with the criteria  
40           of LDC Section 114-18.  
41

42           21. Scenic Corridor & Bufferyards (LDC Chapter 114-128; 130-79): *In Compliance*  
43

44           LDC Section 114-128 requires Class “G” District Boundary Buffers between the  
45           Commercial Fishing District (CFSD 5) and the adjacent Suburban Residential (SR) and  
46           Improved Subdivision (IS) districts. LDC Section 130-79(d)(3)(a)5, requires that each

1 nonwaterside perimeter setback of the parcel proposed for development must have a  
2 class “C” bufferyard within a side yard setback of ten feet.

3  
4 The required buffers are depicted on Sheet C-1.0 and are in compliance with the above  
5 criteria.

6  
7 22. Outdoor Lighting (LDC Chapter 114, Article VI): *Compliance to be determined*  
8

9 Pursuant to LDC Section 130-114-161, outdoor lighting shall be designed and located  
10 such that the maximum illumination measured in footcandles at the property line shall  
11 not exceed 0.3 footcandles for noncutoff lights and 1.5 footcandles for cutoff lights. If  
12 illumination is desired or required for nonresidential or multifamily (3 or more units)  
13 residential development, site plans shall include photometric lighting plans.

14  
15 In accordance with LDC Section 114-164, when any change of use, redevelopment, or  
16 expansion of a development footprint occurs, the site shall come into compliance with  
17 the lighting requirements of this article to the greatest extent practicable, as approved  
18 by the Planning Director on a case-by-case basis.

19  
20 In accordance with LDC Chapter 114, Article VI, outdoor lighting shall be designed,  
21 located and mounted at a maximum height of 18 feet for non-cutoff lights and 35 feet  
22 for cutoff lights, pursuant to LDC Section 114-160. All lighting shall be shielded so  
23 that light does not illuminate above 45° angled towards the ground. Outdoor lighting  
24 shall be designed and located such that the maximum illumination measured in  
25 footcandles at the property line shall not exceed 0.3 footcandle for non-cutoff lights  
26 and 1.5 footcandles for cutoff lights, pursuant to LDC Section 114-161. Outdoor  
27 lighting within 25 feet of any body of water shall be cutoff lights and shall not exceed  
28 a height of 18 feet above grade, pursuant to LDC Section 114-163.

29  
30 It should be noted that concerns were raised by members of the public at the  
31 Community Meeting held on July 7<sup>th</sup>, 2022, regarding the existing outdoor lighting on  
32 the subject property. At the DRC, Staff requested compliance with the outdoor lighting  
33 requirements be included as part of the Major CUP.

34  
35 The submitted photometric light plan (signed and sealed 9/5/2022) did not provide  
36 sufficient information to verify compliance of maximum illumination at all property  
37 lines of the development site.

38  
39 Staff recommends that if approved, the Planning Commission add a condition to the  
40 development order that the applicant must submit a revised photometric lighting plan  
41 at the time of building permit detailing the maximum illumination at all property lines,  
42 and is in compliance with the outdoor lighting requirements provided in Article VI of  
43 the LDC.

44  
45 23. Signs (LDC Chapter 142): *Full compliance to be determined upon building permit*  
46 *application review*



1  
2 Signage is not being reviewed as part of this application. Any new signage shall be  
3 reviewed independently for compliance as an accessory use/structure under a building  
4 permit application.  
5

6 24. Access Standards (LDC Chapter 114, Article VII): *In compliance*  
7

8 Pursuant to LDC Section 114-195, “No structure or land shall be developed, used or  
9 occupied unless direct access to U.S. 1 or County Road 905 is by way of a curb cut that  
10 is spaced at least four hundred (400) feet from any other curb cut that meets the access  
11 standards of the Florida Department of Transportation, as contained in Chapter 14-97,  
12 F.A.C., or an existing street on the same side of U.S. 1 or County Road 905. Proposed  
13 developments with access on U.S. 1 that are designated as Class 5 or Class 6 access  
14 control classifications, as defined by FDOT, where the posted speed limit is 45 MPH  
15 or less may deviate from 400 foot standard, in accordance with the standards contained  
16 in Chapter 14-97, F.A.C., State Highway System Access Control Classification System  
17 and Access Management Standards. Proposed developments on a U.S. 1 segment of  
18 roadway with a speed limit of 50 mph or higher (segments with speeds of 50 mph or  
19 greater are defined as FDOT as a high speed facility) shall provide an exclusive right  
20 and/or left turn lane into the development, unless otherwise determined by FDOT.”  
21

22 25. Recycling and Solid Waste Collection Areas (LDC Section 114-14): *In compliance*  
23

24 In accordance with LDC Section 114-14, a nonresidential building with 5,001 sf to  
25 15,000 sf shall have a minimum solid waste collection area of 125 sf.  
26

27 Combinations of collection areas that, in total, meet the standards are acceptable if  
28 approved by the Planning Director.  
29

30 The collection area shall meet the screening and enclosure design standards of LDC  
31 Section 114-21.  
32

33 Exterior collection areas should be located in an area accessible and convenient to the  
34 intended users (typically no more than 200 feet from the farthest user). The location of  
35 the collection area should not interfere with the primary use of the site. It should be  
36 located in areas that can tolerate noise, odor and increased pedestrian and vehicle  
37 traffic. The collection area should be designed to be easily accessible by all collection  
38 vehicles.  
39

40 The proposed site plan includes a solid waste collection area that is in compliance with  
41 LDC Section 114-14.  
42

43 26. Accessibility (Chapter 533, Florida Statutes): *Full compliance to be determined upon*  
44 *building permit application review*  
45

46 27. Inclusionary Housing Requirements (LDC Section 139-1): *Not applicable*

1  
2 28. Community Participation Meeting (LDC Section 110-3): *In compliance*  
3

4 Pursuant to LDC Section 110-73, the applicant shall provide for a Community Meeting  
5 between 45 and 120 days prior to the Planning Commission hearing, in accordance  
6 with Section 110-3(b).  
7

8 The Community Meeting was held via Zoom on July 7, 2022. Members of community  
9 voiced concerns including but not limited to the following issues:

- 10 ▪ Negative effects of increased traffic in the surrounding neighborhood
- 11 ▪ Insufficient parking/ customers parking in right of ways
- 12 ▪ Lighting shining into residential properties
- 13 ▪ Loading/unloading vehicles causing safety concerns
- 14 ▪ Ingress/Egress concerns onto Ocean Bay Drive
- 15 ▪ Noise

16  
17 29. In accordance with LDC Section 118-16, existing marinas and marine facilities that do  
18 not have an on-site pumpout station, as identified through the Monroe County Marine  
19 Facility Survey or other best available data sources, shall be notified in writing of the  
20 requirements for on-site pumpout facilities and signage (and any available funding  
21 assistance, such as the DEP Clean Vessel Act grant program) within 18 months after  
22 the adoption this Land Development Code. Such marinas and marine facilities shall  
23 have 12 months from the written notification to provide an on-site pumpout station and  
24 associated signage. All marine facilities and marinas that are required to provide on-  
25 site pumpout stations shall keep those pumpout stations operational, and ensure that  
26 pumpout service is available to the patrons of those marine facilities and marinas.  
27

28 The applicant has not provided documentation of an onsite pumpout station and/or  
29 clarification as to how the site shall comply with LDC Section 118-16; however the  
30 County has not begun the written notification process as outlined in 118-16 that will  
31 require the facility to come in to compliance within 12 months of said notice. This site  
32 will be subject to the requirement for a fixed pumpout system at that point.  
33

34 V RECOMMENDED ACTION:  
35

36 Pursuant to LDC Section 110-70(c), ...The Planning Commission shall hold a public hearing  
37 on the application for a major conditional use permit and shall issue a development order  
38 granting, granting with conditions or denying the application for a major conditional use permit  
39 within 60 days of the public hearing by the Planning Commission, with the exception of any  
40 application where a condition has been imposed that must be satisfied prior to the issuance of  
41 a development order approving the major conditional use permit, in which case the  
42 development order shall be issued within 30 days after receipt of proof of satisfaction of the  
43 condition. The applicant shall provide any additional information to satisfy a condition  
44 required by the Planning Commission within one (1) year of the date of the Planning  
45 Commission meeting when the application was considered. If such information is not received  
46 within this timeframe, the application will be deemed withdrawn.

1  
2 Staff recommends the following conditions of **APPROVAL** for the requested Major CUP:  
3

- 4 1. Prior to issuance of a building permit for the restaurant expansion, an off-site parking  
5 agreement shall be drawn and executed in accordance with LDC Section 114-68.  
6
- 7 2. Prior to issuance of a building permit for the restaurant expansion, a water quality  
8 monitoring program must be approved. The required water quality monitoring should  
9 include, at a minimum, quarterly visual inspections for refuse and debris that may  
10 contribute to water quality degradation and will be required for a period of five (5)  
11 years following establishment of the dining areas.  
12
- 13 3. Prior to issuance of a building permit for the restaurant expansion, a photometric light  
14 plan and details of the existing outdoor lighting fixtures demonstrating compliance with  
15 the lighting requirements of LDC Article VI must be submitted.  
16
- 17 4. At the time of building permit application, an elevation plan will be required to be  
18 submitted, which includes grade and maximum height elevations as measured in  
19 NGVD29 in order to demonstrate compliance with LDC Section 131-2.  
20
- 21 5. Any change in the occupancy or use of any of the principal uses intended to be served  
22 by the shared parking shall require development approval by the Planning Director to  
23 ensure sufficient parking is available.  
24
- 25 6. The required signage will be posted on one two-foot by four-foot sign, on the seaward  
26 end of the most visible pier or mooring, and on the landward end of each pier, at each  
27 marina in accordance with LDC Section 130-79(d)(3)(a)11.  
28
- 29 7. The Public Works Division shall review any proposed work within County public  
30 rights-of-way and the Division maintains the right to request revisions as it carries out  
31 its review of any application for an access permit. It is the responsibility of the  
32 applicant to obtain all required permits before starting work.  
33
- 34 8. The scope of work has not been reviewed for compliance with Florida Building Code.  
35 Prior to the issuance of Building Permits, new development and structures shall be  
36 found in compliance by the Monroe County Building Department, Floodplain  
37 Administrator, and the Office of the Fire Marshal.  
38  
39

40 **VI. PLANS REVIEWED:**

- 41 1. Concept Site Plan, sheet C-1.0, signed and sealed by Michael J. Giardullo, P.E. on  
42 9/07/2022
- 43 2. Concept Drainage Plan, sheet C-2.0, signed and sealed by Michael J. Giardullo, P.E.  
44 on 9/07/2022
- 45 3. Concept BMP Plan, sheet C-3.0, signed and sealed by Michael J. Giardullo, P.E. on  
46 9/07/2022

- 1 4. Building Areas Plan, Sheet A1.1, signed and sealed by Gavin Wade Scarbrough on
- 2 6/10/2022
- 3 5. Proposed Seating Plan, Sheet A1.2, signed and sealed by Gavin Wade Scarbrough on
- 4 9/14/2022
- 5 6. Elevation Plan, Sheet A1.3, signed and sealed by Gavin Wade Scarbrough on
- 6 6/10/2022
- 7 7. Site Lighting Plan, Sheet A-1, signed and sealed by John Robert Barnes on 9/5/2022
- 8 8. Boundary Survey prepared by Juan C. Melendez and dated on 6/1/2021
- 9 9. Traffic Study prepared by KBP Consulting, Inc., updated August, 2022
- 10 10. Existing Conditions Report prepared by Karen Sunderland, dated August 27, 2020
- 11