



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

**To:** Monroe County Planning Commission  
**Through:** Emily Schemper, AICP, CFM Senior Director of Planning & Environmental Resources  
**From:** Devin Tolpin, AICP, CFM, Principal Planner  
**Date:** January 20, 2023  
**Subject:** *Request for a 5COP SFS Alcoholic Beverage 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 # 2022-233)*

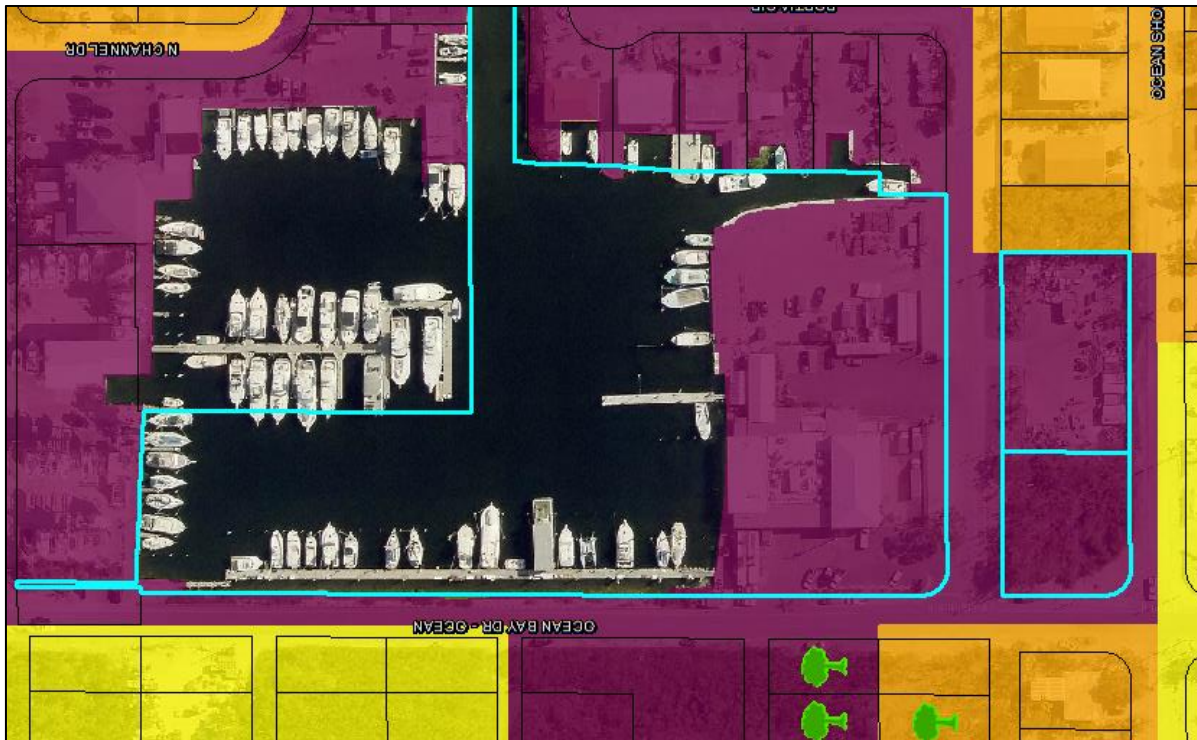
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**Meeting:** February 22, 2023 - **Continued to March 29, 2023**

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1 **I REQUEST:**

2 Smith Hawks, P.L., on behalf of the applicant, KLF RE, LLC, is requesting approval of a 5COP  
3 SFS Alcoholic Beverage Use Permit, which would allow for the sale of beer, wine, and liquor  
4 for consumption on the premises of the subject property. The subject property is currently  
5 operating as an existing marina with accessory uses such as commercial fishing, a restaurant,  
6 and a fish market, located at 1313 Ocean Bay Drive, Key Largo (the "Property").



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

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1 **II BACKGROUND INFORMATION:**

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

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

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

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

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

14 **Agent:** Smith Hawks, PL

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

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

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

20 **Tier Designation:** III Infill Area

21 **Existing/ Uses:** Restaurant, Marina, and Commercial Fishing

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

23 **Flood Zones:** AE-8

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

26  
27 **III RELEVANT PRIOR COUNTY ACTIONS:**

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

30  
31 On January 28, 2003, a Letter of Understanding, written by the Director of Planning, was issued  
32 concerning a dock expansion and additional wet slips at the existing commercial fishing marina.

33  
34 On July 25, 2007, the Monroe County Planning Commission approved the request for an  
35 Amendment to a Major Conditional Use Permit (CUP) to add 11 dock slips and provide 70 parking  
36 spaces on the subject property. This Major CUP was passed and adopted through Planning  
37 Commission Resolution No. P36-07. This approval included an Off-Site Parking Agreement  
38 (Official Record Book #2381, Page #2011), to allow for the parking for the existing marina and  
39 commercial fishing establishment to be located on property having Parcel ID # 00497620-000000.

40  
41 On January 23, 2009, Monroe County Building Permit #08302384, was issued for work that  
42 included the development of the above referenced off-site parking lot.

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

6 On August 15, 2014, Monroe County Building Permit #13302124 was issued to construct a wood  
7 framed tiki hut. The Planning Department approval conditions read “1. Approval only for the  
8 construction of a 1,320 SF tiki to be used as food service area as shown on site plan...” The  
9 approved floor plan included 77 restaurant seats.  
10

11 On October 6, 2021, Monroe County Building Permit #21301981 was issued for the removal of  
12 exotic and nuisance vegetation on parcels 00497600-000000 and 00497620-000000.  
13

14 On November 16, 2022, the Monroe County Planning Commission passed and adopted Planning  
15 Commission Resolution No. P26-22, approving a request for an amendment to a Major Conditional  
16 Use Permit for the expansion of a restaurant use and site improvements on the subject property.  
17  
18

#### 19 **IV REVIEW OF APPLICATION:**

20 Pursuant to Section 3-6(e) of the Monroe County, Florida, Code of Ordinances (the “Code”), the  
21 Planning Commission shall give due consideration to the following factors as they may apply to  
22 the particular application prior to rendering its decision to grant or deny the requested permit:  
23

24 *(1) The effect of such use upon surrounding properties and the immediate neighborhood as*  
25 *represented by property owners within 500 feet of the premises.*  
26

27 The Property is approved to be developed with a restaurant, fish market, marina, and  
28 associated accessory uses. Surrounding properties within 500 feet of the premises include  
29 the following land uses: commercial fishing, marina, restaurant, single family residences and  
30 undeveloped land.  
31

32 A 2COP (beer and wine, on premises and package) alcoholic beverage special use permit,  
33 has been approved for this property and is currently active. Recently, Planning Commission  
34 Resolution No. P26-22 approved an expansion of the existing restaurant to 180 seats.  
35

36 Staff does not anticipate that approval of the requested 5COP SFS Alcoholic Beverage Use  
37 Permit would have an adverse effect on surrounding properties or the immediate  
38 neighborhood.  
39

40 Please note that no members of the community, either in support or opposition to the  
41 application, contacted the Planning and Environmental Resources Department as of the date  
42 of this report.  
43

44 IN COMPLIANCE  
45

46 *(2) The suitability of the premises in regard to its location, site characteristics and intended*  
47 *purpose. Lighting on the permitted premises shall be shuttered and shielded from*

1 *surrounding properties, and construction of such permitted properties shall be*  
2 *soundproofed. In the event music and entertainment are permitted, the premises shall be air*  
3 *conditioned:*

4  
5 Given the property’s approved uses and existing alcoholic beverage use permit, the premises  
6 is suitable for the requested 5COP SFS with the following taken into consideration:  
7

8 The documentation submitted has failed to demonstrate compliance with the outdoor  
9 lighting standards provided in LDC Chapter 114, Article VI. The recently approved  
10 Amendment to a Major Conditional Use Permit memorialized through PC Resolution No.  
11 P26-22 included the following condition:  
12

13 **3. Prior to issuance of a building permit for the restaurant expansion, a photometric light plan**  
14 **and details of the existing outdoor lighting fixtures demonstrating compliance with the**  
15 **lighting requirements of LDC Article VI must be submitted.**

16 In order to lawfully operate the restaurant with 180 seats and utilize the structure as  
17 proposed on the floor plan submitted with this specific application, a building permit must  
18 be issued for the restaurant expansion [ref. LDC Section 110-140(d)], which requires full  
19 compliance with the outdoor lighting requirements. **Staff is recommending a condition be**  
20 **added to the requested Alcoholic Beverage Use Permit (“the Permit”) which states that**  
21 **the Permit shall not be effective until such a time that a building permit has been issued**  
22 **and closed for the aforementioned restaurant expansion.**

23 Pursuant to Monroe County Code of Ordinances 3-6(e)(2): In the event music and  
24 entertainment are permitted, the premises shall be air conditioned; however, the Monroe  
25 County BOCC recently adopted an amendment to this code section (Planning &  
26 Environmental Resources Department File #2022-038), which includes the following  
27 language:  
28

29 “if the alcoholic beverage use permit is proposed to allow on-premise consumption in  
30 outdoor areas, with or without music and entertainment, the proximity to existing  
31 residential uses shall be considered and conditions may be applied accordingly;”  
32

33 According to an email received by the Applicant’s Agent on January 31, 2023, on-premises  
34 alcohol consumption is proposed in an outdoor seating area, where there is regularly live  
35 music and entertainment.  
36

37 **IN COMPLIANCE WITH CONDITION ADDED**

38  
39 *(3) Access, traffic generation, road capacities, and parking requirements:*  
40

41 The localized impacts and access management and level of service standards for the subject  
42 property to be developed with the 180 seat restaurant as depicted on the submitted floor plan  
43 were recently approved as part of a Major Conditional Use Permit.  
44

1 The Level 3 Traffic Study, prepared by Karl Peterson, P.E., KBP Consulting, Inc., and  
2 updated in August, 2022, indicated that each of the surrounding study intersections are  
3 operating and will continue to operate at an acceptable Level of Service (LOS). It was  
4 determined that the development proposal demonstrates adequacy related to localized  
5 impacts and access management.  
6

7 According to the 2021 US1 Arterial Travel Time and Delay Study, Segment 22, Key Largo  
8 (MM 91.5 through 99.5) currently operates at a LOS A. The Level 3 Traffic Study, prepared  
9 by Karl Peterson, P.E., KBP Consulting, Inc., and updated in August, 2022, indicated that  
10 the existing and proposed development is projected to generate 578 daily vehicle trips on  
11 Segment 22 in Key Largo. It has been determined that there is adequate roadway capacity  
12 for the proposed development.  
13

14 Currently, the subject property does not have enough off street parking spaces to  
15 accommodate the restaurant seating as proposed on the floor plan submitted; however the  
16 recently approved Major Conditional Use Permit included an offsite parking facility which  
17 would satisfy the parking requirements. In order to lawfully operate the restaurant with 180  
18 seats and utilize the structure as proposed on the floor plan submitted with this file, a  
19 building permit must be issued for the restaurant expansion, which will require full  
20 compliance with the off street parking requirements. **The recommended condition which  
21 states that the Permit shall not be effective until such a time that a building permit has  
22 been issued and closed for the aforementioned restaurant expansion will ensure that  
23 suitable off street parking is available on site prior to the effectiveness of this Alcoholic  
24 Beverage Special Use Permit.**  
25

26 **IN COMPLIANCE WITH CONDITION ADDED**  
27

28 *(4) Demands upon utilities, community facilities and public services:*  
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30 It is not anticipated that the approval of the requested 5COP SFS Alcoholic Beverage Use  
31 Permit would increase demands upon any utilities, community facilities or public services.  
32

33 **IN COMPLIANCE**  
34

35 *(5) Compliance with the county's restrictions or requirements and any valid regulations:*  
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37 As of the date of this report, there are not any open code compliance cases related to the  
38 Property.  
39

40 **V RECOMMENDATION:**

41 Staff recommends **APPROVAL** to the Planning Commission of the requested 5COP SFS  
42 Alcoholic Beverage Use Permit, which would allow for beer, wine, and liquor consumption on  
43 the premises of the subject property, with the following conditions (however, valid objections  
44 from surrounding property owners at the public hearing may lead the Planning and  
45 Environmental Resources Department to reevaluate the recommendation or suggested  
46 conditions):  
47

- 1 1. This Alcoholic Beverage Use Permit shall not be effective and approval of Florida DBPR  
2 Form 6001 shall not be authorized by the Planning Department until such a time that a  
3 building permit has been issued and closed for the restaurant expansion consistent with the  
4 submitted floor plan. Compliance with the outdoor lighting requirements of LDC Article V  
5 and the off street parking requirements of LDC Section 114-67 shall be demonstrated  
6 through the referenced building permit.  
7
- 8 2. Alcohol service sales and consumption as permitted through this Alcoholic Beverage  
9 Special Use Permit shall occur only within areas allowed for such use and approved by the  
10 Monroe County Planning & Environmental Resources Department.  
11
- 12 3. Any future development or change of use requires additional approval by the Monroe  
13 County Planning & Environmental Resources Department.  
14
- 15 4. Alcoholic Beverage Use Permits issued by virtue of Code Section 3-6 shall be deemed to be  
16 a privilege running with the land. The sale of the real property that has been granted an  
17 Alcoholic Beverage Use Permit shall automatically vest the purchaser thereof with all rights  
18 and obligations originally granted or imposed to or on the applicant. Such privilege may not  
19 be separated from the fee simple interest in the realty.  
20
- 21 5. In the event that the holder's license by the Florida Department of Business and Professional  
22 Regulation (DBPR) expires and lapses, this Alcoholic Beverage Use Permit approval shall  
23 be null and void as of the date of the DBPR license expiration. Additional approval by the  
24 Planning Commission shall be required to renew the Alcoholic Beverage Use Permit.  
25

26 **VI ATTACHMENTS:**  
27

28 Attachment 1: Monroe County Code Section 3-6, Regulation and control over sale

**Monroe County Code – Chapter 3, Alcoholic Beverages****Sec. 3-6. - Regulation and control over sale [of alcoholic beverages].**

- (a) *Establishment of use permit procedure.* This section is designed and intended to provide for reasonable regulation and control over the sale of alcoholic beverages within the unincorporated areas of the county by establishing an alcoholic beverage use permit procedure and providing criteria to be used to ensure that all future proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact upon the health, safety and welfare of the citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval from the zoning board or board of county commissioners under the former provisions of section 19-218 of the Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under such section.
- (b) *New applicants for permit.* All persons desiring to sell alcoholic beverages upon any premises located within the unincorporated areas of the county and who desire to do so upon a premises not heretofore approved by the zoning board or board of county commissioners under the former section 19-218, shall obtain an alcoholic beverage use permit using the procedure outlined in subsection (d) of this section.
- (c) *Classifications.* Corresponding to those alcoholic beverage license classifications as heretofore and hereafter adopted by the state, alcoholic beverage use permits hereafter issued pursuant to this chapter shall be classified as follows:
- (1) 1APS: Beer, package only;
  - (2) 1COP: Beer, on-premises and package;
  - (3) 2APS: Beer and wine, package only;
  - (4) 2COP: Beer and wine, on-premises and package;
  - (5) 6COP: Beer, wine and liquor, on-premises and package;
  - (6) 6COP SRX: Restaurant, no package sales;
  - (7) 6COP SR: Restaurant, package sale;
  - (8) 6COP S: Motel, package sales;
  - (9) 6COP SBX: Bowling, no package sales;
  - (10) 6COP SPX: Boat, no package sales;
  - (11) 3BPS: Beer, wine and liquor, package sales only;
  - (12) 3M: Additional license for 6COP, over three bars; and
  - (13) 12RT: Racetrack, liquor, no package sales.
- (d) *Procedure.* The following procedure shall be followed on any application for an alcoholic beverage use permit hereafter made:
- (1) Applications for alcoholic beverage use permits shall be submitted to the director of planning in writing on forms provided by the director. Such applications must be signed by the owner of the real property for which the permit is requested. Lessees of the premises may apply for such permits, provided that proper authorization from the owner of the premises is given and the application for permit is cosigned by such owner.
  - (2) Upon receipt of a properly completed and executed application for an alcoholic beverage use permit stating the exact classification requested along with the necessary fee, the director of planning shall schedule a public hearing before the planning commission and shall advise the applicant of the date and place of the public hearing.
  - (3) Notice of the application and of the public hearing thereon shall be mailed by the director of planning to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5. For the purposes of this section, the term "shopping center" means a contiguous group of individual units, in any combination, devoted to commercial retail low-intensity uses,

## Attachment 1

commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.

- (4) At the hearing before the planning commission, all persons wishing to speak for or against the application shall be heard. Recommendations or other input from the director of planning may also be heard prior to any decision by the planning commission.
- (e) *Criteria.* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:
  - (1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises. For the purposes of this section, the term "premises" means the entire project site of a shopping center;
  - (2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties shall be soundproofed. In the event music and entertainment are permitted, the premises shall be air conditioned;
  - (3) Access, traffic generation, road capacities, and parking requirements;
  - (4) Demands upon utilities, community facilities and public services; and
  - (5) Compliance with the county's restrictions or requirements and any valid regulations.
- (f) *Approval by planning commission.* The planning commission may grant approval based on reasonable conditions considering the criteria outlined herein.
- (g) *Where permitted.* Alcoholic beverage use permits may be granted in the following land use districts: urban commercial; suburban commercial; suburban residential where the site abuts U.S. 1; destination resort; mixed use; industrial and maritime industries. Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located. Nothing contained herein shall exempt an applicant from obtaining a major or minor conditional use approval when such is otherwise required by the county development regulations in part II of this Code.
- (h) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property that has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- (i) *Appeals.* All persons aggrieved by the actions of the planning commission in granting or denying requested alcoholic beverage permits may request an appeal hearing before a hearing officer under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days after the date of the written decision of the planning commission.
- (j) *Successive applications.* Whenever any application for alcoholic beverage approval is denied for failure to meet the substantive requirements of these regulations, an application for alcoholic beverage approval for all or a portion of the same property shall not be considered for a period of two years unless a super-majority of the planning commission decides that the original decision was based on a material mistake of fact or that there exists changed conditions and new facts, not existing at the time of the original decision, that would justify entertaining a new application before the expiration of the two-year period. However, in the case of a shopping center, as defined in subsection (d)(3) of this section, this subsection shall only apply to the commercial retail unit within the shopping center for which approval was sought and not the entire shopping center site itself.

(Code 1979, § 19-218; Ord. No. 1-1973, § 1(art. XI, § 5); Ord. No. 5-1974, § 27; Ord. No. 20-1975, § 67; Ord. No. 29-1978, § 1; Ord. No. 5-1979, § 1; Ord. No. 17-1980, § 12; Ord. No. 4-1985, §§ 1, 2; Ord. No. 39-1986, § 2; Ord. No. 55-1987, §§ 1—3; Ord. No. 19-1993, § 14)