

DEVELOPMENT REVIEW COMMITTEE

-
Tuesday, August 28, 2012

-
AGENDA

-
The Monroe County Development Review Committee will conduct a meeting on Tuesday, August 28, 2012, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

DRC MEMBERS:

Townsley Schwab, Senior Director of Planning and Environmental Resources
Mike Roberts, Sr. Administrator, Environmental Resources
Joe Haberman, Planning & Development Review Manager
DOT Representative
Steve Zavalney, Captain, Fire Prevention
Public Works Department Representative

STAFF MEMBERS

Christine Hurley, Growth Management Division Director
Jerry Smith, Assistant Building Official
Mitch Harvey, Comprehensive Plan Manager
Mayte Santamaria, Assistant Planning Director
Rey Ortiz, Planner
Gail Creech, Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL

MEETING

-
New Items:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 114-67(C), REQUIRED OFF-STREET PARKING, TO REVISE THE MINIMUM REQUIRED NUMBER OF PARKING SPACES FOR SINGLE-FAMILY DWELLING UNITS, MOBILE HOMES AND RV PARKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-109)

[2012-109 SR DRC 8.28.12.PDF](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 101-6, OWNERSHIP DISCLOSURES, TO CREATE A REGULATION PROVIDING THE

MINIMUM REQUIREMENTS FOR DISCLOSING OWNERSHIP OF PROPERTY AS IT RELATES TO APPLICATIONS UNDER THE LAND DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-112)

[2012-112 SR DRC 8.28.12.PDF](#)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE CHAPTER 102, ADMINISTRATION, ARTICLE III, NONCONFORMITIES, TO ADDRESS NONCONFORMITY OF WATER-DEPENDENT AND WATER-RELATED COMMERCIAL USES AND STRUCTURES AS A PRIMARY SOURCE OF ECONOMIC SUSTAINABILITY AS ADDRESSED IN THE KEY LARGO AND TAVERNIER COMMUNIKEYS PLANS, TO UPDATE THE PROVISION RELATED TO THE REGISTRATION OF NONCONFORMING USES AND STRUCTURES, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-114)

[2012-114 SR DRC 8.28.12.PDF](#)

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY 2010 COMPREHENSIVE PLAN TO AMEND POLICIES 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 AND CREATE POLICY 101.4.26 TO ESTABLISH A COMMERCIAL FUTURE LAND USE CATEGORY; AND REVISE THE "FUTURE LAND USE DENSITIES AND INTENSITIES" TABLE TO INCLUDE A COMMERCIAL (COMM) FUTURE LAND USE CATEGORY, CORRESPONDING ZONING CATEGORIES AND THE ESTABLISH THE DENSITY AND INTENSITY STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2012-120)

[2012-120 SR DRC 8.28.12.pdf](#)

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE; SECTION 138-48, GENERAL PROVISIONS; SECTION 138-49, TYPE OF DEVELOPMENT AFFECTED; SPECIAL REQUIREMENTS; SECTION 138-50, TYPE OF DEVELOPMENT NOT AFFECTED; SECTION 138-51, NROGO ALLOCATIONS; SECTION 138-52, APPLICATION PROCEDURES FOR NROGO; SECTION 138-53, EVALUATION PROCEDURES FOR NONRESIDENTIAL FLOOR AREA ALLOCATION; TO ESTABLISH NEW DEFINITIONS; TO REVISE THE TYPES OF DEVELOPMENT AFFECTED AND NOT AFFECTED; TO REVISE THE REGULATIONS TO INCREASE THE NUMBER OF NROGO ALLOCATION PERIODS IN A GIVEN YEAR FROM TWO ALLOCATION PERIODS TO FOUR ALLOCATION PERIODS; TO INCREASE THE MAXIMUM AMOUNT OF AN ALLOCATION; TO ESTABLISH A CODIFIED MECHANISM TO ALLOCATE NONRESIDENTIAL FLOOR AREA THAT WENT UNALLOCATED IN PREVIOUS YEARS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-013)

ADJOURNMENT

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee & Townsley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Planning & Development Review Manager

Date: July 25, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 114-67(C), REQUIRED OFF-STREET PARKING, TO REVISE THE MINIMUM REQUIRED NUMBER OF PARKING SPACES FOR SINGLE-FAMILY DWELLING UNITS, MOBILE HOMES, EATING AND DRINKING ESTABLISHMENTS (RESTAURANTS), AND GASOLINE/SERVICE STATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: August 28, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §114-67(c) of the Monroe County Code. The purposes of the proposed amendment are a)
6 to revise the regulations concerning the single-family residential dwelling unit and mobile
7 home parking standards to be consistent with recently approved changes to the multi-family
8 residential parking standard, b) to revise the regulations concerning eating and drinking
9 establishments to reduce the required amount of parking for areas not devoted to seating and
10 food/beverage service; c) to establish a parking standard for gasoline/service stations; and d)
11 to revise ambiguous and inconsistent language used throughout the subsection.
12

13 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:
14

15 Policy 301.8.2 of the Monroe County Comprehensive Plan:
16

17 By January 4, 1997, Monroe County shall adopt revisions to the Land Development
18 Regulations to include guidelines and criteria consistent with nationally-recognized
19 standards which provide for safe and convenient on-site traffic flow, adequate pedestrian
20 ways and sidewalks, as well as sufficient on-site parking for both motorized and non-
21 motorized vehicles.
22

1 To satisfy the direction provided within Policy 301.8.2, the County established Article III,
2 Parking and Loading, within Chapter 114 of the Land Development Code. Pursuant to MCC
3 §114-66, the purpose and intent of this article is to provide adequate off-street parking and
4 loading areas to serve the majority of traffic generated by development.
5

6 Within the article, MCC §114-67(c) provides the required off-street parking for specific use
7 categories. Since its establishment, MCC §114-67 has been amended via Ordinances #042-
8 2003, #035-2005 and #013-2011.
9

10 III REVIEW

11
12 The purposes of the proposed amendment are:

- 13
14 a) To revise the regulations concerning the single-family residential dwelling unit and
15 mobile home parking standards to be consistent with recently approved changes to the
16 multi-family residential parking standard:
17

18 In 2011, the BOCC approved Ordinance #013-2011 to increase the required amount of
19 off-street parking spaces for multi-family developments. It was determined that the
20 previous standard of 1.5 spaces per dwelling unit did not consider the intensity that each
21 dwelling unit may have, in terms of family size or number of bedrooms. This a shared
22 issue with single-family dwelling units and mobile homes on individual lots/parcels,
23 which currently have a standard of 2.0 spaces, and mobile home parks, which currently
24 have a standard of 1.0 space per pad.
25

26 For multi-family developments, the BOCC approved an increased standard of 2.0 spaces
27 per each 1-bedroom dwelling unit, 2.0 spaces per each 2-bedroom dwelling unit and 3.0
28 spaces per each 3 or more bedroom dwelling unit. Consistent with this past approval,
29 Planning & Environmental Resources Department staff is recommending that the BOCC
30 approve the same standard for single-family dwelling units and mobile homes on
31 individual lots/parcels. In addition, Staff is recommending that the BOCC approve an
32 increased standard of 2.0 spaces per each mobile home located in a mobile home park
33 without individual lots/parcels.
34

35 The current regulations are not always proportionate to the number of residents for each
36 dwelling and visitors. In many residential areas, the solution adopted by residents has
37 been to park or store vehicles on open space areas not approved for parking, public
38 rights-of-way, or neighboring properties. This can lead to internal disputes within the
39 community and compromise life and safety. The aim of this text amendment is to
40 introduce parking requirements that are more proportionate to the size and occupancy of
41 the dwelling unit.
42

43 The current regulations are based on an assumption that each unit will average a need for
44 parking regardless of the number of residents per dwelling unit. Lower parking
45 requirements have been an option in communities which have sufficient public
46 transportation, car sharing programs, and other incentives to reduce the dependence on the

1 automobile. Monroe County is predominately a private vehicle-oriented community with
2 limited options for mobility. The dependency of the automobile causes residential areas to
3 become overburdened with the demand placed on it by the residents and visitors.
4

- 5 b) To revise the regulations concerning eating and drinking establishments to reduce the
6 required parking for areas not devoted to seating and food/beverage service:
7

8 Over the past few years, owners of several restaurants have requested approvals to
9 construct additional floor area and/or outdoor seating areas. Many of these owners had to
10 request variances to the parking requirements to allow the additional floor area and/or
11 outdoor seating areas.
12

13 In addition, while reviewing permit applications for improvements that would not require
14 additional parking, staff has found that most existing restaurants do not meet the current
15 standards; however provide an adequate amount of parking for their customers.
16

17 Since 2000, the County has approved the following off-street parking variance
18 applications for developments containing restaurants and bars. Each of the applicants
19 asserted that the standards were excessive in their circumstance and consequently created
20 a hardship. All were approved:
21

- 22 • Knucklehead's (2002), 55 to 34, Planning Commission Resolution #P03-02 (File
23 #21077)
- 24 • Gilbert's Resort & Marina (2005), 124 to 104, Planning Commission Resolution
25 #P10-05 (File #25030)
- 26 • Parrotise Waterfront Bar & Grille (2007), 87 to 75, Planning Commission
27 Resolution #P65-07 (File #27108)
- 28 • Playa Cristal (2007), 158 to 147, Planning Commission Resolution #P39-07 (File
29 #27060)
- 30 • Riesi Pizza (2011), 55 to 48, #AV 11-05 (File #2011-042)
31

32 Staff is proposing that the requirement be amended to create a new standard of 3.0 spaces
33 per 1,000 SF for areas not related to seating or service. This standard is consistent with
34 the existing standards for conventional commercial retail establishments and offices.
35 This proposed modification will allow restaurant owners to construct accessory areas,
36 such as larger kitchens, management offices and storage areas, without having to install
37 parking for such development at the highest standard in the section- 14 spaces per 1,000
38 SF.
39

- 40 c) To establish a standard for gasoline/service stations:
41

42 Over the past few years, owners of several gasoline/service stations have requested
43 approvals to construct additional fueling stations. There is not a standard in MCC §114-
44 67(c) for such a use and the amount of parking (and minimum dimensions of such
45 spaces) was thereby determined by interpretation of the Senior Director of Planning &
46 Environmental Resources. Planning & Environmental Resources Department staff is

1 recommending that the BOCC approve and codify that interpretation – 1.0 space per each
 2 fueling station. Such spaces adjacent to fueling stations would have to be designed to the
 3 codified dimensional requirements in MCC §114-67(b), at least 18’ in length by at least
 4 8’6” in width.

5
 6 d) To revise ambiguous language used throughout the subsection.

7
 8 Staff is proposing that several terms be revised to reflect language and definitions within
 9 other sections of the Land Development Code (i.e. “pad” is not a defined term, while
 10 mobile home and RV space are defined terms). Parking should be based upon defined
 11 units of measure wherever possible.

12
 13 NOTE: Property owners shall continue to have the option to request a variance to the off-street
 14 parking requirements pursuant to MCC §102-186.

15
 16 Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and
 17 additions are underlined. Text to remain the same is in black):

18
 19 **Sec. 114-67. Required off-street parking.**

20 * * * * *

21
 22 (c) *Required number of off-street parking spaces.* The following is the number of parking
 23 spaces to be provided for each use:
 24

<i>Specific Use Category</i>	<i>Minimum Required Number of Parking Spaces Per Indicated Unit of Measure</i>
Single-family dwelling units, including mobile homes on individual lots or parcels	2.0 spaces per dwelling unit or mobile home <u>2.0 spaces per each 1-bedroom dwelling unit; 2.0 spaces per each 2-bedroom dwelling unit; and 3.0 spaces per each 3 or more bedroom dwelling unit</u>
Multifamily residential developments	2 spaces per each 1 or 2 bedroom dwelling unit, and 3 spaces per each 3 or more bedroom dwelling unit <u>2.0 spaces per each 1-bedroom dwelling unit; 2.0 spaces per each 2-bedroom dwelling unit; and 3.0 spaces per each 3 or more bedroom dwelling unit</u>
Mobile home parks	1.0 space per space or pad <u>2.0 spaces per each mobile home</u>
Commercial retail except as otherwise specified below in this table	3.0 spaces per 1,000 sq. ft. of nonresidential floor area (nrfa) of building <u>within building</u> and 1.5 spaces per 1,000 sq. ft. of nonresidential floor area devoted to outdoor retail sales and display area
Eating and drinking establishments, <u>including restaurants and bars</u>	14.0 spaces per 1,000 sq. ft. of nonresidential floor area <u>within building devoted to indoor seating and food/beverage service; 3.0 spaces per 1,000 sq. ft. of nonresidential floor area within building devoted to</u>

	<u>restaurant activities other than indoor seating (kitchen, office, retail sales not related to food or beverage and storage); and 7.0 spaces per 1,000 sq. ft. of unenclosed nonresidential floor area outdoor seating area</u> devoted to dining and/or bar area
Convenience stores/ <u>markets</u>	4.0 spaces per 1,000 sq. ft. of (nrfa) <u>nonresidential floor area within building</u>
<u>Gasoline/service stations</u>	4.0 spaces per 1,000 sq. ft. of nonresidential floor area within building and 1.0 space per each fueling station
Commercial recreation (indoor), <u>excluding theaters, conference centers and activity centers</u>	5.0 spaces per 1,000 sq. ft. of (nrfa) <u>nonresidential floor area within building</u>
Commercial recreation (outdoor)	5.0 spaces per 1,000 sq. ft. of the parcel that is devoted to the outdoor recreational activity, excluding areas used for parking and driveways, required yards and required landscaping and buffer areas
Theaters, conference <u>centers</u> , or activity centers	1.0 space per 3.0 actual seats or based on seating capacity
Offices	3.0 spaces per 1,000 sq. ft. of (nrfa) <u>nonresidential floor area within building</u>
Medical and dental clinics	4.0 spaces per 1,000 sq. ft. of (nrfa) <u>nonresidential floor area within building</u>
RV parks	1.0 space per pad <u>each RV space</u>
Hotels/destination resorts	1.0 space for first bedroom plus .5 space for each additional bedroom <u>1.0 space per each 1-bedroom transient dwelling unit and 1.0 space plus 0.5 space for each additional bedroom per each 2 or more bedroom transient dwelling unit</u>
Mini_warehouses/self_storage center	3.0 spaces for the office use plus a parking aisle of 10 feet in width adjacent the storage unit access doors if outside access to the storage units is provided
Industrial uses; excluding repair and or servicing of vehicles	2.0 spaces per 1,000 sq. ft. of (nrfa) <u>nonresidential floor area within building</u>
Repair and or servicing of vehicles	3.0 spaces per service/repair bay or 3.0 spaces per 1000 sq. ft. of (nrfa) <u>nonresidential floor area within building</u> , whichever is greater, the service/repair bays shall not be counted as parking spaces
Warehousing	1.0 space per 1,000 sq. ft. (nrfa) <u>nonresidential floor area within building</u>
Hospitals	1.8 spaces per bed

Churches	0.3 space per seat and/or 0.3 space per 24 inches for pews
Live-aboard	1.5 spaces per berth
Marinas and commercial fishing facilities	1.0 space per berth plus one space per four dry storage racks
Charter/guide boats, six or fewer passengers capacity	2.0 spaces per berth
Party and charter/guide boats, more than six passengers capacity	0.3 space per passenger capacity of vessel
Boat ramps	6.0 spaces per ramp; all spaces shall be a minimum of 14 feet by 55 feet, to accommodate trailers and oversized vehicles

* * * * *

IV RECOMMENDATION

Staff has found that the proposed text amendment would be consistent with the provisions of §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those on which the text or boundary was based; 2. Changed assumptions (e.g., regarding demographic trends); 3. Data errors, including errors in mapping, vegetative types and natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that the proposed text amendments are necessary due to a recognition of a need for additional detail or comprehensiveness.

Staff recommends that the Board of County Commissioners amend the Monroe County Code as stated in the text of this staff report.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townasley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Planning & Development Review Manager

Date: August 2, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 101-6, OWNERSHIP DISCLOSURES, TO CREATE A REGULATION PROVIDING THE MINIMUM REQUIREMENTS FOR DISCLOSING OWNERSHIP OF PROPERTY AS IT RELATES TO APPLICATIONS UNDER THE LAND DEVELOPMENT CODE, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: August 28, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing an amendment to the text
5 of the Monroe County Code (MCC) to establish a new section, §101-6, in order to create a
6 regulation addressing ownership disclosures.
7

8 II RELEVANT PRIOR COUNTY ACTIONS:
9

10 None applicable.
11

12 III REVIEW
13

14 Currently, there is not a regulation in the Land Development Code that addresses ownership
15 disclosures. The purpose of this new section is to provide the minimum requirements for
16 disclosing ownership of property as it relates to applications under the Land Development
17 Code. The intent is to disclose the identity of true parties in interest to the public, thereby
18 enabling the public to ascertain which parties will potentially benefit from the land use
19 transactions.
20

21 Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and
22 additions are underlined. Text to remain the same is in black):
23

1 **Sec. 101-6. Ownership Disclosures.**

2
3 (a) Purpose. The purpose of this section is to provide the minimum requirements for
4 disclosing ownership of property as it relates to applications under this Land
5 Development Code.

6
7 (b) Intent. The intent is to disclose the identity of true parties in interest to the public, thereby
8 enabling the public to ascertain which parties will potentially benefit from the land use
9 transactions.

10
11 (c) Applicability.

12 (1) Disclosure provisions are required for future land use map amendments, land use
13 district (zoning) map amendments, overlay map amendments, developments of
14 regional impact, development agreements, plat approvals, major conditional use
15 permits, minor conditional use permits, variances and setback waivers.

16 (2) Any person or entity holding real property in the form of a partnership, limited
17 partnership, corporation, assignment of interest, trust, option, assignment of
18 beneficial interest, or any form of representative capacity whatsoever for others,
19 except as otherwise provided in this section, shall, during application submittal
20 for the types of applications provided in subsection (1), shall make a public
21 disclosure, in writing, under oath, and subject to the penalties prescribed for
22 perjury. In the case of a trust, the four largest beneficiaries must also sign the
23 affidavit.

24 (3) This written disclosure shall be made to the planning director at the time of
25 application. The disclosure information shall include the name and address of
26 every person having a beneficial interest in the real property, however small or
27 minimal. All evidence submitted shall be subject to the planning director's
28 satisfaction, and said satisfaction shall be liberally interpreted in favor of the
29 county's interest.

30 (4) The planning and environmental resources department shall send written notice to
31 the person required to make disclosures under this section prior to the time when
32 such disclosures are required to be made, which written request shall also inform
33 the person required to make such disclosure that such disclosure must be made
34 pursuant to this section.

35 (5) Exemptions to the requirements of this section include the beneficial interest
36 which is represented by stock in corporations registered with the federal securities
37 exchange commission or in corporations registered pursuant to Chapter 517,
38 Florida Statutes, whose stock is for sale to the general public.

39
40 **IV RECOMMENDATION**

41
42 Staff has found that the proposed text amendment would be consistent with the provisions of
43 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
44 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
45 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
46 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for

1 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
2 the proposed text amendments are necessary due to recognition of a need for additional detail
3 or comprehensiveness and new issues.

4
5 Staff recommends that the Board of County Commissioners amend the Monroe County Code
6 as stated in the text of this staff report.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Reynaldo Ortiz, Assoc. AIA, AICP, Planning & Biological Plans Examiner
Supervisor

Date: August 18, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE CHAPTER 102, ADMINISTRATION, ARTICLE III, NONCONFORMITIES, TO ADDRESS NONCONFORMITY OF WATER-DEPENDENT AND WATER-RELATED COMMERCIAL USES AND STRUCTURES AS A PRIMARY SOURCE OF ECONOMIC SUSTAINABILITY AS ADDRESSED IN THE KEY LARGO AND TAVERNIER COMMUNIKEYS PLANS, TO UPDATE THE PROVISION RELATED TO THE REGISTRATION OF NONCONFORMING USES AND STRUCTURES, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: August 28, 2012

1
2 I REQUEST
3

4 The Livable CommuniKeys Master Plan program provides Monroe County citizens with the
5 opportunity to create a vision document that reflects the unique needs and qualities of their
6 community. There are presently four Livable CommuniKeys Master Plans that have been
7 incorporated into the Monroe County 2010 Comprehensive Plan by reference: Big Pine Key
8 and No Name Key; Tavernier; Stock Island/Key Haven; and Key Largo. The Livable
9 CommuniKeys Plans (LCP) provides guidance to County staff when reviewing proposals for
10 land use changes within the LCP study area. The Tavernier and Key Largo LCP focuses on
11 the specific needs of the local community and identifies actions to meet those needs.
12

13 The Planning & Environmental Resources Department is proposing amendments to the text
14 of Chapter 102, Administration, Article III Nonconformities of the Monroe County Code
15 (MCC) in order to revise the regulations pertaining to recognition of water-dependent and
16 water-related commercial uses as a primary source of economic sustainability with the
17 planning area of Tavernier Creek Bridge to approximately Mile Marker 97 of unincorporated

1 Monroe County as addressed in Tavernier CommuniKeys Plans; and the planning area
2 between Mile Markers 97 through 107, excluding offshore islands, of unincorporated
3 Monroe County as address in the Key Largo Livable CommuniKeys Plan. The revisions
4 will update the requirements to modify the water-dependent and water-related commercial
5 nonconforming uses or structures; and modify the provisions related to the registration of
6 nonconforming uses and structures.

7
8 **II RELEVANT PRIOR COUNTY ACTIONS:**
9

10 At their February 16, 2005 meeting, the BOCC passed Ordinance #002-2005 adopting the
11 Livable CommuniKeys Master Plan for the Tavernier Creek to Mile Marker 97.

12
13 At their May 21, 2007 meeting, the BOCC passed Ordinance #012-2007 adopting the
14 Livable CommuniKeys Master Plan.

15
16
17 **III REVIEW**
18

19 The regulations within MCC Chapter 102, Administration, Article III are insufficient to
20 address modifications to a lawfully established water-dependent and water-related
21 commercial nonconforming use or structure located in Tavernier or Key Largo planning
22 areas as described their respective CommuniKeys Plans. In addition staff is proposing to
23 update the provisions related to the registration of non-conforming uses or structures.

24
25 Therefore, staff recommends the following changes (deletions are ~~stricken through~~ and
26 additions are underlined):
27

28 **Sec. 102-54. - Purpose.**
29

30 The purpose of this article is to regulate and limit the continued existence of uses and structures
31 established prior to the enactment of the ordinance from which this chapter is derived that do
32 not conform to the provisions of this chapter. Many nonconformities may continue, but the
33 provisions of this article are designed to curtail substantial investment in nonconformities and
34 to bring about their eventual elimination in order to preserve the integrity of this chapter.
35

36 **Sec. 102-55. – Registration**
37

38 ~~All claims of nonconforming uses and structures shall be registered with the planning director
39 in a form provided by the planning director within one year of the service of individual notice
40 by mail to all landowners of record of the adoption of the plan and the requirement to register
41 nonconforming uses and structures. Individual notice by mail shall be deemed served upon the
42 deposit of duly stamped notice in the U.S. mails addressed to the owner of record according to
43 the most recent listing of the property appraiser of the county. Failure to register a claim of
44 nonconforming use or structure within one year after adequate legal notification by the
45 planning director shall constitute a waiver of the right to claim nonconforming use status.
46 Evaluation of nonconformity claims shall be on a case-by-case basis by the planning director~~

1 ~~based on the lawful nature of the use or structure when established, subject to appeal as~~
2 ~~provided in article VI of this chapter. The board of county commissioners, at its discretion,~~
3 ~~may direct the planning director to issue notification by category.~~
4

5 Upon discovery of nonconforming uses and structures during the permit review, or as part of
6 an application for a Letter of Understanding, the planning department will add them to the
7 registry of lawful nonconforming uses and structures.
8

9 **Sec. 102-56 – Nonconforming uses.**

10
11 (a) *Authority to continue.* Nonconforming uses of land or structures may continue in
12 accordance with the provisions of this section. Notwithstanding any provision of this
13 section or of this part II of the County Code:

14 (1) Leases, subleases, assignments or other occupancy agreements for compensation for
15 less than 28 days in duration shall be discontinued and shall not be renewed,
16 extended or entered into, in any district that prohibits vacation rental uses after the
17 effective date of the ordinance from which this section is derived unless a vacation
18 rental use was established and obtained all required state and local permits and
19 licenses prior to September 15, 1986, under previous Code provisions expressly
20 allowing vacation rental uses; and

21 (2) Leases, subleases, assignments or other occupancy agreements for
22 compensation of RV spaces for six months or more within a particular RV park,
23 other than in a designated storage area shall be discontinued and shall not be
24 renewed, extended or entered into, after the effective date of the ordinance from
25 which this section is derived.

26 (b) *Ordinary repair and maintenance.* Normal maintenance and repair to permit
27 continuation of registered nonconforming uses may be performed.
28

29 (c) *Extensions.* Nonconforming uses shall not be extended. This prohibition shall be
30 construed so as to prevent:

31 (1) Enlargement of nonconforming uses by additions to the structure in which such
32 nonconforming uses are located; or

33 (2) Occupancy of additional lands.
34

35 (d) *Relocation.* A structure in which a nonconforming use is located shall not be moved
36 unless the use thereafter shall conform to the limitations of the land use district into
37 which it is moved.
38

39 (e) *Change in use.* A nonconforming use shall not be changed to any other use unless the
40 new use conforms to the provisions of the land use district in which it is located.
41

42 (f) *Termination.*

43
44 (1) *Abandonment or discontinuance.* Where a nonconforming use of land or structure
45 is discontinued or abandoned for six consecutive months or one year in the case of
46 stored lobster traps, then such use may not be reestablished or resumed, and any

1 subsequent use must conform to the provisions of this chapter. Leases, subleases,
2 assignment or other occupancy agreement for compensation for less than 28 days in
3 duration shall be discontinued and shall not be renewed, extended or entered into, in
4 any district that prohibits vacation rental use after the effective date of the ordinance
5 from which this section is derived. Leases, subleases, assignments or other
6 occupancy agreements for compensation of RV spaces for six months or more
7 within a particular RV park, other than in a designated storage area, shall be
8 discontinued and shall not be renewed, extended or entered into, after the effective
9 date of the ordinance from which this section is derived.

10 (2) *Damage or destruction.* Except as provided in section 110-65 if a structure in
11 which a nonconforming use is located is damaged or destroyed so as to require
12 substantial improvement, then the structure may be repaired or restored only for
13 uses that conform to the provisions of the land use district in which it is located.
14 Fair market value shall be determined by reference to the official tax assessment
15 rolls for that year or by an appraisal by a qualified independent appraiser. The
16 extent of damage or destruction shall be determined by the building official, in
17 consultation with the director of planning, by comparing the estimated cost of
18 repairs or restoration with the fair market value.

19 (3) *Damage and destruction in commercial fishing districts (CFA, CFV and CFSD).*
20 Nonconforming uses existing as of September 15, 1986, may be rebuilt even if 100
21 percent destroyed, provided that they are rebuilt to preexisting use, building
22 footprint and configuration without increase in density or intensity of use.

23
24 (g) *Water-dependent and Water-related commercial nonconforming uses.* Water-dependent
25 and Water-related commercial nonconforming uses used as a primary source of
26 economic sustainability within the planning areas outlined in the Tavernier
27 CommuniKeys Plans and Key Largo Livable CommuniKeys Plan shall be permitted to
28 continue once registered in accordance with section 102-55. Modifications or
29 expansions of the nonconforming use may require authorization of a conditional use.
30 Expansions or modifications shall be brought into compliance to the maximum extent
31 practical.

32
33 **Sec. 102-57. - Nonconforming structures.**

34
35 (a) *Authority to continue.* A nonconforming structure devoted to a use permitted in the land use
36 district in which it is located may be continued in accordance with the provisions of this
37 section.

38
39 (b) *Ordinary repair and maintenance.* Normal maintenance and repair of registered
40 nonconforming structures may be performed.

41
42 (c) *Enlargements and extensions.* Nonconforming structures that are used in a manner
43 conforming to the provisions of this chapter may be enlarged or extended, provided that the
44 nonconformity is not further violated.

1 (d) *Relocation.* A nonconforming structure, other than an historic structure previously listed
2 on the National Register of Historic Places or the Florida Inventory of Historic Places, or
3 designated as historic by the board of county commissioners, shall not be moved unless it
4 thereafter shall conform to the regulations of the land use district in which it is located.
5

6 (e) *Termination.*

7 (1) Abandonment. Where a nonconforming structure is abandoned for 12 consecutive
8 months, then such structure shall be removed or converted to a conforming structure.

9 (2) Damage or destruction.

10 a. Any part of a nonconforming structure that is damaged or destroyed to the extent
11 of less than 50 percent of the fair market value of such structure may be restored as
12 of right if a building permit for reconstruction shall be issued within six months of
13 the date of the damage.

14 b. Except as provided in section 134-56, chapter 122, in regard to mobile homes,
15 and section 130-162, any nonconforming structure that is damaged or destroyed so
16 as to require substantial improvement may be repaired or restored only if the
17 structure conforms to the provisions of the land use district in which it is located.

18 Fair market value shall be determined by reference to the official tax assessment rolls
19 for that year or by an appraisal by a qualified independent appraiser. The extent of
20 damage or destruction shall be determined by the building official, in consultation with
21 the director of planning, by comparing the estimated cost of repairs or restoration with
22 the fair market value.
23

24 (f) *Water-dependent and Water-related commercial nonconforming structures.* *Water-*
25 *dependent and Water-related commercial nonconforming structures used as a primary*
26 *source of economic sustainability within the planning areas outlined in the Tavernier*
27 *CommuniKeys Plans and Key Largo Livable CommuniKeys Plan shall be permitted to*
28 *continue in accordance with section 102-55. Modifications or expansions of the*
29 *nonconforming structure may require authorization of a conditional use. Expansions or*
30 *modifications shall be brought into compliance to the maximum extent practical.*
31
32

33 IV RECOMMENDATION

34

35 Staff has found that the proposed text amendment would be consistent with the provisions of
36 MCC §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from
37 those on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
38 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
39 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
40 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
41 the proposed text amendments are necessary due to recognition of a need for additional detail
42 or comprehensiveness.
43

44 Staff recommends that the Board of County Commissioners amend the Monroe County Code
45 as stated in the text of this staff report.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

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

To: Monroe County Development Review Committee & Townsley Schwab, Senior Director of Planning & Environmental Resources

Through: Mayté Santamaria, Assistant Director of Planning *MS*

From: Emily Schemper, Planner *ES*

Date: August 20, 2012

Subject: Request for an amendment to the Monroe County 2010 Comprehensive Plan to amend Policies 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 and create Policy 101.4.26 to establish a Commercial future land use category; and revise the "Future Land Use Densities and Intensities" table to include a Commercial (COMM) future land use category, corresponding zoning categories and establish the density and intensity standards.

Meeting: August 28, 2012

I REQUEST

This is a request by Monroe County to amend Policies 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 and create Policy 101.4.26 to establish a Commercial future land use map category; and revise the "Future Land Use Densities and Intensities" table to include a Commercial (COMM) future land use category, corresponding zoning categories and establish the density and intensity standards.

II BACKGROUND INFORMATION & ANALYSIS

Currently, the County does not have an exclusive commercial future land use category. The two existing future land use map categories that allow commercial are: Mixed Use/Commercial (MC) and Mixed Use/Commercial Fishing (MCF). Both of these categories include a residential component. As the County has undertaken the tasks outlined in Rule 28-20.140, Florida Administrative Code (F.A.C.) and the evaluation of the 2010 Comprehensive Plan, several issues have been highlighted that indicate the need for an exclusive commercial category.

Rule & Hurricane Evacuation

The County and the other jurisdictions in the Keys regulate new residential growth through permit allocation systems. The basis for the permit allocation rate and distribution is based upon our ability to maintain 24-hour evacuation clearance time. Monroe County Rule 28-

1 require a Memorandum of Understanding (MOU) by July 2012, with the Division of
 2 Emergency Management, Monroe County, City of Marathon, Village of Islamorada, City of
 3 Key West, City of Key Colony Beach, and City of Layton regarding hurricane evacuation. The
 4 MOU addresses the input variables and assumptions to depict hurricane evacuation clearance
 5 times for the population of the Florida Keys. Based on the assumptions in the MOU and the
 6 most recent U.S. Census data, DEO has completed its analysis of maximum build-out capacity
 7 and determined the remaining allocations and distribution of the remaining development
 8 potential among the Florida Keys' jurisdictions, while allowing the permanent population to
 9 evacuate within 24 hours.

10
 11 Pursuant to the work conducted to review this data, develop the MOU, and complete numerous
 12 evacuation modeling scenarios, DEO has determined that 3,540 additional allocations could be
 13 distributed among the Florida Keys' jurisdictions over the next ten years. This includes 1,970
 14 allocations for unincorporated Monroe County from July 2013 to July 2023. Note, DEO will
 15 provide recommendations to the Administration Commission on the allocation rates and
 16 distributions to the Florida Keys. The Administration Commission will authorize and confirm
 17 the official residential allocation rate.

18
 19 While the County anticipates 1,970 allocations over the next 10 years, the County must still
 20 develop strategies to ensure that the 24-hour clearance time is not exceeded while balancing
 21 private property rights. This is significant, as there are approximately 8,800 vacant parcels
 22 (see excerpt below from the 2010 Evaluation and Appraisal Report).

Vacant Land by Tier and Planning Area

	I	II	III	III-A	0 ²	Vacant acres in Tier	Net Parcels and Acres
Lower Keys							
Vacant Parcels	3,288	411	1,724	31	17	N/A	5,471
Acres	6,338.7	78.1	573.7	11.5	52.2	7,002.0	7,054.2
Percent Vacant Acres	89.9%	1.1%	8.1%	0.2%	0.7%	N/A	N/A
Middle Keys							
Vacant Parcels	20	0	284	0	N/A	N/A	304
Acres	147.6	0.0	63.6	0.0	0.0	211.2	211.2
Percent Vacant Acres	69.9%	0.0%	30.1%	0.0%	N/A	N/A	N/A
Upper Keys							
Vacant Parcels	835	0	1,658	265	225	N/A	2,983
Acres	1,501.1	0.0	316.3	79.9	261.3	1,897.3	2,158.6
Percent Vacant Acres	69.5%	0.0%	14.7%	3.7%	12.1%	N/A	N/A
Total Parcels	4,143	411	3,666	296	242	N/A	8,758
Total Acres	7,987.4	78.1	953.6	91.4	313.5	9,110.5	9,424.0
Percentage of Tier	84.8%	0.8%	10.1%	1.0%	3.3%	N/A	100%

Note: Percentage of Tier - slight differences due to rounding.

Source: Monroe County Growth Management, 2011, Geographic Information System file "MC_ELU_511"; Monroe County Growth Management, 2011, Geographic Information System file "MC_FLUM_511"; Monroe County Growth Management, 2011, Geographic Information System file "Tier_0110"

Tiers are:

I = Tier I - Natural Areas

II = Tier II (Big Pine Key and No Name Keys in the Lower Keys Planning Area only)

III = Tier III - Infill Areas

III-A = Special Protection Area (SPA)

0 = Property does not have a Tier designation. Most of these occur in the Upper Keys and some are right-of-way parcels. Some lots were not originally designated because of mapping errors; the majority of which are currently being reviewed by the Tier Designation Review Committee and will be designated at a later date.

Tier 0 is used for illustration purposes only and is not part of the analysis.

Vacant acres in all tiers after subtracting Tier 0.

23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48 In addition, Florida Statutes require that amendments to the comprehensive plan be consistent
 49 with efforts to ensure public health, safety, and welfare, including safe and timely hurricane

1 evacuation. Further, the County's 2010 Comprehensive Plan requires the maintenance of a 24
2 hour clearance time.

- 3
- 4 - 163.3178(8)(a), F.S., A proposed comprehensive plan amendment shall be found in
5 compliance with state coastal high-hazard provisions if:
 - 6 1. The adopted level of service for out-of-county hurricane evacuation is maintained for a
7 category 5 storm event as measured on the Saffir-Simpson scale; or
 - 8 2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as
9 measured on the Saffir-Simpson scale and shelter space reasonably expected to
10 accommodate the residents of the development contemplated by a proposed
11 comprehensive plan amendment is available; or
 - 12 3. Appropriate mitigation is provided that will satisfy subparagraph 1. or subparagraph 2.
13 Appropriate mitigation shall include, without limitation, payment of money, contribution
14 of land, and construction of hurricane shelters and transportation facilities. Required
15 mitigation may not exceed the amount required for a developer to accommodate impacts
16 reasonably attributable to development. A local government and a developer shall enter
17 into a binding agreement to memorialize the mitigation plan.
 - 18
 - 19 - 163.3177(6)(b)2.c., F. S., The capability to evacuate the coastal population before an
20 impending natural disaster.
 - 21
 - 22 - 380.0552 (2)(j), F. S., states as an intent of the Legislature to ensure that the population of
23 the Florida Keys can be safely evacuated;
 - 24
 - 25 - 380.0552 (7)(n), F. S., states that any plan amendments must protect the public health,
26 safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a
27 unique Florida resource;
 - 28
 - 29 - 380.0552 (9)(a)2., F.S., requires amendments to local comprehensive plans in the Florida
30 Keys Area to be compliant with goals, objectives, and policies to protect public safety and
31 welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance
32 time for permanent residents of no more than 24 hours. The hurricane evacuation clearance
33 time shall be determined by a hurricane evacuation study conducted in accordance with a
34 professionally accepted methodology and approved by the state land planning agency.
 - 35

36 The creation of an exclusive Commercial Future Land Use Map (FLUM) category can provide
37 alternative and additional uses of private property that do not include a residential component,
38 and; therefore, do not contribute to increases in hurricane evacuation times. Additionally, the
39 proposed Commercial FLUM category can assist the County in implementing other necessary
40 planning projects, such as addressing nonconformities.

41 Nonconforming Uses

42 When the Monroe County 2010 Comprehensive Plan and Future Land Use Maps were adopted
43 and determined to be in compliance with Florida Statutes in 1997 as well as with the adoption
44 of the official zoning maps in 1992, multiple properties with existing commercial/office uses
45 became nonconforming due to the adopted maps. Members of the community have brought up
46 the issue of nonconformities over the years and the County has highlighted this issue in the
47 Evaluation and Appraisal Report (EAR) of the Comprehensive Plan (A. see EAR example
48 below). Additionally, the County has adopted action items as part of the Livable
49

1 CommuniKeys Plans (B. see Key Largo Community Master Plan examples below) as well as
2 the fee resolution (C. see Resolution 172-2012 below) to address these nonconformities.
3

4 **A. Evaluation and Appraisal Report**

5 EAR Recommendations

6 On May 22, 2012, the BOCC adopted the final Evaluation and Appraisal Report (EAR), which
7 evaluates the existing goals, objectives, and policies of the existing Comprehensive Plan and gauges
8 their compatibility with state and regional policies, plans and regulatory requirements.
9

10 The EAR's Assessment of Comprehensive Plan Elements (Chapter 3) included the following
11 recommendation:
12

13 **A. Future Land Use Element**

14 Objective 101.4 and the associated polices establish the Future Land Use Map categories and the
15 density and intensity standards for each category. These policies should be evaluated to determine if: 1)
16 the existing density and intensity standards recognize and encourage the unique
17 development/redevelopment patterns within the County; 2) if the floor area ratio maximums promote
18 compatibility in each of the Future Land Use categories; 3) if the density standards under maximum net
19 density should be modified or eliminated; and 4) if open space ratios should be adopted into the
20 Comprehensive Plan. Additionally, the County should review and clarify the uses permitted under the
21 Conservation category, consider the creation of a Preservation category for publically owned lands, **and**
22 **establish a Commercial category.**
23

24 The EAR's Assessment of Major Issues (Chapter 4) included the following recommendation:
25

26 ***Issue Category #2(e): Development of a Commercial Land Use District Category***

27 **A. Background:** Currently, the County does not have an exclusive commercial land use category. The
28 two existing commercial use categories: Mixed Use/Commercial and Mixed Use/Commercial Fishing
29 include a residential component.
30

31 **B. Analysis:** Due to the potential for encroachment and impacts from litter and pets from residential
32 uses, mixed use parcels adjacent to natural habitat in Tier I have the potential to negatively impact these
33 lands.
34

35 **C. Policy Framework:**

36 • Objective 101.4 and its associated policies identify the various land use districts and the uses allowed
37 within each district, but again, there is no Commercial land use category.
38

39 **D. Strategies:**

40 - **The County should consider creating a policy for a Commercial Future Land Use Designation that
41 does not allow residential uses.**
42

43 **III. Land Use/Mobility**

44 ***Issue Statement #2: The County Should Meet or Exceed Hurricane Evacuation Requirements as
45 required by State law.***
46

47 **B. Key Largo Community Master Plan (2006)**

48 Goals identified in the Key Largo Community Master Plan include:

49 ***Land Use and Redevelopment Element***

50 ***GOAL ONE: Direct future growth to lands that are most suitable for development and encourage
51 preservation of environmentally sensitive lands.***

1 Under this goal, community needs include the re-evaluation of parcels that were previously down-
2 zoned and now non-conforming, and restoration of the commercial status where appropriate (pg 20).
3

4 **Action Item 1.3.1:** Continue to use the FLUM and Land Use District Maps to regulate development of
5 individual parcels with respect to density, intensity, bulk regulations, and all other land development
6 regulation. This will protect the existing conformance status of most uses and promote orderly
7 development consistent with the Comprehensive Plan.
8

9 **Action Item 1.3.2:** Revise the FLUM and Land Use District Maps to resolve nonconformities
10 in the planning area where appropriate.
11

12 **Action Item 1.3.7:** Evaluate future FLUM change and Land Use District Map change requests for
13 nonconforming uses, proposed changes in use, vacant parcels and other requests based mainly on
14 comprehensive planning principles and the following community-goal related criteria:

- 15 a. Promote infill, design flexibility and transfer of density to Community Centers.
16 b. Preserve commercial conformance status within sections along US-1 predominated by existing
17 commercial businesses and disturbed lands.
18 c. Encourage sun-setting of intensive commercial uses within sections along US-1 predominated by
19 natural habitat or native-dominated landscape, relatively sparse development and relatively few
20 businesses.
21 d. Preserve commercial use status for existing waterfront uses that support the tourist-based and
22 working waterfront-based economy.
23 e. Give consideration to whether the property provides a unique or outstanding opportunity for
24 enhancement of design, connectivity and other community goals, especially along the US-1 corridor.

25 26 **C. Fee Resolution 172-2012**

27 Section 1.

28 *3. There shall be no application or other fees, except advertising and noticing fees, for property owners*
29 *who apply for a map amendment to the official LUD map and/or the official FLUM, if the property*
30 *owner can provide satisfactory evidence that a currently existing use on the site that also existed*
31 *lawfully in 1992 was deemed nonconforming by final adoption of the LUD map and/or a currently*
32 *existing use on the site that also existed lawfully in on the site in 1997 was deemed nonconforming by*
33 *final adoption of the FLUM. To qualify for the fee exemption, the applicant must apply for a LUD*
34 *and/or FLUM designation(s) that would eliminate the non-conforming use created with adoption of the*
35 *existing designation(s) and not create an adverse impact to the community. Prior to submittal of a map*
36 *amendment application, the applicant must provide the evidence supporting the change and application*
37 *for a fee exemption with the proposed LUD map/FLUM designations to the Monroe County Planning &*
38 *Environmental Resources Department as part of an application for a Letter of Understanding.*
39 *Following a review, the Director of Planning & Environmental Resources shall determine if the*
40 *information and evidence is sufficient, and whether the proposed LUD map and/or FLUM designations*
41 *are acceptable for the fee waiver, and approve or deny the fee exemption request. This fee waiver Letter*
42 *of Understanding shall not obligate the staff to recommend approval or denial of the proposed LUD or*
43 *FLUM Category.*

44
45 The proposed amendment will fulfill the EAR's recommendations to create a policy for a
46 Commercial Future Land Use Designation that does not allow residential uses, as well as
47 support the County's efforts to comply with the State's requirements for hurricane evacuation.

1
2 Further, as the County currently tries to address the nonconformities due to the official map
3 adoptions; the County must evaluate and make recommendations on amendments based on the
4 existing land use categories. The two existing future land use map categories that allow
5 commercial are: Mixed Use/Commercial (MC) and Mixed Use/Commercial Fishing (MCF).
6 Both of these categories include a residential component. If the County or a property owner
7 requests that the future land use map category for a property with an existing nonconforming
8 commercial use be changed to either the MC or MCF category, the allocated residential density
9 could likely increase with that change. Given the hurricane evacuation issues stated above and
10 Resolution 021-2012 (see below) discouraging private applications for future land use changes
11 which increase allowable density/intensity, MC and MCF land use categories may not be
12 viable options for land use changes addressing nonconforming commercial uses. No alternative
13 land use categories currently exist which do not include a residential component.

14
15 Discouragement Amendment

16 **Resolution 021-2012 discouraging private applications for future land use changes which**
17 **increase allowable density/intensity.**

- 18 - On February 13, 2012, the Monroe County BOCC adopted Resolution 021-2012 to
19 transmit to the State Land Planning Agency an Ordinance by the MC BOCC amending the
20 MC 2010 Comp Plan, creating Policy 101.4.20 discouraging private applications for future
21 land use changes which increase allowable density/intensity. The amendment is to
22 implement the Work Program Task from Rule 28-20.140, F.A.C., and the direction from
23 the Administration Commission.

24
25 The creation of an exclusive Commercial Future Land Use Map (FLUM) Category will further
26 support the goal of avoiding increases in residential density by providing alternative FLUM
27 and zoning categories which do not allow residential development.

28
29 **III. PROPOSED AMENDMENT**

30
31 **Policy 101.4.21**

32 The principal purpose of the Commercial (COMM) future land use category is to provide for the
33 establishment of commercial zoning districts where various types of commercial retail; highway-
34 oriented sales and services; commercial recreation; light industrial; public, institutional and office
35 uses may be permitted at intensities which are consistent with the community character and the
36 natural environment. The commercial zoning districts established within this category are intended
37 to serve the immediate vicinity or serve regional commercial purposes, including subareas. This
38 category is not intended to accommodate transient or permanent residential development.

39
40 In order to protect environmentally sensitive lands, the following development controls shall apply
41 to all Tier I lands within this land use category:

- 42
43 1. only low intensity commercial uses shall be allowed; and
44 2. a maximum floor area ratio of 0.10 shall apply.

45
46 **Policy 101.4.22 21**

47 Monroe County hereby adopts the following density and intensity standards for the future land use
48 categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 -
49 101.4.17: [9J-5.006(3)(c)7].

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
Commercial (COMM) (Commercial 1 (C1) zoning & Commercial 2 (C2) zoning)	0 du 0 rooms/spaces	N/A N/A	0.25-0.50
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC) ^(g) (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF) ^(g) (CFA, CFV ^(c) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(d) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(f) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:

- (a) "N/A" means that maximum net density bonuses shall not be available.
- (b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.
- (c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.
- (d) Maximum net density bonuses shall not be available to the SS district.
- (e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
- (f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
- (g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
- (h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning.

may be incorporated into new or existing zoning districts as appropriate.

(i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

Policy 101.4.23 22

[Currently Processing Revisions to Clearing Limits Policy- BOCC Resolution 20-2012]

All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use ~~District (zoning) Overlay~~ Tier Overlay District Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetation areas (hardwood hammock, pinelands, and beach berm) for properties in the Ocean Reef planned development shall be limited to 40 percent of the existing upland native vegetation.

Except as defined in Policy 101.12.4, clearing of upland native vegetative areas (hardwood hammock, pinelands, beach berm, cactus hammock and palm hammock) in the Tiers I, II, ~~and III~~ and Tier III-A shall be limited ~~for~~ to the portion of the property containing upland native vegetation in the following percentages or maximum square footage:

Tier	Permitted Clearing *
I	<p>20% <u>or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet of upland native vegetative area.</u></p> <p><u>The clearing of parcels in Tier I shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from the maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the Planning Director. The proposed driveway design shall minimize fragmentation, avoid specimen trees, and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 20 percent of the entire site.</u></p>
II	<p>40% <u>or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet of upland native vegetative area</u> (Big Pine Key and No Name Key).</p>
III	<p>40% <u>or 3,000 square feet s.f., whichever is greater; however, the maximum amount of clearing shall be no more than 7,500 square feet, regardless of the amount of upland native vegetative area.</u></p> <p><u>The clearing of parcels in Tier III shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from the maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the Planning Director. The proposed driveway design shall minimize fragmentation, avoid specimen trees, and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 40 percent of the entire site.</u></p>

<p style="text-align: center;"><u>III-A Special Protection Area</u></p>	<p><u>40% or 3,000 square feet, whichever is greater; however, clearing shall not exceed 7,500 square feet of upland native vegetation.</u></p> <p><u>The clearing of parcels in Tier III-A shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from the maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the Planning Director. The proposed driveway design shall minimize fragmentation, avoid specimen trees, and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 40 percent of the entire site.</u></p>
	<p>* Palm or cactus hammock is limited to only 10%.</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Policy 101.4.24 ~~23~~

[Currently Processing Revisions to Clearing Limits Policy- BOCC Resolution 20-2012]

Notwithstanding the clearing limits established in the Livable CommuniKeys Master Plans adopted by reference into the 2010 Comprehensive Plan by Policy 101.20.2, the permitted clearing established by Policy 101.4.23 ~~22~~ shall control.

Policy 101.4.25 ~~24~~

Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.26 ~~25~~

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

IV. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, THE FLORIDA STATUTES, AND PRINCIPLES FOR GUIDING DEVELOPMENT

A. The proposed amendment is consistent with the following Goals, Objectives and Policies of the Monroe County Year 2010 Comprehensive Plan. Specifically, the amendment 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 non-residential development to maintain a balance of land uses to serve the needs of the future population of Monroe County.

Objective 101.8: Monroe County shall eliminate or reduce the frequency of uses which are inconsistent with the applicable provisions of the land development regulations and the Future Land Use Map, and structures which are inconsistent with applicable codes and land development regulations.

1 **Policy 101.8.2**

2 Monroe County shall prohibit a non-conforming use to be changed to any other use unless the new
3 use conforms to all applicable provisions of the Future Land Use category and zoning district in
4 which it is located
5

6 **Policy 101.20.2:** The Community Master Plans shall be incorporated into the 2010 Comprehensive
7 Plan as a part of the plan and be implemented as part of the Comprehensive Plan. The following
8 Community Master Plans have been completed in accordance with the principles outlined in this
9 section and adopted by the Board of County Commissioners:

10 5. The Key Largo Livable CommuniKeys Master Plan is incorporated by reference into the
11 2010 Comprehensive Plan. The term Strategies in the Master Plan is equivalent to the term
12 Objectives in the Comprehensive Plan and the term Action Item is equivalent to the term
13 Policy; the meanings and requirements for implementation are synonymous.
14

15 **Goal 102:** Monroe County shall direct future growth to lands which are intrinsically most suitable
16 for development and shall encourage conservation and protection of environmentally sensitive
17 lands.
18

19 **GOAL 216**

20 Monroe County shall provide for hurricane evacuation, shelters and refuges, and communication
21 capabilities to promote safeguarding of the public against the effects of hurricanes and tropical
22 storms.
23

24 **Objective 216.1**

25 Monroe County shall reduce hurricane evacuation clearance time to 24 hours by the year 2010
26

27 **B. The amendment is consistent with the Principles for Guiding Development for the**
28 **Florida Keys Area, Section 380.0552(7), Florida Statute.**
29

30 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with
31 the principles for guiding development and any amendments to the principles, the principles shall
32 be construed as a whole and no specific provision shall be construed or applied in isolation from the
33 other provisions.
34

- 35 (a) Strengthening local government capabilities for managing land use and development so that
36 local government is able to achieve these objectives without continuing the area of critical state
37 concern designation.
38 (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass
39 beds, wetlands, fish and wildlife, and their habitat.
40 (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native
41 tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and
42 beaches, wildlife, and their habitat.
43 (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic
44 development.
45 (e) Limiting the adverse impacts of development on the quality of water throughout the Florida
46 Keys.
47 (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural
48 environment, and ensuring that development is compatible with the unique historic character of
49 the Florida Keys.
50 (g) Protecting the historical heritage of the Florida Keys.
51 (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed
52 major public investments, including:
53

- 1 1. The Florida Keys Aqueduct and water supply facilities;
- 2 2. Sewage collection, treatment, and disposal facilities;
- 3 3. Solid waste treatment, collection, and disposal facilities;
- 4 4. Key West Naval Air Station and other military facilities;
- 5 5. Transportation facilities;
- 6 6. Federal parks, wildlife refuges, and marine sanctuaries;
- 7 7. State parks, recreation facilities, aquatic preserves, and other publicly owned
- 8 properties;
- 9 8. City electric service and the Florida Keys Electric Co-op; and
- 10 9. Other utilities, as appropriate.

- 11
- 12 (i) Protecting and improving water quality by providing for the construction, operation,
- 13 maintenance, and replacement of stormwater management facilities; central sewage collection;
- 14 treatment and disposal facilities; and the installation and proper operation and maintenance of
- 15 onsite sewage treatment and disposal systems.
- 16 (j) Ensuring the improvement of nearshore water quality by requiring the construction and
- 17 operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l)
- 18 and 403.086(10), as applicable, and by directing growth to areas served by central wastewater
- 19 treatment facilities through permit allocation systems.
- 20 (k) Limiting the adverse impacts of public investments on the environmental resources of the
- 21 Florida Keys.
- 22 (l) Making available adequate affordable housing for all sectors of the population of the Florida
- 23 Keys.
- 24 (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a
- 25 natural or manmade disaster and for a post disaster reconstruction plan.
- 26 (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and
- 27 maintaining the Florida Keys as a unique Florida resource.
- 28

29 Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is consistent with the

30 Principles for Guiding Development as a whole and is not inconsistent with any Principle.

31

32 **C. The proposed amendment is consistent with the Part II of Chapter 163, Florida**

33 **Statute (F.S.). Specifically, the amendment furthers:**

34

35 Section 163.3161(4), F.S. – It is the intent of this act that local governments have the ability to

36 preserve and enhance present advantages; encourage the most appropriate use of land, water, and

37 resources, consistent with the public interest; overcome present handicaps; and deal effectively with

38 future problems that may result from the use and development of land within their jurisdictions.

39 Through the process of comprehensive planning, it is intended that units of local government can

40 preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance,

41 convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and

42 efficient provision of transportation, water, sewerage, schools, parks, recreational facilities,

43 housing, and other requirements and services; and conserve, develop, utilize, and protect natural

44 resources within their jurisdictions

45

46 Section 163.3177(1), F.S. - The comprehensive plan shall provide the principles, guidelines,

47 standards, and strategies for the orderly and balanced future economic, social, physical,

48 environmental, and fiscal development of the area that reflects community commitments to

49 implement the plan and its elements. These principles and strategies shall guide future decisions in

50 a consistent manner and shall contain programs and activities to ensure comprehensive plans are

51 implemented. The sections of the comprehensive plan containing the principles and strategies,

52 generally provided as goals, objectives, and policies, shall describe how the local government’s

53 programs, activities, and land development regulations will be initiated, modified, or continued to

1 implement the comprehensive plan in a consistent manner. It is not the intent of this part to require
2 the inclusion of implementing regulations in the comprehensive plan but rather to require
3 identification of those programs, activities, and land development regulations that will be part of the
4 strategy for implementing the comprehensive plan and the principles that describe how the
5 programs, activities, and land development regulations will be carried out. The plan shall establish
6 meaningful and predictable standards for the use and development of land and provide meaningful
7 guidelines for the content of more detailed land development and use regulations.
8

9 Section 163.3177(6)(b)2.c., F.S., The capability to evacuate the coastal population before an
10 impending natural disaster.
11

12

13 **V. STAFF RECOMMENDATION**

14

15 Staff recommends **approval** of the proposed amendment to amend Policies 101.4.21, 101.4.22,
16 101.4.23, 101.4.24, 101.4.25 and create Policy 101.4.26 to establish a Commercial future land
17 use map category; and revise the “Future Land Use Densities and Intensities” table to include a
18 Commercial (COMM) future land use category, corresponding zoning categories and establish
19 the density and intensity standards.
20

21 The proposed amendment provides a mechanism to limit or reduce residential density within
22 the County while permitting appropriate alternative uses, such as commercial retail and office.
23 The proposed amendment complements Policy 101.4.20, which satisfies the Administration
24 Commission Rule 28-20.140, F.A.C., Work Program task (5)(a)9., requiring the adoption of a
25 comprehensive plan amendment to discourage private applications for future land use changes
26 which increase allowable density and intensity. The Commercial land use category and its
27 related commercial zoning districts will offer the option to reclassify existing non-conforming
28 commercial uses to commercial land without increasing residential density.
29

30 **III PROCESS**

31

32 Comprehensive Plan amendments may be proposed by the Board of County Commissioners,
33 the Planning Commission, the Director of Planning, or the owner or other person having a
34 contractual interest in property to be affected by a proposed amendment. The Director of
35 Planning shall review and process applications as they are received and pass them onto the
36 Development Review Committee and the Planning Commission.
37

38 The Planning Commission shall hold at least one public hearing. The Planning Commission
39 shall review the application, the reports and recommendations of the Department of Planning
40 & Environmental Resources and the Development Review Committee and the testimony given
41 at the public hearing. The Planning Commission shall submit its recommendations and
42 findings to the Board of County Commissioners (BOCC). The BOCC holds a public hearing
43 to consider the transmittal of the proposed comprehensive plan amendment, and considers the
44 staff report, staff recommendation, and the testimony given at the public hearing. The BOCC
45 may or may not recommend transmittal to the Florida Department of Economic Opportunity
46 (DEO). The amendment is transmitted to DEO, which then reviews the proposal and issues an
47 Objections, Recommendations and Comments (ORC) Report. Upon receipt of the ORC report,
48 the County has 180 days to adopt the amendments, adopt the amendments with changes or not
49 adopt the amendment.
50

1
2
3
4
5
6

VI. EXHIBITS

1. Proposed amendment to Comprehensive Plan to create a Commercial FLUM
2. Proposed, draft Land Development Regulations – corresponding Commercial Land Use District (zoning) Categories

Exhibit 1

Proposed Amendment:

Objective 101.4

Monroe County shall regulate future development and redevelopment to maintain the character of the community and protect the natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map. [9J-5.006(3)(b) 3]

Policy 101.4.1

The principal purpose of the Residential Conservation land use category is to encourage preservation of open space and natural resources while providing for very low-density residential development in areas characterized by a predominance of undisturbed native vegetation. Low-intensity public uses and utilities are also allowed. In addition, Monroe County shall adopt Land Development Regulations which allow any other nonresidential use that was listed as a permitted use in the Land Development Regulations that was in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the use is limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limit to what the pre-2010 LDR's allowed, whichever is more restricted. Maximum permitted densities shall be based upon the results of the habitat analysis required by Division 8 of the Monroe County Land Development Regulations, as amended. [9J-5.006(3)(c) 1 and 7]

Policy 101.4.2

The principal purpose of the Residential Low land use category is to provide for low-density residential development in partially developed areas with substantial native vegetation. Low intensity public and low intensity institutional uses are also allowed. In addition, Monroe County shall adopt Land Development Regulations which allow any other nonresidential use that was listed as a permitted use in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the use is limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limit to what the pre-2010 LDR's allowed, whichever is more restricted.

Policy 101.4.3

The principal purpose of the Residential Medium land use category is to recognize those portions of subdivisions that were lawfully established and improved prior to the adoption of this plan and to define improved subdivisions as those lots served by a dedicated and accepted existing roadway, have an approved potable water supply, and have sufficient uplands to accommodate the residential uses. Development on vacant land within this land use category shall be limited to one residential dwelling unit for each such platted lot or parcel which existed at the time of plan adoption. However, Monroe County shall adopt Land Development Regulations which allow nonresidential uses that were listed as a permitted use in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the uses are limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limited to what the pre-2010 LDR's allowed, whichever is more restricted. Lands within this land use category shall not be further subdivided.

Policy 101.4.4

The principal purpose of the Residential High category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured housing, located near employment centers. In addition, Monroe County shall adopt Land Development Regulations which allow nonresidential uses that were listed as a permitted use in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan, and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the use is limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limited to what the pre-2010 LDR's allowed, whichever is more restricted. [9J-5.006(3)(c) 1 and 7]

Policy 101.4.5

The principal purpose of the Mixed Use/ Commercial land use category is to provide for the establishment of commercial 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.

This land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and non-residential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. 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; and
3. maximum net residential density shall be zero.

Policy 101.4.6

The principal purpose of the Mixed Use/ Commercial Fishing land use category is to provide for the maintenance and enhancement of commercial fishing and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry. Residential uses are also permitted. 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; and
3. maximum net residential density shall be zero. [9J-5.006(3)(c)1 and 7]

Policy 101.4.7

The principal purpose of the Industrial land use category is to provide for the development of industrial, manufacturing, and warehouse and distribution uses. Other commercial, public, residential, and commercial fishing-related uses are also allowed. [9J-5.006(3)(c)1 and 7]

Policy 101.4.8

The principal purpose of the Agriculture/Aquaculture land use category is to encourage the retention of existing agricultural and aqua cultural uses. [9J-5.006(3)(c)1 and 7]

Policy 101.4.9

The principal purpose of the Recreation land use category is to provide for public and private activity-based and resource-based recreational facilities. [9J-5.006(3)(c)1 and 7]

Policy 101.4.10

The principal purpose of the Institutional land use category is to provide for institutional uses by federally tax-exempt, non-profit facilities, including, but not limited to, educational, scientific, religious, social service, cultural, and recreational organizations. Related residential and non-residential uses, including student and employee housing shall be allowed. [9J-5.006(3)(c)1 and 7]

Policy 101.4.11

The principal purpose of the Educational land use category is to provide for public educational facilities. The County shall coordinate with the School Board to balance educational facility land requirements with other land use objectives. In recognition of Monroe County's environment and the linear distribution of its population, the County shall encourage schools to accommodate building and facility requirements on existing sites. When new school sites are required, school shall be encouraged to locate proximate to urban residential areas and other public facilities. [9J-5.006(3)(c) 1 and 7]

Policy 101.4.12

The principal purpose of the Public Buildings/Grounds land use category is to provide for public buildings and grounds owned by federal, state and local governments. [9J-5.006(3)(c)1 and 7]

Policy 101.4.13

The principal purpose of the Public Facilities land use category is to provide for land owned by public utilities and service providers. [9J-5.006(3)(c)1 and 7]

Policy 101.4.14

The principal purpose of the Military land use category is to provide for federally owned lands used for military purposes. Development densities and intensities are not subject to regulation by Monroe County. Military commanders will be requested to follow these recommended densities and intensities as specified in Policy 101.4.22, consistent with natural resource constraints as well as all County environmental design criteria.

Policy 101.4.15

The principal purpose of the Conservation land use category is to provide for publicly owned lands held primarily for the preservation of natural and historic resources and compatible passive recreational uses. Public uses consistent with the purpose of this category shall be allowed. [9J-5.006(3)(c)1 and 7]

Policy 101.4.16

The principal purpose of the Airport District land use category is to prohibit the development of residential, educational or other uses which are characterized by the regular presence of large numbers of people within the hazard areas of civil and military airports.

Policy 101.4.17

The principal purpose of the Mainland Native land use category is to protect the undeveloped and environmentally sensitive character of land within Monroe County that is located on the mainland of the Florida peninsula. Very low density residential uses and low-intensity educational and research centers shall be allowed. All land in the mainland portion of Monroe County is hereby designated as Mainland Native.

Policy 101.4.18

The principal purpose of the Historic overlay category is to identify existing and potential historic districts for designation, protection, and preservation (See Goal 104 and supporting objectives and policies). Maximum permitted densities and intensities shall be in accordance with the underlying land use categories. [9J-5.006(3)(c)1 and 7]

Policy 101.4.19

Densities among properties designated Residential Conservation and Residential Low shall not be increased above the densities which existed prior to the date of plan adoption except through appeal procedures to demonstrate that such prior density designations were incorrect due to scrivener's/drafting errors or incorrect habitat conditions identified on the December 1985 Habitat Classification Aerial Photographs.

Policy 101.4.20

[Currently Processing Revisions to create Discouragement Policy- BOCC Resolution 21-2012]
In order to implement the Florida Keys Carrying Capacity Study, Monroe County shall promote the reduction in overall County density and intensity 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 density and/or intensity. Private application 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, which propose increases in allocated density and intensity shall be required to comply with either option (1) or (2) below:

- (1) For every acre of land where there is a request to increase density and/or intensity, a private applicant shall purchase and donate 2 acres of land which contain non-scarified native upland habitat and/or undisturbed wetland habitat to Monroe County for conservation. The following requirements apply:
 - The donated land shall be designated as Tier I, Tier II or Tier III-A Special Protection Area and be located on Big Pine Key/No Name Key or be within the same sub-area of unincorporated Monroe County.
 - The land shall be inspected by the Monroe County Biologist to assure it is acceptable for acquisition and donation.
 - A restrictive covenant shall be recorded to extinguish the development rights on the dedicated land.
 - The Future Land Use Map Designation for the donated land may be designated by the County as Conservation (C).
- (2) For each requested additional unit of density, a private applicant shall purchase and donate a lot designated as Improved Subdivision (IS) district on the Land Use (Zoning) District map

which contain non-scarified native upland habitat and/or undisturbed wetland habitat to Monroe County. The following requirements apply:

- Private applicants shall provide IS lots pursuant to a 1:1 (1 unit: 1 lot) ratio to mitigate the request for increased allowable density, pursuant to option (a) or (b):
- (a) The donated IS lot(s) shall be designated as Tier I, Tier II or Tier III-A Special Protection Area and be located on Big Pine Key/No Name Key or be within the same sub-area of unincorporated Monroe County.
- The IS lot(s) shall be inspected by the Monroe County Biologist to assure it is acceptable for acquisition and donation.
 - A restrictive covenant shall be recorded to extinguish the development rights on the dedicated land.
 - The Future Land Use Map Designation for the donated land may be designated by the County as Conservation (C).
- (b) The donated IS lot(s) shall be designated as Tier III, suitable for affordable housing and must be within the same sub-area of unincorporated Monroe County.
- The IS lot(s) shall be dedicated to Monroe County for affordable housing projects.

For options (1) and (2) described above, the parcel which is the subject of the request to increase its density and intensity must be designated as Tier III and have existing public facilities and services and available central wastewater facilities.

Example of Option 1	<u>12 acres</u> requesting a FLUM amendment to increase density and/or intensity	Requires the donation of <u>24 acres</u> of non-scarified native upland habitat and/or undisturbed wetland habitat, designated as Tier I, Tier II or Tier III-A. <i>(12 acres x 2 = 24 acres)</i>
Example of Option 2	<u>20 acres</u> with an allocated density allowing the development of <u>20 units</u> , requesting to increase density to allow <u>40 units</u>	(a) Requires the donation of <u>20 IS lots</u> of non-scarified native upland habitat and/or undisturbed wetland habitat, designated as Tier I, Tier II or Tier III-A; or (b) Requires the donation of 20 IS lots designated as Tier III and suitable for affordable housing. <i>(Increase of 20 units = 20 IS lots)</i>

Policy 101.4.21

The principal purpose of the Commercial (COMM) future land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail; highway-oriented sales and services; commercial recreation; light industrial; public, institutional and office uses may be permitted at intensities which are consistent with the community character and the natural environment. The commercial zoning districts established within this category are intended to serve the immediate vicinity or serve regional commercial purposes, including subareas. This category is not intended to accommodate transient or permanent residential development.

In order to protect environmentally sensitive lands, the following development controls shall apply to all Tier I lands within this land use category:

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

Policy 101.4.22 21

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17: [9J-5.006(3)(c)7].

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
Commercial (COMM) (Commercial 1 (C1) zoning & Commercial 2 (C2) zoning)	<u>0 du</u> <u>0 rooms/spaces</u>	<u>N/A</u> <u>N/A</u>	<u>0.25-0.50</u>
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC) ^(j) (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF) ^(j) (CFA, CFV ^(k) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(d) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(f) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:

- (j) "N/A" means that maximum net density bonuses shall not be available.
- (k) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.

- (l) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.
- (m) Maximum net density bonuses shall not be available to the SS district.
- (n) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
- (o) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
- (p) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
- (q) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.
- (r) The Maximum Net Density is the maximum density allowable with the use of TDRs.

Policy 101.4.23 22

[Currently Processing Revisions to Clearing Limits Policy- BOCC Resolution 20-2012]

All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use ~~District (zoning) Overlay~~ Tier Overlay District Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetation areas (hardwood hammock, pinelands, and beach berm) for properties in the Ocean Reef planned development shall be limited to 40 percent of the existing upland native vegetation.

Except as defined in Policy 101.12.4, clearing of upland native vegetative areas (hardwood hammock, pinelands, beach berm, cactus hammock and palm hammock) in the Tiers I, II, ~~and III~~ and Tier III-A shall be limited ~~for to~~ the portion of the property containing upland native vegetation in the following percentages or maximum square footage:

Tier	Permitted Clearing *
I	<p>20% <u>or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet of upland native vegetative area.</u></p> <p><u>The clearing of parcels in Tier I shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from the maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the Planning Director. The proposed driveway design shall minimize fragmentation, avoid specimen trees, and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 20 percent of the entire site.</u></p>
II	<p>40% <u>or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet of upland native vegetative area</u> (Big Pine Key and No Name Key).</p>

III	<p>40% or 3,000 square feet s.f., whichever is greater; however, the maximum amount of clearing shall be no more than 7,500 square feet, regardless of the amount of upland native vegetative area.</p> <p><u>The clearing of parcels in Tier III shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from the maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the Planning Director. The proposed driveway design shall minimize fragmentation, avoid specimen trees, and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 40 percent of the entire site.</u></p>
<p>III-A Special Protection Area</p>	<p>40% or 3,000 square feet, whichever is greater; however, clearing shall not exceed 7,500 square feet of upland native vegetation.</p> <p><u>The clearing of parcels in Tier III-A shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from the maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the Planning Director. The proposed driveway design shall minimize fragmentation, avoid specimen trees, and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 40 percent of the entire site.</u></p>
	<p>* Palm or cactus hammock is limited to only 10%.</p>

Policy 101.4.24 23

[Currently Processing Revisions to Clearing Limits Policy- BOCC Resolution 20-2012]

Notwithstanding the clearing limits established in the Livable CommuniKeys Master Plans adopted by reference into the 2010 Comprehensive Plan by Policy 101.20.2, the permitted clearing established by Policy 101.4.23 22 shall control.

Policy 101.4.25 24

Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.26 25

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

Exhibit 2

DRAFT Land Development Code Amendments – 1st draft of proposed amendments to create Commercial Land Use District (Zoning) Categories:

[DRAFT for Discussion Purposes Only]

Sec. 130-xx. - Purpose of the commercial 1 district (C1).

The purpose of the C1 district is to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate community vicinity in which they are located. This district should be established at locations convenient and accessible to residential areas to discourage long trips on U.S. 1.

Sec. 130-xx. – Commercial 1 district (C1).

(a) The following uses are permitted as of right in the commercial 1 district:

- (1) Commercial retail, low- and medium-intensity and office uses or any combination thereof of less than 2,500 square feet of floor area;
- (2) Commercial recreational uses limited to:
 - a. Bowling alleys;
 - b. Tennis and racquet ball courts;
 - c. Miniature golf and driving ranges;
 - d. Theaters;
 - e. Health clubs; and
 - f. Swimming pools;
- (3) Institutional uses;
- (4) Public buildings and uses;
- (5) Accessory uses;
- (6) Storage areas, provided that the area does not exceed 25 percent of the gross area of the parcel proposed for development:
 - a. All outside storage areas are screened from adjacent use by a solid fence, wall or hedge at least six feet in height.
- (7) Collocations on existing antenna-supporting structures, pursuant to section 146-5(3);
- (8) Attached wireless communications facilities, as accessory uses, pursuant to section 146-5(4);
- (9) Replacement of an existing antenna-supporting structure pursuant to section 146-5(2);
- (10) Stealth wireless communications facilities, as accessory uses, pursuant to section 146-5(5);
- (11) Satellite earth stations, as accessory uses, pursuant to section 146-5(6);
- (12) Wastewater nutrient reduction cluster systems that serve less than ten residences.

(b) The following uses are permitted as minor conditional uses in the commercial 1 district, subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail, low- and medium-intensity and office uses or any combination thereof of greater than 2,500 but less than 10,000 square feet of floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity of less than 2,500 square feet in floor area; provided that access to U.S. 1 is by way of:

- a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) Parks and community parks; and
- (4) Light industrial uses, provided that:
- a. The parcel proposed for development does not have an area of greater than two acres;
 - b. The parcel proposed for development is separated from any established residential use by at least a class C bufferyard; and
 - c. All outside storage areas are screened from adjacent use by a solid fence, wall or hedge at least six feet in height;

(c) The following uses are permitted as major conditional uses in the commercial 1 district subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail of low- and medium-intensity and office uses or any combination thereof greater than 10,000 square feet in floor area, provided that access to U.S. 1 is by way of:
- a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity greater than 2,500 square feet in floor area, provided that access to U.S. 1 is by way of:
- a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) New antenna-supporting structures, pursuant to section 146-5(1);
- (4) Land use overlays A, E, PF, subject to the provisions of article IV of this chapter; and

Sec. 130-xx. - Purpose of the commercial 2 district (C2).

The purpose of the C2 district is to designate appropriate areas for higher-intensity regional/subarea commercial uses intended to serve retail sales and service, professional services and resort activities needs at a regional or multiple planning area scale. This district should be established at discrete nodes along U.S. 1 and should be designed so as to serve the needs of both residents and visitors.

Sec. 130-xx. – Commercial 2 district (C2).

(a) The following uses are permitted as of right in the commercial 2 district:

- (1) Commercial retail of low- and medium-intensity and office uses or any combination thereof of less than 10,000 square feet of floor area;
- (2) Commercial retail uses of high intensity of less than 5,000 square feet of floor area;
- (3) Commercial recreational uses limited to:
- a. Bowling alleys;
 - b. Tennis and racquet ball courts;
 - c. Miniature golf and driving ranges;
 - d. Theaters;
 - e. Health clubs; and

- f. Swimming pools;
- (4) Institutional uses;
- (5) Public buildings and uses;
- (6) Light industrial uses;
- (7) Accessory uses;
- (8) Collocations on existing antenna-supporting structures, pursuant to section 146-5(3);
- (9) Attached wireless communications facilities, as accessory uses, pursuant to section 146-5(4);
- (10) Replacement of an existing antenna-supporting structure pursuant to section 146-5(2);
- (11) Stealth wireless communications facilities, as accessory uses, pursuant to section 146-5(5); and
- (12) Satellite earth stations, as accessory uses, pursuant to section 146-5(6).

(b) The following uses are permitted as minor conditional uses in the commercial 2 district, subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail of low- and medium-intensity and office uses or any combination thereof of greater than 10,000 but less than 45,000 square feet of floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity of greater than 5,000 but less than 30,000 square feet of floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) Parks and community parks.

(c) The following uses are permitted as major conditional uses in the commercial 2 district, subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail of low- and medium-intensity and office uses, or any combination thereof, of greater than 45,000 square feet in floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity of greater than 30,000 square feet in floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) Amusement or sea life parks and drive-in theaters, provided that:
 - a. The parcel of land has an area of at least two acres;
 - b. The parcel is separated from any residential district or established residential use by at least a class E buffer; and
 - c. Access to U.S. 1 is by way of:
 - 1. An existing curb cut;
 - 2. A signalized intersection; or

3. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;

(4) Marinas, provided that:

a. The parcel proposed for development has access to water of at least four feet below mean sea level at mean low tide;

b. The sale of goods and services is limited to fuel, food, boating, diving and sport fishing products;

c. All outside storage areas are screened from adjacent uses by a solid fence, wall or hedge at least six feet in height;

d. Any commercial fishing activities are limited to the landing of catch, mooring and docking of boats and storage of traps and other fishing equipment; and

e. Each nonwaterside perimeter setback of the parcel proposed for development must have a class C bufferyard within a side yard setback of ten feet;

(5) Heliports or seaplane ports, provided that:

a. The heliport is associated with a governmental services facility, a law enforcement element or a medical services facility;

b. The heliport or seaplane port is a Federal Aviation Administration certified landing facility;

c. The landing and departure approaches do not pass over established residential uses or known bird rookeries;

d. If there are established uses within 500 feet of the parcel proposed for development, the hours of operation shall be limited to daylight; and

e. The use is fenced or otherwise secured from any entry by unauthorized persons;

(6) New antenna-supporting structures, pursuant to section 146-5(1); and

(7) Land use overlays A, E, PF, subject to the provisions of article IV of this chapter.

Remainder of page Intentionally Left Blank

[DRAFT for Discussion Purposes Only]

Future Land Use Category and Corresponding Zoning	Allocated Density ^(b)	Maximum Net Density ^{(a)(b)(i)}	Maximum Intensity
-	<u>(per acre)</u>	<u>(per buildable acre)</u>	<u>(floor area ratio)</u>
<u>Commercial (COMM)</u>	<u>0</u>	<u>N/A</u>	<u>0.25-0.50</u>
<i><u>Commercial 1 (C1) Zoning</u></i>	<u>0</u>	<u>N/A</u>	<u>CR -Low intensity 0.35, CR - Medium intensity 0.25, CR - High intensity 0.15, Offices 0.40, Commercial recreational 0.10, Institutional 0.30, Outdoor recreational 0.10, Public buildings and uses 0.30, Light industry 0.30</u>
<i><u>Commercial 2 (C2) Zoning</u></i>	<u>0</u>	<u>N/A</u>	<u>CR- Low intensity 0.50, CR - Medium intensity 0.40, CR - High intensity 0.35, Offices 0.45, Commercial recreation 0.15, Institutional 0.40, Outdoor recreational 0.15, Public buildings and uses 0.35 Light industry 0.40</u>

CR = commercial retail