

DEVELOPMENT REVIEW COMMITTEE

-  
Tuesday, June 25, 2013

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AGENDA

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The Monroe County Development Review Committee will conduct a meeting on Tuesday, June 25, 2013, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1<sup>st</sup> 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, Building Official  
Mayte Santamaria, Assistant Planning Director  
Mitch Harvey, Comprehensive Plan Manager  
Rey Ortiz, Planning & Biological Plans Examiner Supervisor  
Emily Schemper, Sr. Planner  
Barbara Bauman, Planner  
Tim Finn, Planner  
Matt Coyle, 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 101-1, DEFINITIONS, TO REVISE THE DEFINITION OF COASTAL BARRIER RESOURCES SYSTEM (CBRS) TO BE CONSISTENT WITH THE FEDERAL COASTAL BARRIER RESOURCES ACT; AMENDING SECTION 130-122, COASTAL BARRIER RESOURCES SYSTEM OVERLAY DISTRICT TO DISTINGUISH BETWEEN FEDERAL AND COUNTY PURPOSES; REVISING THE APPLICATION OF THE CBRS OVERLAY DISTRICT TO BE CONSISTENT WITH CBRS OBJECTIVES AND POLICIES OF THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN; 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 2013-067)

[2013-067 SR DRC 06.25.13.pdf](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-158, IMPROVED SUBDIVISION AND COMMERCIAL FISHING VILLAGE DISTRICT DENSITIES, AND SECTION 130-159, URBAN RESIDENTIAL—MOBILE HOME DISTRICT DENSITY; TO REMOVE SUBSECTIONS REDUCING DENSITY FOR CONTIGUOUS LOTS UNDER COMMON OWNERSHIP TO BE CONSISTENT WITH THE ALLOCATED DENSITY PROVISIONS WITHIN THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN AND THE LAND DEVELOPMENT CODE; AND TO ELIMINATE POTENTIAL FOR INEQUITABLE ENFORCEMENT; 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 2013-073)

[2013-073 SR DRC 06.25.13.pdf](#)

3. 81 Park Circle, Saddlebunch Key, Mile Marker 14.5 (Receiver site) and 29859 Overseas Highway, Big Pine Key, Mile Marker 29.8 (Sender Site): A request for a minor conditional use permit for the transfer of a ROGO Exemption (TRE) from a sender site on Big Pine Key to a receiver site on Saddlebunch Key. The receiver site is legally described as a portion of Tract "D", Saddlebunch Recreational Vehicle Park (PB7-51), Saddlebunch Key, Monroe County, Florida, having real estate number 00120490.000187 and the sender site is legally described as a parcel of land in Section 27, Township 66, Range 29, Big Pine Key, Monroe County, Florida, having real estate numbers 00111882.00100 through 00111882.009800.

(File 2012-154)

[2012-154 SR DRC 06.25.13.PDF](#)

[2012-154 FILE.PDF](#)

## 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**

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

**From:** Mayté Santamaria, Assistant Director of Planning  
Emily Schemper, Senior Planner

**Date:** June 18, 2013

**Subject:** *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 101-1, DEFINITIONS, TO REVISE THE DEFINITION OF COASTAL BARRIER RESOURCES SYSTEM (CBRS) TO BE CONSISTENT WITH THE FEDERAL COASTAL BARRIER RESOURCES ACT; AMENDING SECTION 130-122, COASTAL BARRIER RESOURCES SYSTEM OVERLAY DISTRICT TO DISTINGUISH BETWEEN FEDERAL AND COUNTY PURPOSES; REVISING THE APPLICATION OF THE CBRS OVERLAY DISTRICT TO BE CONSISTENT WITH CBRS OBJECTIVES AND POLICIES OF THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN; 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:** June 25, 2013

## **I. REQUEST**

This is a request from the Planning & Environmental Resources Department to amend Sections 101-1 and 130-122 of the Monroe County Code to revise the definition, purpose and application of the Coastal Barrier Resources System (CBRS) overlay district. This request follows direction by the Board of County Commissioners on the recommendations included within the “Analysis of Coastal Barrier Resources system Policies and Regulations in Monroe County, Florida,” data and analysis, prepared by Keith and Schnars, P.A., regarding the CBRS and the County’s CBRS Comprehensive Plan policies and Land Development Code.

## **II. RELEVANT PRIOR COUNTY ACTIONS**

The County has adopted Comprehensive Plan Policies and Land Development Code (LDC) regulations which both discourage and prohibit the extension of utilities to or through areas designated as units of the CBRS.

On January 16, 2013, the BOCC discussed a contract amendment for professional services with Keith and Schnars (K&S), P.A., for additional services to evaluate the CBRS Comprehensive Plan policies to determine whether they add any additional protection to land over and above Comprehensive Plan and LDC provisions that govern the Tier System, including an analysis of the percentage of land and number of parcels within the CBRS units by tier designation and whether infrastructure extension to outlying neighborhoods or other platted areas increases a parcel's likelihood of being able to obtain a favorable recommendation, based on tier criteria, to change a tier classification from Tier I to Tier II, III, or III-A.

At the January 16, 2013 BOCC meeting, several speakers suggested that additional analysis be conducted, beyond the tier designations policy review. The BOCC requested staff to review the public input provided at the January meeting and requested staff to contact those who commented at the BOCC meeting for a description of the additional analysis they suggest should be added to the scope of services for the proposed K&S contract amendment.

On February 26, 2013, the BOCC discussed the contract amendment for professional services with K&S, with the additional analysis suggested by the public, and approved the Eighth (8th) Amendment to the agreement for professional services with K&S, for additional services to evaluate the CBRS Comprehensive Plan policies and LDC.

On May 15, 2013, the BOCC discussed the results of the "Analysis of Coastal Barrier Resources System Policies and Regulations in Monroe County, Florida," data and analysis, prepared for the BOCC by K&S, regarding the CBRS and the County's CBRS Comprehensive Plan policies and LDC. At that meeting, the BOCC directed Growth Management staff to proceed with the recommendations of the report, which included Phase I amendments to the LDC (the subject of this text amendment) and Phase II amendments to the Comprehensive Plan and the LDC (to be processed with the Evaluation and Appraisal Report amendments). A summary of the findings and recommendations of the report is provided below.

The complete report is attached as Exhibit 1.

**Summary Findings of  
"Analysis of Coastal Barrier Resources System  
Policies and Regulations in Monroe County, Florida"**

In summary, K&S found, "If the CBRS overlay ordinance was eliminated, CBRS System Units would still be protected from development by the County's Tier System (virtually all CBRS lands are within Tier I, and ROGO has proved to be effective at minimizing development in Tier I lands)." K&S further states "Based on this review of development activities in the CBRS, it appears that the County's ROGO/Tier System policies have generally been effective in limiting development in the CBRS."

K&S recommends the County amend the LDC and Comprehensive Plan to continue to ensure that development in the CBRS is discouraged (maintain comprehensive plan "discourage" policy), through the following phased approach:

### **Phase 1 – Amendment to LDC**

- 1) Amend LDC §130-122 to eliminate the “prohibition” regulation regarding extension of public utilities to or through lands designated as a CBRS unit and make consistent with the Comprehensive Plan “discourage.” Establish a presumption against development in CBRS lands which can be rebutted only by obtaining approval through the ROGO/Tier System.
- 2) Modify the LDC to eliminate the language relating to infrastructure or utilities passing “through” CBRS Units.
- 3) Modify the LDC to clarify that extension and expansion of central wastewater lines are allowable through and in CBRS System Units. Connecting parcels to a central wastewater system is a key component to improving water quality in the County.
- 4) Modify LDC §130-122(a) (Purpose) to be consistent with the policy purpose of the Federal Coastal Barrier Resources Act (CBRA) of 1982.
- 5) Modify the LDC to state that areas within CBRS System Units are ineligible for most County expenditures and financial assistance for new infrastructure, except for central wastewater service and exemptions consistent with the federal restrictions under CBRA (such as emergency work).

### **Phase 2 – Amendment to Comprehensive Plan and LDC**

- 1) Maintain the Comprehensive Plan “discourage” policies. Establish a presumption against development in CBRS lands which can be rebutted only by obtaining approval through the ROGO/Tier System.
- 2) Modify ROGO so that negative point(s) are assigned to all parcels in the CBRS – this would require both Comprehensive Plan and LDC amendments.
- 3) Maintain other point criteria in ROGO/NROGO to ensure that the ROGO/Tier System does not assign positive points or reward parcels based on the addition of other infrastructure (i.e., roads, electric service, and fresh water supply) proposed or added after the date of designation as CBRS land.
- 4) Maintain the existing Comprehensive Plan policy limiting new access (via new bridges, new causeways, new paved roads, or new commercial marinas) to or on units of the CBRS.

## **III. REVIEW**

The following amendments address those recommended as part of Phase 1, described above:

### **MCC §101-1 – Definitions**

Proposed revisions to the definition clarify the origins of the CBRS, methods of designation, Federal implications of designation, and agencies responsible for revising CBRS boundaries.

**MCC §130-122 – Coastal barrier resources system overlay district.**

Revisions to this section address Phase 1 items 1-5, as stated above, by eliminating the “prohibition” regulation regarding extension of public utilities to or through lands designated as a CBRS unit and making it consistent with the Comprehensive Plan’s “discourage” language; eliminating the language relating to infrastructure or utilities passing “through” CBRS system units; clarifying that extension and expansion of central wastewater lines are allowable through and in CBRS System Units; modifying the purpose of the CBRS overlay district to be consistent with the purpose of the Federal CBRA; and stating that areas within CBRS System Units are ineligible for most County expenditures and financial assistance for new infrastructure, except for central wastewater service and exemptions consistent with the federal restrictions under CBRA.

**IV. PROPOSED AMENDMENT**

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

**Sec. 101-1. – Definitions.**

\* \* \*

*Coastal Barrier Resources System (CBRS)* means those 15 ~~(CBRS)~~ system units in the County, except for Stock Island, designated under the Federal Coastal Barrier Resources Act (CBRA) of 1982, comprising relatively undeveloped coastal barriers and all associated aquatic habitats including wetlands, marshes, estuaries, inlets and near shore waters. System units are generally comprised of lands that were relatively undeveloped at the time of their designation within the CBRS. The boundaries of these units are designated by the Department of Interior and the boundaries are generally intended to follow geomorphic, development, or cultural features. Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within system units. System units are identified and depicted on the current flood insurance rate maps approved by the Federal Emergency Management Agency. Only Congress can revise CBRS boundaries.

\* \* \* \* \*

**Sec. 130-122. – Coastal barrier resources system overlay district.**

(a) **Federal Purpose.** The purpose of the Federal Coastal Barrier Resources Act (CBRA) is to discourage further development in certain undeveloped portions of coastal barriers and remove the Federal incentive to develop these areas. The Federal law limits Federal expenditures and financial assistance, including the prohibition of Federal flood insurance. This has the effect of discouraging development in areas the Department of Interior designates as coastal barriers within the CBRS. The CBRS protects coastal areas that serve as barriers against wind and tidal forces caused by coastal storms, and serve as habitat for aquatic species.

(b) **County Purpose.** The County has included the Federal CBRS system units located within unincorporated Monroe County, except for Stock Island, on the Land Use District Map as an overlay district. The purpose of the County's coastal barrier resources system overlay district is to implement the policies of the comprehensive plan by discouraging ~~prohibiting~~ the extension and expansion of specific types of public utilities to ~~or through~~ lands designated as a unit of the coastal barrier resources system.

(c) **Application.** The system units included in the CBRS ~~coastal barrier resources system~~ overlay district shall be overlaid on all areas, except for Stock Island, within federally designated boundaries of a ~~coastal barrier resources system~~ CBRS system unit on current flood insurance rate maps approved by the Federal Emergency Management Agency, which are hereby adopted by reference and declared part of this chapter.

Within this overlay district, the transmission and/or collection lines of the following types of public utilities shall be discouraged ~~prohibited~~ from extension or expansion: ~~central wastewater treatment collection systems~~; potable water; electricity, ~~and~~ telephone and cable. This ~~prohibition~~ shall not preclude the maintenance and upgrading of existing public utilities in place on the effective date of the ordinance from which this section is derived. ~~and~~ This discouragement shall not apply to wastewater nutrient reduction cluster systems or central wastewater treatment collection systems.

For vacant property within the CBRS overlay district, it is presumed that non-CBRS lands are available for development and that development within CBRS system units can be avoided. This presumption may be rebutted only if the owner(s) of the vacant CBRS property obtains approval through the County's ROGO/NROGO/Tier system.

(d) County Public Improvements. Except for wastewater systems, within designated CBRS system units, public tax dollars should not be used for new improvements and/or financial assistance, unless those new improvements and/or the financial assistance are consistent with the federal restrictions under CBRA.

## V. STAFF RECOMMENDATION

Staff has found that the proposed text amendment would be consistent with one or more of the required 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 new issues and recognition of a need for additional detail or comprehensiveness.

Staff has found that the proposed text amendments would be consistent with the Monroe County Year 2010 Comprehensive Plan, the Florida Keys Principles for Guiding Development, and Sections 163.3194, 163.3201 and 163.3202, Florida Statute.

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

## **VI. EXHIBITS**

1. "Analysis of Coastal Barrier Resources System Policies and Regulations in Monroe County, Florida," prepared for the BOCC by Keith and Schnars, P.A., May 28, 2013.
2. Minutes of the Monroe County Board of County Commissioners May 15, 2013, Regular Meeting (see pages 15-16).



# ANALYSIS OF COASTAL BARRIER RESOURCES SYSTEM POLICIES AND REGULATIONS IN MONROE COUNTY, FLORIDA

**FINAL**

May 28, 2013

Prepared by  
Keith and Schnars, P.A.  
6500 North Andrews Avenue  
Fort Lauderdale, FL 33309

Prepared for  
Monroe County Growth Management Division  
2798 Overseas Highway, Suite 400  
Marathon FL 33050



**KEITH and SCHNARS, P.A.**

FLORIDA'S *Big* LOCAL FIRM

# Analysis of CBRS Policies and Regulations in Monroe County

## 1.0 PURPOSE AND SCOPE OF THIS REPORT

The protection and preservation of natural and water resources is a central tenet of the Monroe County Comprehensive Plan (Comprehensive Plan). The Comprehensive Plan recognizes the important linkage between these resources and the economic health of the County – the environment is the economy in the Keys. The County is also sensitive to the need for sustainable development and the protection of the private property rights of landowners.

In a coastal environment like Monroe County, good floodplain policy is an integral part of good comprehensive planning and sustainability. This is essential for public safety and the protection of coastal resources. In this regard, the Comprehensive Plan includes policies that restrict development in low lying coastal areas. Specifically, the Comprehensive Plan discourages the extension of utilities within Coastal Barrier Resources System (CBRS) System Units, and the Land Development Code (LDC) prohibits extension of utilities in CBRS System Units.

A policy debate and litigation over the electrification of No Name Key (most of which is in a CBRS System Unit) and extending wastewater lines in North Key Largo (to and through a CBRS System Unit) have engendered a controversy concerning CBRS policies and regulations for the entire County. In December 2012, the Board of County Commissioners (BOCC) directed County staff to engage Keith and Schnars, P.A. (as part of an existing Comprehensive Planning contract) to assist in evaluating these policies and regulations. In March 2013, after BOCC and public input, the County Growth Management Division developed a list of questions regarding CBRS policies and regulations. The County contracted with Keith and Schnars to review CBRS policies and regulations and to answer a specific set of questions on this issue (Appendix A).

The purpose of this Report is to: provide the results of the Keith and Schnars policy review; answer the above-mentioned questions; and recommend any necessary policy changes. The central policy issue can generally be summarized by the following over-arching question: Do the existing Comprehensive Plan CBRS policies and LDC regulations add any additional protection to land over and above those policies and code provisions that govern Tier I land? In other words, if the CBRS Comprehensive Plan policies and associated land development regulations were deleted, would CBRS System Units be less protected?

Keith and Schnars has completed the required analysis and answered the questions provided to the County staff.

Keith and Schnars has also provided recommended changes to the Comprehensive Plan CBRS policies and LDC (see Section 5.0).

## 2.0 OVERVIEW OF THE COASTAL BARRIER RESOURCES ACT OF 1982

In the 1970s and 1980s, Congress recognized that certain actions and programs of the federal government have historically subsidized and encouraged development on coastal barriers, resulting in the loss of natural resources; threats to human life, health, and property; and the expenditure of millions of tax dollars each year. To remove the federal incentive to develop these areas, Congress passed the Coastal Barrier Resources Act (CBRA) of 1982 which designated relatively undeveloped coastal barriers along the Atlantic and Gulf coasts as part of the John H. Chafee Coastal Barrier Resources System, and made these areas ineligible for most new federal expenditures and financial assistance (USFWS 2013).

On November 1, 1990, the Coastal Barrier Improvement Act (CBIA) reauthorized the CBRA; expanded the CBRS to include undeveloped coastal barriers along the Florida Keys; and added a new category of coastal barriers to the CBRS called “otherwise protected areas” (OPAs), which are discussed in detail below. Appendix B includes a CBRA fact sheet prepared by the Federal Emergency Management Agency, and includes maps of CBRS units.

CBRA and its amendments do not directly prevent or regulate development, they only remove the federal incentive for development on designated coastal barriers. Therefore, individuals who choose to live and invest in these hazard-prone areas bear the full cost of development and rebuilding instead of passing it on to American taxpayers (USFWS 2013).

The CBRS consists of the undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and depicted on a series of maps entitled “John H. Chafee Coastal Barrier Resources System.” These maps are controlling and indicate which lands are affected by the CBRA. The maps are maintained by the Department of the Interior through the U.S. Fish and Wildlife Service (USFWS). Aside from three minor exceptions, only Congress has the authority to add or delete land from the CBRS and create new units. These exceptions include: (1) voluntary additions to the CBRS by property owners; (2) additions of excess

**KEY HIGHLIGHT:**  
CBRA does not restrict development by private owners or Monroe County; it only prohibits most types of federal expenditures in CBRS units.

# Analysis of CBRS Policies and Regulations in Monroe County

federal property to the CBRS; and (3) the CBRA 5-year review requirement that solely considers changes that have occurred to System Units by natural forces such as erosion and accretion. CBRA has been amended several times to replace certain maps with new maps containing modified boundaries (USFWS 2013).

## 2.1 CBRS SYSTEM UNITS AND OTHERWISE PROTECTED AREAS (OPAS)

The CBRS contains two types of units, System Units and Otherwise Protected Areas (OPAs). The County's definition in the LDC applies only to the 15 System Units; the County does not have policies or regulations for OPAs. OPAs are denoted with a "P" at the end of the unit number (e.g., FL-48P). **Table 1** lists the CBRS System Units and OPAs within Monroe County.

**System Units** are generally comprised of private lands that were relatively undeveloped at the time of their designation within the CBRS. The boundaries of these units are generally intended to follow geomorphic, development, or cultural features.

Most new federal expenditures and financial assistance, including federal flood insurance, are prohibited within System Units. Examples of prohibited Federal assistance within System Units include subsidies for road construction, channel dredging, and other coastal engineering projects. Federal monies can be spent within System Units for certain exempted activities, after consultation with the USFWS. Examples of such activities include emergency assistance, military activities essential to national security, exploration and extraction of energy resources, and maintenance of existing Federal navigational channels.

**KEY HIGHLIGHT:**  
System Units are mostly privately owned lands. OPAs are primarily government-owned parks and refuges.

Federal flood insurance is available within the CBRS if the subject structure was constructed (or permitted and under construction) before the CBRS unit's prohibition date (which is included in the USFWS' CBRA determination letter and shown on FEMA's Flood

Insurance Rate Maps). If an existing insured structure within the CBRS is substantially improved or damaged (i.e., over 50 percent of the structure's market value), the Federal flood insurance policy cannot be renewed (USFWS 2013).

**OPAs** are generally comprised of lands held by a qualified organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

**TABLE 1: CBRS Units in Monroe County**

System Unit Number	OPA Number	Unit Name	CBRS Acres in Unincorporated Monroe Co.
(1) FL-35		North Key Largo	4,621.4
	FL-35P	North Key Largo	*
	FL-36P	El Radabob Key	*
(2) FL-37		Rodriguez Key	314.14
(3) FL-39		Tavernier Key	87.49
(4) FL-40		Snake Creek	0
	FL-41P	Lignumvitae/ Shell Keys	*
	FL-42P	Long Key	*
(5) FL-43		Channel Key	14.31
(6) FL-44		Toms Harbor Keys	49.4
(7) FL-45		Deer/Long Point Keys	0
(8) FL-46		Boot Key	0
	FL-47P	Key Deer/ White Heron	*
	FL-48P	Bahia Honda Key	*
(9) FL-50		No Name Key	533.69
(10) FL-51		Newfound Harbor Keys	303.05
(11) FL-52		Little Knockemdown/ Torch Keys Complex	1,469.15
(12) FL-53		Budd Keys	106.96
(13) FL-54		Sugarloaf Sound	1,149.51
(14) FL-55		Saddlebunch Keys	1,151.76
(15) FL-57		Cow Key	110.37
	FL-59P	Fort Taylor	*
	FL-60P	Key West NWR	*
	FL-61P	Tortugas	*
<b>Total acres in unincorporated Monroe County</b>			<b>9,911.24</b>

\* These OPAs consist of National Wildlife Refuges, State Parks, National Parks and other areas that are preserved. Monroe County LDC does not include OPAs and therefore OPAs are not included in this analysis.

# Analysis of CBRS Policies and Regulations in Monroe County

The boundaries of these units are generally intended to coincide with the boundaries of conservation or recreation areas such as state parks and national wildlife refuges.

The only federal spending prohibition within OPAs is the prohibition on federal flood insurance. For new or substantially improved structures located within an OPA, Federal flood insurance may be available if written documentation is provided certifying that the structure is used in a manner consistent with the purposes for which the area is protected (e.g., a park visitors center) and the USFWS agrees with that assessment (USFWS 2013).

## 2.2 UNDEVELOPED COASTAL BARRIERS

The CBRA of 1982 defines an “undeveloped coastal barrier” as a depositional geologic feature that is subject to wave, tidal and wind energies; and protects landward aquatic habitats from direct wave attack. CBRA further defines a coastal barrier as all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets and nearshore waters, but only if such features and associated habitats contain few man-made structures and these structures, and people’s activity associated with them, do not significantly impede geomorphic and ecological processes.

**KEY HIGHLIGHT:**  
One of the criteria that DOI used for delineating CBRS units was relatively-undeveloped land...some CBRS units contain some development.

Section 2 of the Coastal Barrier Reauthorization Act of 2000 (P.L. 106-514) specifies that, at the time of the inclusion of a System Unit within the System, a coastal barrier area is considered undeveloped if (1) the density of development is less than one structure per five acres of land above mean high tide; and (2) there is not a full suite of existing infrastructure

consisting of a road with a reinforced road bed, wastewater disposal system, electric service, and fresh water supply to each lot or building site in the area.

**KEY HIGHLIGHT:**  
Monroe County does not have the authority to modify CBRS boundaries.

CBRA sought to include relatively undeveloped coastal barriers within the CBRS (i.e., those areas containing few man-made structures). Before CBRA was enacted in 1982, the Secretary of the

Interior was directed by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) to map undeveloped coastal barriers for Congressional consideration. The definitions and delineation criteria that guided the Department of the Interior’s mapping efforts were published on August 16, 1982, in the Federal Register (Vol. 47, No. 158). The

Department of the Interior considered the density of structures and availability of infrastructure on the ground to evaluate development status. To be considered developed, the density of development on each coastal barrier area must have been more than one structure per five acres of land above mean high tide prior to its designation within the CBRS. In addition, a coastal barrier area was considered developed, even when there was less than one structure per five acres of land above mean high tide, if there was a full complement of infrastructure on the ground before designation. A full complement of infrastructure includes all of the following components for each lot or building site in the area: a road with a reinforced road bed, a wastewater disposal system, electric service, and a fresh water supply. The intent of the infrastructure criterion was to exclude areas where there was intensive private capitalization prior to its inclusion within the CBRS demonstrating a substantial on-the-ground commitment to complete the development.

In applying the density criterion, the USFWS generally considers the entire CBRS unit, not individual subdivisions. In cases where there are discrete segments of a coastal barrier unit (i.e., areas separated by inlets or by intervening areas that are otherwise protected or clearly developed), the density criterion is applied to each discrete segment (USFWS 2013).

## 3.0 SUMMARY OF EXISTING MONROE COUNTY CBRS POLICIES AND LAND DEVELOPMENT CODE

CBRS policies and LDC pertain to the 15 CBRS System Units only; the County does not have policies or regulations for OPAs.

The Comprehensive Plan identifies that Monroe County shall **discourage** private development in CBRS System Units (Objective 102.8); shall not create new access via new bridges, new causeways, new paved roads or new commercial marinas to or on units of the CBRS (Policy 102.8.2); and shall take efforts to discourage the extension of facilities and services provided by the Florida Keys Aqueduct Authority and private providers of electricity and telephone service to CBRS System Units (Policy 102.8.5).

The LDC **prohibits** the extension and expansion of specific types of public utilities to or through lands designated as a System Unit of the CBRS. Within the CBRS overlay district, the transmission and/or collection lines of the following types of public utilities are prohibited from extension or expansion: central wastewater treatment collection systems; potable water; electricity, and telephone and cable. This prohibition does not preclude the maintenance and upgrading of existing public utilities in place on the effective date of the ordinance and shall not apply to wastewater nutrient reduction cluster systems (LDC Section 130-122).

# Analysis of CBRS Policies and Regulations in Monroe County

While the Comprehensive Plan “discourages” development<sup>1</sup> in CBRS System Units, the LDC prohibits such development – creating a potential internal inconsistency within the County’s planning policies and regulations. Section 163.3194(1)(b) F.S. requires that if there is a conflict between the Comprehensive Plan and the land development regulations, “...the provisions of the most recently adopted Comprehensive Plan...shall govern...”

Appendix C provides the specific language of salient parts of the Comprehensive Plan and the LDRs.

## 4.0 ANALYSIS OF CBRS LANDS

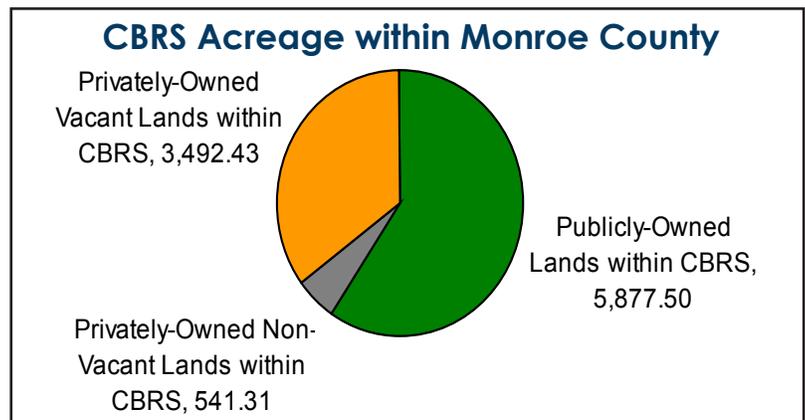
### 4.1 AMOUNT, LOCATION, ZONE, AND TIER OF CBRS LANDS

Within unincorporated Monroe County, there are 9,911.24 acres of land within CBRS System Units. Approximately two-thirds of this acreage is publicly-owned lands, a small fraction is privately-owned land that is already developed, and the remaining one-third is privately-owned vacant lands (Table 2 and Figure 1). The publicly-owned lands include parks, refuges, and other government-owned areas that are protected from development. Privately-owned non-vacant lands include parcels that already have residences or businesses built upon them; the risk of development of these lands has already passed. Privately-owned vacant parcels are the lands that are potentially subject to development, and are the focus of the analyses in this report.

**TABLE 2: Amount of Land within CBRS System Units in Unincorporated Monroe County**

CBRS Lands	Parcels in CBRS	Acres in CBRS	% of Total Acres in CBRS	Notes
Publicly-Owned Lands within CBRS	2,322	5,877.50	59.3%	Government-owned lands - not subject to development
Privately-Owned Non-Vacant Lands within CBRS	130	541.31	5.5%	Already developed
Privately-Owned Vacant Lands within CBRS	1,191	3,492.43	35.2%	Potentially subject to development - the focus of this report
All Lands within CBRS System Units (Unincorporated Monroe County)	3,643	9,911.24	100%	

**FIGURE 1: Illustration of the Amounts (Acres) of Publicly-Owned, Privately-Owned Non-Vacant, and Privately-Owned Non-Vacant Acreage within CBRS System Units**



<sup>1</sup> The definition of “development” in the LDRs (Section 101-1) pertains more to the clearing of and building on a parcel, and does not specifically identify extending infrastructure or utilities (water, sewer, roads, electric, cable, telephone) as development. Although the Comprehensive Plan Objective 102.8 does not explain what is meant by “discourage private development”, the underlying Policy 102.8.5 specifically identifies that Monroe County shall take efforts to discourage the extension of facilities and services provided by the Florida Keys Aqueduct Authority and private providers of electricity and telephone services to CBRS units. Similarly, the LDRs prohibit the extension and expansion of specific types of public utilities. Thus, in the context of CBRS policies and LDRs, “development” does include roads and utilities.

# Analysis of CBRS Policies and Regulations in Monroe County

Some of the privately-owned vacant lands are within defined subdivisions (5%), but the majority is outside subdivisions (95%). **Table 3** identifies the amount of CBRS land in each subdivision.

**TABLE 3: Subdivisions Containing Privately-Owned Vacant Lands within CBRS System Units**

Subdivision Name	Acres in CBRS	Parcels in CBRS	Location	Land Use District(s)
Largo Beach	1.23	11	Key Largo	Native Area
Atlantic View Estates	0.93	5	Key Largo	Native Area
Elbow Light Club	0.30	1	Key Largo	Native Area
Treasure Trove #2	0.02	1	Key Largo	Native Area
Treasure Trove #1	0.01	1	Key Largo	Native Area
Gulfstream Shores	0.61	4	Key Largo	Improved Subdivision
Ocean Reef Shores	0.55	4	Key Largo	Improved Subdivision
JHT	1.33	3	Key Largo	Improved Subdivision
Ocean Heights	1.49	9	No Name Key	Native Area
Tuxedo Park	0.57	5	No Name Key	Native Area
Refuge Point	3.20	2	No Name Key	Native Area
Galleon Bay	7.09	14	No Name Key	Commercial Fishing Village
Dolphin Estates	2.77	9	No Name Key	Commercial Fishing Special and Improved Subdivision
Rainbow Beach	16.70	139	Big Torch Key	Native Area
Dorn's	5.07	4	Big Torch Key	Improved Subdivision
Buccaneer Beach	94.50	599	Middle Torch Key	Offshore Island and Native Area
Middle Torch Key Estates	23.72	67	Middle Torch Key	Native Area
no subdivision - no Tier designation	54.91	51	Ocean Reef	Offshore Island
no subdivision - Tier I	3,277.32	261	Various	Various
no subdivision - Tier III	0.09	1	Key Largo	Urban Residential
<b>TOTAL</b>	<b>3,492.43</b>	<b>1,191</b>		

**TABLE 4: Zoning of Privately-Owned Vacant Lands within CBRS System Units**

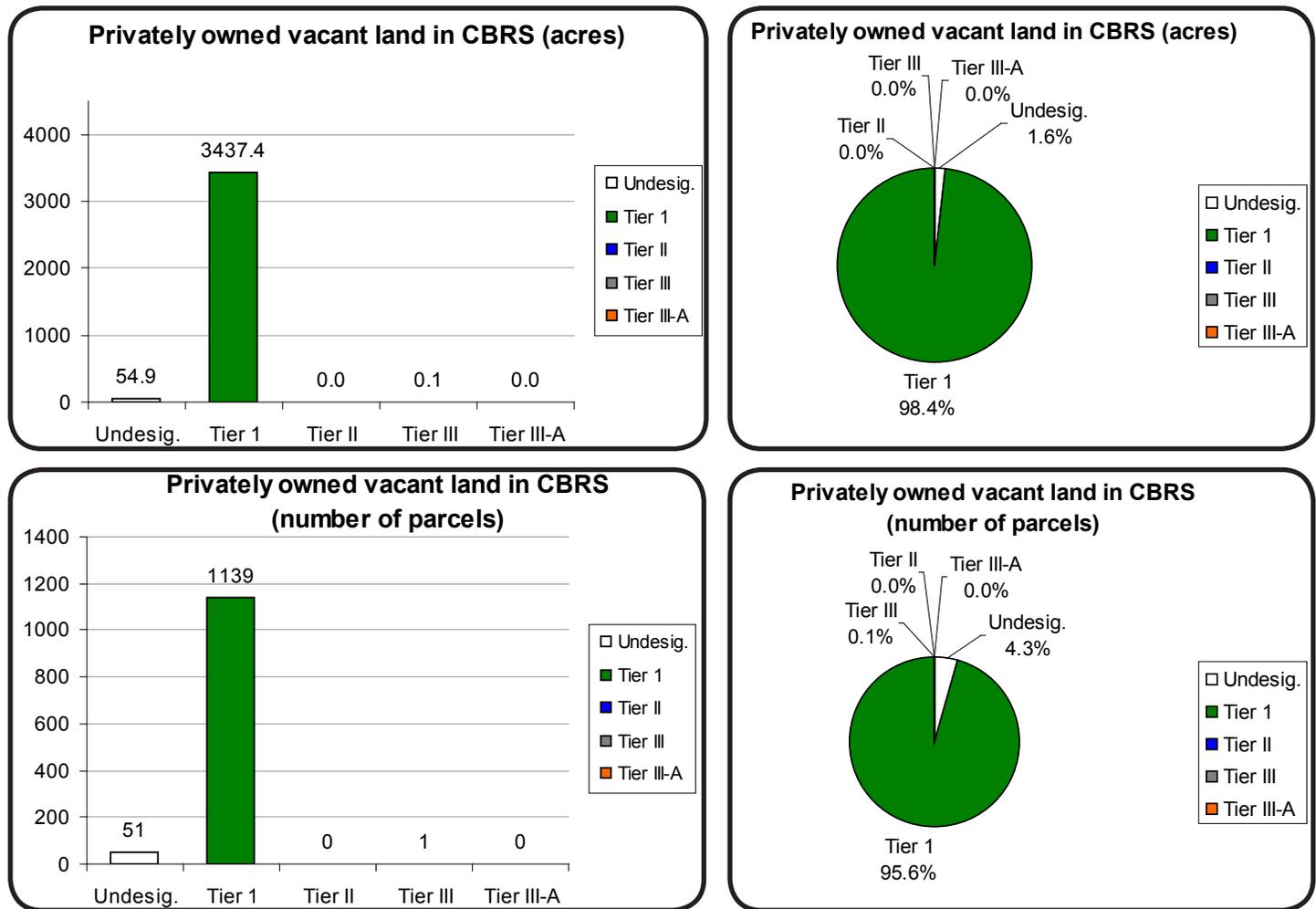
Land Use District	Parcels in CBRS	Acres in CBRS	% of Total Acres in CBRS	
Native Area (NA)	384	1,749.80	50.1%	98.2%
Offshore Island (OS)	720	1,144.75	32.8%	
other areas*	19	329.42	9.4%	
Sparsely Settled (SS)	9	191.63	5.5%	
Native Area - Offshore Island (NA-OS)	1	8.02	0.2%	
Native Area - Sparsely Settled (NA-SS)	8	5.09	0.1%	
Improved Subdivision (IS)	25	50.52	1.4%	1.8%
Commercial Fishing Village (CFV)	14	7.09	0.2%	
Commercial Fishing Special (CFS)	9	5.31	0.2%	
Industrial (I)	1	0.70	0.0%	
Urban Residential (UR)	1	0.09	0.0%	
<b>TOTAL</b>	<b>1,191</b>	<b>3,492.43</b>	<b>100%</b>	<b>100%</b>

Most privately-owned vacant lands within CBRS System Units are within land use districts that have relatively high levels of growth restrictions. For privately-owned vacant lands within CBRS System Units, 98.2 percent of the acreage is within Native Area, Offshore Island, Sparsely Settled, or similar land use districts (**Table 4**).

\* These lands, coded as "Research", include some offshore islands and areas with a future land use of Residential Conservation.

# Analysis of CBRS Policies and Regulations in Monroe County

Virtually all of the privately-owned vacant lands within CBRS System Units are designated Tier I: 98.4 percent of the acres and 95.6 percent of the parcels (Figure 2).



**FIGURE 2: Tier Designation of Lands within CBRS System Units**

# Analysis of CBRS Policies and Regulations in Monroe County

The only privately-owned vacant lands within CBRS that are not Tier I are the following:

- There are 54.9 acres of undesignated lands (no tier designation) in 51 parcels; these parcels are on the offshore islands north of Ocean Reef. These lands do not have a tier designation because Ocean Reef is exempt from the tier overlay ordinance. They are zoned OS (Offshore Island). The purpose of the OS district is to establish areas that are not connected to US-1 as protected areas, while permitting low-intensity residential uses and campground spaces in upland areas that can be served by cisterns, generators and other self-contained facilities. The maximum residential density allowed in OS is 1 dwelling unit per 10 acres, with an open space requirement of at least 95 percent (LDC Sec. 130-157).



**Offshore islands north of Ocean Reef - no tier designation**

- There is one parcel in Key Largo (total size of 1.35 acres) that has 0.09 acres of Tier III land in a CBRS System Unit. The Tier III land is the jetty at the Molasses Reef Marina (S Ocean Bay Drive, Key Largo) that extends into the CBRS System Unit; this jetty is not suitable for further development.



**Jetty at the Molasses Reef Marina - Tier III**

**KEY HIGHLIGHT:**  
If County policies and the LDC related to CBRS were eliminated, virtually all privately owned vacant lands within CBRS would still be protected as Tier I lands under the tier overlay ordinance.

## 4.2 WHERE DOES INFRASTRUCTURE PASS THROUGH CBRS SYSTEM UNITS?

There are several communities in the County that are geographically surrounded by a CBRS System Unit or where infrastructure passes through a CBRS System Unit.

No Name Key contains one area that is geographically surrounded by a CBRS System Unit. The parcels on Spanish Channel Drive, Bahia Shores Road, and No Name Drive are not within a CBRS System Unit, but are surrounded by CBRS System Unit FL-50 (No Name Key). The rest of No Name Key is within a CBRS System Unit, including the parcels on Bimini Lane and Tortuga Lane. Some infrastructure, including roads and privately-funded powerlines, pass through CBRS System Unit FL-50 (No Name Key).



**No Name Key: contains a developed area within a CBRS System Unit, and a developed area surrounded by a CBRS System Unit**

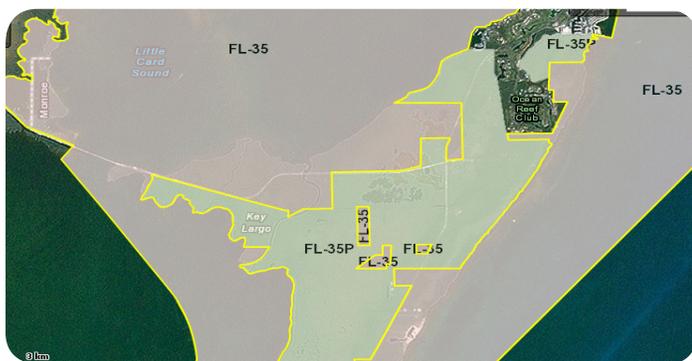
# Analysis of CBRS Policies and Regulations in Monroe County

On Big Torch Key, the communities of Dorn's and Torchwood West are surrounded by FL-52 (Little Knockemdown/Torch Keys Complex System Unit). Infrastructure, including electricity and roads, passes through the CBRS System Unit to reach these communities.



**Dorn's and Torchwood West: infrastructure passes through a CBRS System Unit to reach these subdivisions**

On Key Largo, Card Sound Road passes through FL-35 (North Key Largo System Unit).



**Key Largo: Card Sound Road passes through a CBRS System Unit**

## 4.3 ARE THERE ANY POINTS IN THE ROGO SCORING SYSTEM THAT ENCOURAGE OR DISCOURAGE DEVELOPMENT IN CBRS?

No. CBRS is not a factor in the Rate of Growth Ordinance (ROGO) scoring system.

## 4.4 IF INFRASTRUCTURE WERE BROUGHT TO AN AREA, WOULD IT INDUCE A HIGHER SCORE IN ROGO?

**Electricity, roads, or potable water:** If commercial electricity, roads, or potable water lines are extended into an area, it would not result in a higher score in ROGO.

**Central wastewater:** If a central wastewater line is extended into an area, it would result in a higher score in ROGO. A ROGO application receives +4 points if the development is required to be connected to a central wastewater treatment system that meets best achievable treatment/advanced wastewater treatment (BAT/AWT) standards established by the state legislature.

In North Key Largo, the Key Largo Wastewater Treatment District (KLWTD) has recently extended a force main north along CR 905 (Figure 3). The force main extends past the community of Gulfstream Shores and ends at the entrance to Ocean Reef Shores. If service were extended to Gulfstream Shores and Ocean Reef Shores, those communities would be part of the KLWTD centralized system in that the project would take the sewer from those areas and, by use of the force main, send it to the sewer treatment plant at MM 100.3. This would qualify the system for AWT standards established by the state legislature<sup>2</sup>.

Most of Gulfstream Shores is not within a CBRS System Unit (Figure 3). There are some privately-owned vacant lots in Gulfstream Shores. Adding central wastewater service makes these privately-owned vacant lots eligible for +4 points under ROGO, and therefore increases their likelihood of being approved for development. All of the privately-owned vacant lots are Tier I, so the lands are protected as Tier I lands.

**KEY HIGHLIGHT:**  
Adding central wastewater service would give a ROGO application +4 points. No other infrastructure improvements (e.g., electricity, roads) add points.



<sup>2</sup> Personal communication, Suzi Rubio, Construction / Project Administrator, KLWTD, April 23, 2013

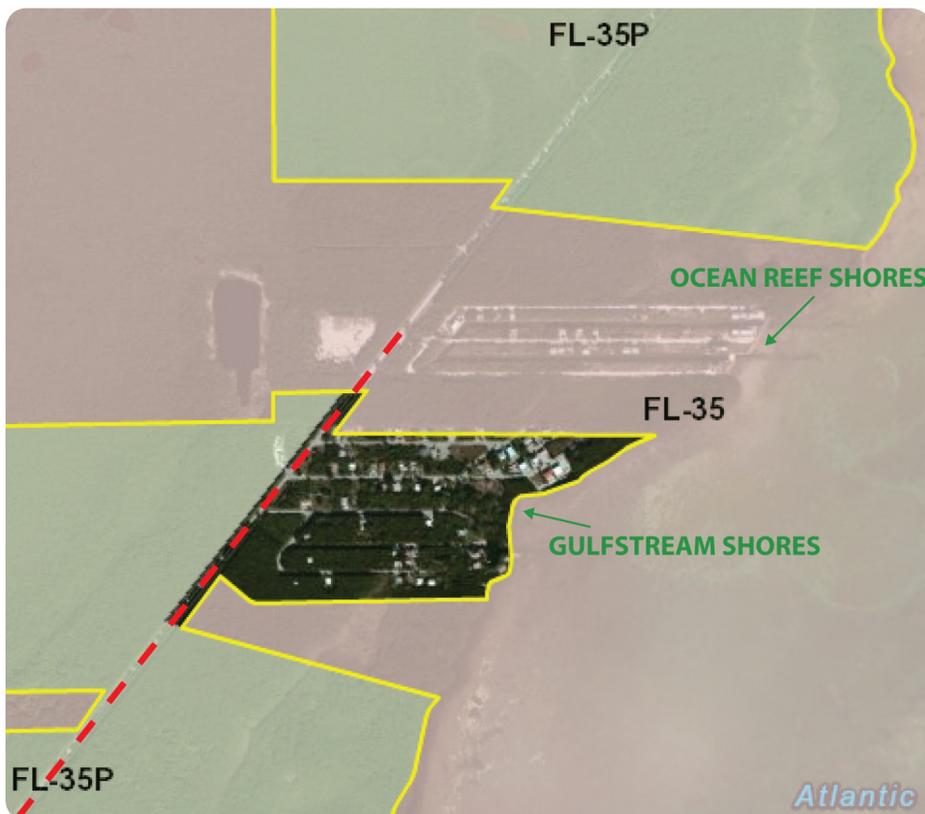
# Analysis of CBRS Policies and Regulations in Monroe County

## KEY HIGHLIGHT:

Adding central wastewater service to Ocean Reef Shores could facilitate development of the remaining four privately-owned vacant lots (by allowing +4 points in ROGO). However, there is no other private development potential here.

All of Ocean Reef Shores is within CBRS System Unit FL-35 (Figure 3). Most of the property in Ocean Reef Shores is government-owned (Board of Trustees of the Internal Improvement Trust Fund of the State of Florida) for conservation purposes. Of the 156 lots, 135 are government-owned and 21 are privately owned. About 30 of the lots have been developed (some developed lots are now government-owned). There are only 4 privately-owned lots that are vacant. Therefore, additional development is limited to these 4 privately-owned vacant lots (4 lots at 0.14 acre each = 0.55 acres total). Adding central wastewater service makes these 4 privately-owned vacant lots eligible for +4 points under ROGO, and therefore increases their likelihood of development. All of the privately-owned vacant lots are Tier I, so the lands are protected as Tier I lands.

The Comprehensive Plan policies to discourage extension of utilities within CBRS System Units, and the land development



**FIGURE 3: Extension of KLWTD Force Main in North Key Largo**

The red dashed line running along CR 905 is the approximate placement of the force main. The force main extends approximately 500 feet into CBRS System Unit FL-35. The force main is within the FDOT right-of-way. KLWTD has not extended lines into Ocean Reef Shores.

regulations that prohibit utilities in CBRS System Units, halted the extension of the central wastewater line into Gulfstream Shores and Ocean Reef Shores. It could be argued that central wastewater lines are distinctively different from other utilities such as powerlines in that central wastewater lines are less likely to promote development than the availability of commercial electricity. In considering whether to build on a vacant lot, a typical owner would generally not care whether their wastewater goes to a septic system or to a central wastewater treatment plant. Other than receiving the +4 points under ROGO, having access to a central wastewater treatment plant would not encourage the typical owner of a vacant lot to develop the land. However, if commercial power was added to a vacant parcel, then some landowners may have a greater desire to develop the land because of the conveniences of living with commercial electricity.

Wastewater lines provide a clear benefit to the environment; replacing cesspit and septic systems with connection to a central wastewater system has been a fundamental approach to improving water quality in the Keys and is specifically identified in the Monroe County Sanitary Wastewater Master Plan. Extending wastewater lines provides a benefit to the natural environment, and therefore is consistent with overall goals of growth management in the County and the State.

**KEY HIGHLIGHT:**  
Extending wastewater lines provides a benefit to the natural environment without inducing development, and therefore is consistent with overall goals of growth management in the County.

# Analysis of CBRS Policies and Regulations in Monroe County

## 4.5 HOW PROTECTIVE IS THE TIER SYSTEM?

LDC Section 138-24(a)(6) limits the number of allocation awards in Tier I. The annual number of allocation awards in Tier I is limited to no more than three (3) in the Upper Keys subarea and no more than three (3) in the Lower Keys subarea. The Incidental Take Permit (ITP) limits Big Pine Key / No Name Key subarea to ten (10) allowances over a 20 year period or  $H=0.022$ , whichever is lower.

During the 5 year period July 14, 2007 to July 13, 2012 (ROGO Years 16 through 20), there were 20 residential dwelling unit allocations in Tier I lands:

**KEY HIGHLIGHT:**  
Most CBRS lands are Tier I lands. The Tier Overlay Ordinance has been protective of CBRS lands. There were only 20 allocations in Tier I during the most recent 5-year period.

- 1 in the Upper Keys subarea,
- 8 in the Big Pine / No Name Key subarea, and
- 11 in the Lower Keys subarea.

During the most recent allocation ranking (ROGO Year 21, Quarter 2 [October 13, 2012 to January 14, 2013]), some of the applications were for Tier I lands:

- 9 in the Upper Keys subarea,
- 11 in the Big Pine / No Name Key subarea, and
- 6 in the Lower Keys subarea.

Applications that have been in the ROGO system for 5 years earn perseverance points at the rate of +2 points per year, up to a maximum cap of +4 points. The cap on perseverance points does not apply to applications that were submitted prior to the effective date of the tier overlay ordinance.

Tier I lands that are exempt from the cap on perseverance points will eventually accumulate enough perseverance points to receive ROGO allocations. During the most recent allocation ranking (ROGO Year 21, Quarter 2 [October 13, 2012 to January 14, 2013]), some of the applications were for Tier I lands that are exempt from the cap on perseverance points:

- 7 in the Upper Keys subarea
  - None are within a CBRS System Unit
- 10 in the Big Pine / No Name Key subarea
  - 7 are Galleon Bay parcels (which are within a CBRS System Unit)
  - The other 3 are not within a CBRS System Unit
- 4 in the Lower Keys subarea
  - None are within a CBRS System Unit

## 4.6 DOES ADDING INFRASTRUCTURE INCREASE THE POSSIBILITY THAT A TIER I PARCEL MAY BE REDESIGNATED TO TIER II, III-A, OR III?

Adding infrastructure to any of the subdivisions in CBRS System Units would not likely change their tier designation. Appendix D contains a list of each subdivision that contains CBRS lands, and how those lands compare to the tier criteria. In general, the subdivisions meet most of the Tier I criteria, and few of the Tier III criteria. No subdivisions meet all Tier III criteria except the infrastructure criteria, therefore, if infrastructure were added, they still wouldn't meet enough Tier III criteria to be redesignated to Tier III.

Tier designation criteria are established in the Comprehensive Plan (Policies 105.2.1 and 205.1.1) and in the LDC (Sec 130-130(c)). The County reviews all criteria when designating tiers.

Comprehensive Plan Policy 105.2.1 identifies the purposes, general characteristics, and growth management approaches associated with each tier as follows:

*1. Natural Area (Tier I): Any defined geographic area where all or a significant portion of the land area is characterized as environmentally sensitive by the policies of this Plan and applicable habitat conservation plan, is to be designated as a Natural Area. New development on vacant land is to be severely restricted and privately owned vacant lands are to be acquired or development rights retired for resource conservation and passive recreation purposes. However, this does not preclude provisions of infrastructure for existing development. Within the Natural Area designation are typically found lands within the acquisition boundaries of federal and state resource conservation and park areas, including isolated platted subdivisions; and privately-owned vacant lands with sensitive environmental features outside these acquisition areas.*

*2. Transition and Sprawl Reduction Area (Tier II): Any defined geographic area on Big Pine Key and No Name Key, where scattered groups and fragments of environmentally sensitive lands, as defined by this Plan, may be found and where existing platted subdivisions are not predominately developed, not served by complete infrastructure facilities, or not within close proximity to established commercial areas, is to be designated as a Transition and Sprawl Reduction Area. New development is to be discouraged and privately owned vacant lands acquired or development rights retired to reduce sprawl, ensure that the Keys carrying capacity is not exceeded, and prevent further encroachment on sensitive natural resources. Within a Transition and Sprawl Reduction Area are typically found: scattered small non-residential development*

# Analysis of CBRS Policies and Regulations in Monroe County

and platted subdivisions with less than 50 percent of the lots developed; incomplete infrastructure in terms of paved roads, potable water, or electricity; and scattered clusters of environmentally sensitive lands, some of which are within or in close proximity to existing platted subdivisions.

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

Comprehensive Plan Policy 205.1.1 establishes the following criteria to use when designating tiers:

1. *Land located outside of Big Pine Key and No Name Key shall be designated as Tier I based on following criteria:*

- Natural areas including old and new growth upland native vegetated areas, above 4 acres in area.
- Vacant land which can be restored to connect upland native habitat patches and reduce further fragmentation of upland native habitat.
- Lands required to provide an undeveloped buffer, up to 500 feet in depth, if indicated by appropriate special species studies, between natural areas and development to reduce secondary impacts; canals or roadways, depending on size may form a boundary that removes the need for the buffer or reduces its depth.
- Lands designated for acquisition by public agencies for conservation and natural resource protection.
- Known locations of threatened and endangered species.
- Lands designated as Conservation and Residential Conservation on the Future Land Use Map or within a buffer/restoration area as appropriate.
- Areas with minimal existing development and infrastructure.

2. *Lands on Big Pine Key and No Name Key designated as Tier I, II, or III shall be in accordance with the wildlife habitat quality criteria as defined in the Habitat Conservation Plan for those islands.*

3. *Lands located outside of Big Pine Key and No Name Key that are not designated Tier I shall be designated Tier III.*

4. *Designated Tier III lands located outside of Big Pine Key and No Name Key with tropical hardwood hammock or pinelands of one acre or greater in area shall be designated as Special Protection Areas.*

5. *Lands within the Ocean Reef planned development shall be excluded from any Tier designation.*

LDC Section 130-130(c) identifies the tier boundary criteria (excluding Big Pine Key and No Name Key) as follows:

(1) *Tier I boundaries shall be delineated to include one or more of the following criteria and shall be designated tier I:*

- a. *Vacant lands which can be restored to connect upland native habitat patches and reduce further fragmentation of upland native habitat.*
- b. *Lands required to provide an undeveloped buffer, up to 500 feet in depth, if indicated as appropriate by special species studies, between natural areas and development to reduce secondary impacts. Canals or roadways, depending on width, may form a boundary that removes the need for the buffer or reduces its depth.*
- c. *Lands designated for acquisition by public agencies for conservation and natural resource protection.*
- d. *Known locations of threatened and endangered species, as defined in section 101-1, identified on the threatened and endangered plant and animal maps or the Florida Keys Carrying Capacity Study maps, or identified in on-site surveys.*
- e. *Conservation, native area, sparsely settled, and offshore island land use districts.*
- f. *Areas with minimal existing development and infrastructure.*

On Big Pine Key and No Name Key, the tier boundaries are designated using the Big Pine Key and No Name Key Habitat Conservation Plan (2005) and the adopted community master plan for Big Pine Key and No Name Key:

*Tier I: Lands where all or a significant portion of the land area is characterized as environmentally sensitive and important for the continued viability of HCP covered species (mean H per 10x10 meter cell = 0.259 x 10<sup>-3</sup>). These lands are high quality Key deer habitat, generally representing large contiguous patches of native vegetation that provide habitat for other protected species as well.*

# Analysis of CBRS Policies and Regulations in Monroe County

**KEY HIGHLIGHT:** Based on the tier designation criteria, adding infrastructure to a Tier I land would not likely change the tier designation.

*Tier II: Scattered lots and fragments of environmentally sensitive lands that may be found in platted subdivisions (mean H per 10 x10 meter cell = 0.183 x 10-3). A large number of these lots are located on canals and are of minimal value to the Key deer and other protected species because the canal presents a barrier to dispersal.*

*Tier III: Scattered lots within already heavily developed areas that provide little habitat value to the Key deer and other protected species (mean H per 10x10 meter cell = 0.168 x 10-3). Some of the undeveloped lots in this Tier are located between existing developed commercial lots within the US-1 corridor or are located on canals.*

## 4.7 OTHER DISINCENTIVES TO BUILD IN AREAS WITHOUT UTILITIES

Other than the Tier Overlay Ordinance, there are other disincentives to build in an area without utilities:

- **Zoning:** Many areas without utilities have restrictive land use districts such as Offshore Island, Sparsely Settled, Native, Mainland Native, and Park and Refuge. LDC Sec. 130-157 limits the residential densities and provides open space requirements for various land use districts. For example, Offshore Island is limited to 1 dwelling unit (du) per 10 acres and has a 95 percent open space requirement. Sparsely Settled is limited

to 1 du per 2 acres and has an 80 percent open space requirement. Native is limited to 1 du per 4 acres. Mainland Native is limited to 1 du per 100 acres and has a 99 percent open space requirement. Park and Refuge is limited to 1 du per 4 acres with a 90 percent open space requirement.

- **Flood Zone:** Some areas without utilities have VE flood zone designation. In ROGO, a property within a V flood zone (this includes VE zones) is assigned negative points (-4 points). A V flood zone is subject to a 1-percent-annual-chance flood event and has additional hazards associated with storm-induced waves. V zones are generally limited to shallow submerged lands and the shoreline.
- **CBRA:** Some areas without utilities are in CBRS System Units. Federal flood insurance would not be available to new dwelling units (or substantially improved or rebuilt dwelling units) within a CBRS System Unit.

## 4.8 DETERMINE WHETHER THE AVAILABILITY OF INFRASTRUCTURE INCREASES POTENTIAL OF DEVELOPMENT DESIRABILITY IN AN AREA THAT CURRENTLY DOES NOT HAVE INFRASTRUCTURE

No peer-reviewed studies could be found that identified whether the availability of infrastructure increases development desirability. **Table 5** is a summary from anecdotal evidence.

**TABLE 5: Infrastructure and Development Desirability**

Type of infrastructure added	Potential change in development desirability	Increases probability of development under Tier System / ROGO
Roads	Most landowners would not want to build if there was no or very poor access to their property. Adding an access road would increase development desirability for most landowners.	No
Commercial electricity	Many landowners would not want to build unless they had the convenience of commercial power. Adding commercial electricity would increase development desirability for most landowners.	No
Potable water	If groundwater is available, most landowners are unlikely to care whether their potable water is from a municipal source or an onsite well. If groundwater is unavailable, most landowners would likely prefer the reliability of a municipal source compared to a cistern.	No
Central wastewater	Most landowners are unlikely to care whether their wastewater goes to a septic system or a central wastewater treatment facility.	Yes
Communication (telephone, TV, internet)	With the availability of cellular and satellite communication service, adding land communication lines are unlikely to be a deciding factor in whether to build for most landowners.	No

# Analysis of CBRS Policies and Regulations in Monroe County

## 4.9 HOW ARE THE NUMEROUS CBRS GOALS, OBJECTIVES AND POLICIES OF THE COMP PLAN, AND THE LDC, BEING IMPLEMENTED TODAY?

The end result of the CBRS policies and LDC can be summarized as follows:

- North Key Largo: The CBRS regulations in the LDC, which prohibit utilities to or through CBRS System Units, have blocked the Key Largo Wastewater Treatment District from extending central wastewater lines into parts of the community of Gulfstream Shores and all of Ocean Reef Shores.
- No Name Key: The CBRS regulations in the LDC, which prohibit utilities to or through CBRS System Units, have not blocked installation of privately-funded power poles on the island, but have blocked connection of the homes to the grid.

## 4.10 IS THERE ANY VARIATION OF PROTECTION OF THE CBRS SYSTEM UNITS WITHIN THE TIER SYSTEM WITHOUT THE CBRS OVERLAY ORDINANCE? DOES THE TIER SYSTEM PROVIDE FOR DIFFERENT LEVELS OF PROTECTION FOR LANDS TARGETED FOR ACQUISITION?

If the CBRS overlay ordinance was eliminated, CBRS System Units would still be protected from development by the County's tier system (virtually all CBRS lands are within Tier I, and ROGO has proved to be effective at minimizing development in Tier I lands).

There is variation of protection within the Tier System. For example, negative points are assigned for parcels that are on No Name Key, in designated Lower Keys Marsh

Rabbit habitat, and in a V flood zone. Developments on Big Pine Key and No Name Key receive fewer positive points than developments on other islands. The number of ROGO allocations varies by subarea: the annual number of allocation awards in Tier I is limited to no more than three (3) in the Upper Keys subarea and no more than three (3) in the Lower Keys subarea. The

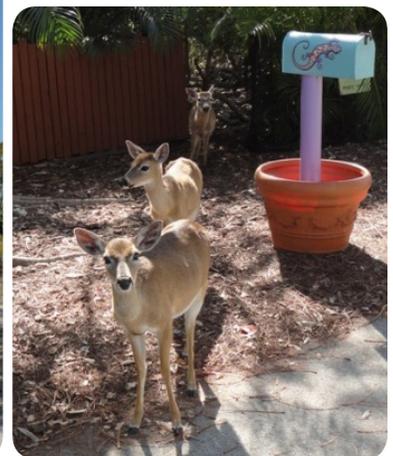
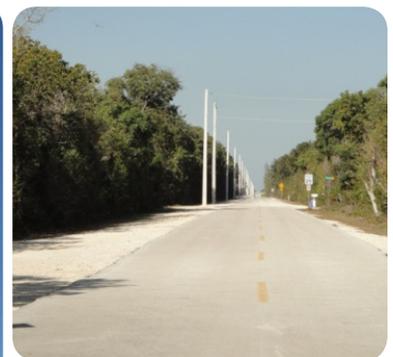
**KEY HIGHLIGHT:**  
The point and allocation system under ROGO, and land use districts, result in a variation of protection; some Tier I lands have higher protection than other Tier I lands.

Incidental Take Permit (ITP) limits Big Pine Key / No Name Key subarea to ten (10) allowances over a 20 year period or  $H=0.022$ , whichever is lower.

Zoning also results in variation of protection. Land use districts have varying levels of growth restrictions. For example, the Offshore Island land use district is limited to 1 dwelling unit (du) per 10 acres with a 95 percent open space requirement. Sparsely Settled is limited to 1 du per 2 acres and has an 80 percent open space requirement. Native is limited to 1 du per 4 acres. Mainland Native is limited to 1 du per 100 acres with a 99 percent open space requirement. Park and Refuge is limited to 1 du per 4 acres with a 90 percent open space requirement.

## 4.11 EFFECTS OF INFRASTRUCTURE ON THE COMMUNITY CHARACTER OF NO NAME KEY

Some aspects of community character could change on No Name Key if the island were brought onto the electric grid. **Table 6** lists those aspects of community character and qualitatively identifies whether those aspects would likely have a negative, neutral, or positive effect on community character. For those effects that are likely to be negative, non-CBRS policies and land development regulations that might mitigate the negative effects are identified.



# Analysis of CBRS Policies and Regulations in Monroe County

**TABLE 6: Aspects of Community Character on No Name Key**

Aspects of Community Character	Negative	Neutral	Positive
Air Quality	--	--	Air emissions from generators would be eliminated.
Noise	<p>Increased availability of electricity could result in increased noise from music, televisions, power tools, etc.</p> <p>Powerlines could produce an audible hum / buzz under certain conditions<sup>3</sup>.</p> <p>Non-CBRS policies and land development regulations that could mitigate these effects include Sec 17-130 (Prohibition against unreasonable noise) which includes “no person shall make, continue, or cause to be made any unreasonable noise.” The LDC could control, but not fully mitigate, increased noise.</p>	--	Noise from generators would be eliminated.
Visual - poles, wires, and generators	<p>Power poles and wires would detract from streetscapes that otherwise have little to no visible infrastructure. Reduced tree canopy along roadsides due to tree trimming for powerlines.</p> <p>Non-CBRS policies and land development regulations that could mitigate these effects: None. Keys Energy Services provides free professional tree trimming to ensure tree trimming around power lines is done safely and correctly.</p>	Visual effects of generators and tanks wouldn't likely change because many homeowners would likely keep them for emergency use.	--
Visual - lighting	<p>Increased availability of electricity could result in more indoor and outdoor light usage, which would increase nighttime light pollution.</p> <p>Non-CBRS policies and land development regulations that could mitigate these effects include Chapter 114 Article VI (Outdoor Lighting) which includes restrictions on height and maximum illumination. The LDC could control, but not fully mitigate, increased nighttime light pollution.</p>	--	Residents would have the option of increased outdoor lighting for recreational, decorative, or security use.
Traffic	--	--	Fewer fuel trucks on road because the need to refill tanks for generators is reduced.

<sup>3</sup> The lines on No Name Key are at a Distribution voltage (8,000 volts) which under most conditions would not produce an audible hum/buzz. An audible noise is typically noticeable at the much higher voltage for Transmission lines. For example, the main power line on US-1 is 138,000 volts; it is not uncommon for these lines to create an audible sound, especially during the dry season (rain usually cleans them). Residents on No Name Key may on rare occasions hear a much lower sound, especially if there has been a lot of salt spray and no rain for an extended period of time. Personal Communication, Dale Z. Finigan, Director of Engineering & Control, KEYS Energy, April 13, 2013.

# Analysis of CBRS Policies and Regulations in Monroe County

Soil / water pollution	--	Threat from fuel leaks not diminished much because many generators and tanks would likely be kept for emergency use.	Less illegal dumping of batteries.
Crime	--	No substantial effect, but residents would have the option of increased electronic security systems and outdoor lighting for security.	--
Employment of local residents	--	No substantial effect.	--
Home values	Some buyers who are attracted to the experience of living off-grid would not be willing to pay as much. Non-CBRS policies and land development regulations that could mitigate these effects: None.	--	Other buyers might pay more for a home with the conveniences of commercial power.
Sense of unique place, identity, or community	Some residents may feel a loss of uniqueness as a conservation-aware, off-grid community. Non-CBRS policies and land development regulations that could mitigate these effects: None.	Other residents may feel their identity as a rural, environmentally-sensitive island remains intact.	--

# Analysis of CBRS Policies and Regulations in Monroe County

## 5.0 CBRS POLICY RECOMMENDATIONS

It is widely accepted that development in floodplains and coastal areas is not consistent with the goals of good comprehensive planning and sustainability. Based on this review of development activities in the CBRS, it appears that the County's ROGO/Tier System policies have generally been effective in limiting development in the CBRS.

It is recommended that the County maintain an effective policy of discouraging development in the CBRS. Further, as a general rule, the County should not invest in and/or authorize new infrastructure projects that facilitate or induce the approval of new developments in the CBRS.

The following policy framework is recommended to ensure that development in the CBRS is discouraged. This policy could be implemented in two phases with each becoming effective immediately upon adoption by the BOCC of the required policy/code changes.

### Phase I

1. **Modify the LDC to remove CBRS “prohibit” language and add “discourage” language that establishes a presumption against development in CBRS lands. This presumption can be rebutted only by obtaining approval through the ROGO/Tier System;**
2. **Modify the LDC to eliminate the language relating to infrastructure or utilities passing “through” CBRS System Units. Given the geometry of the CBRS in the Keys (e.g., some existing communities are surrounded by CBRS System Units), discouragement of infrastructure or utilities “through” CBRS System Units to existing communities is not practical and is not consistent with the intent of CBRA;**
3. **Modify the LDC to clarify that extension and expansion of central wastewater lines are allowable through and in CBRS System Units where the lines would serve existing dwellings or parcels approved for development through ROGO/Tier System. Connecting such parcels to a central wastewater system is a key component to improving water quality in the County;**
4. **Modify LDC Section 130-122(a) (Purpose) to explain the policy purpose of CBRA. While the Act does not regulate how landowners can develop their property, it explicitly transfers the full cost from Federal taxpayers to the individuals who choose to build in such areas. Therefore, individuals who choose to live and invest in these hazard-**

**prone areas bear the full cost of development and rebuilding. The policy should steer new construction away from risky, environmentally sensitive places while minimizing impacts to communities where substantial commitments of time and money have been made;**

5. **Modify the LDC to state that areas within CBRS System Units are ineligible for most County expenditures and financial assistance for new infrastructure, except for central wastewater service and exemptions consistent with the federal restrictions under CBRA (such as emergency work). Individuals who choose to live and invest in these hazard-prone areas bear the full cost of development and rebuilding instead of passing it on to County taxpayers;**

### Phase II

6. **Maintain “discourage” language in CBRS Comprehensive Plan Policy. Consistent with changes to the LDC (recommendation 1), clarify the policy’s intent by establishing a presumption against development in CBRS lands. This presumption can be rebutted only by obtaining approval through the ROGO/Tier System;**
7. **Modify ROGO Comprehensive Plan and LDC provisions so that negative point(s) are assigned to all parcels in the CBRS;**
8. **Ensure that the ROGO/Tier System does not assign positive points or reward parcels based on the addition of infrastructure (i.e., roads, electric service, and fresh water supply) proposed or added after the date of designation as CBRS land. This policy would not apply to the addition of central wastewater services; and**
9. **Maintain the existing Comprehensive Plan policy limiting new access (via new bridges, new causeways, new paved roads, or new commercial marinas) to or on units of the CBRS.**

## 6.0 REFERENCES

USFWS 2012. The Coastal Barrier Resources Act, Harnessing the Power of Market Forces to Conserve America’s Coasts and Save Taxpayers’ Money, U.S. Fish and Wildlife Service, Division of Federal Program Activities, August. <http://www.fws.gov/habitatconservation/TaxpayerSavingsfromCBRA.pdf>

USFWS 2013. U.S. Fish and Wildlife Service Coastal Barrier Resources Act website, <http://www.fws.gov/CBRA/>, updated 4/11/2013.

# Analysis of CBRS Policies and Regulations in Monroe County

## APPENDIX A

The following are questions and tasks that the Board of County Commissioners (BOCC) and the public raised, and that Monroe County authorized Keith and Schnars to address.

Question / Task	Response
K&S will evaluate the percentage of land and number of parcels within the Coastal Barrier Resources System (CBRS) units that are designated Tier I or other Tiers such as: II, III, or IIIA;	See section 4.1
Using existing tier criteria, determine whether extension of infrastructure to outlying neighborhoods or other platted areas increases a parcel's likelihood of obtaining change in tier classification from Tier I to Tier II, III, or IIIA; and	See section 4.6
Review the existing Comprehensive Plan policies and/or Land Development Code provisions related to CBRS units and determine whether the existing CBRS policies add any additional protection to land over and above those policies and code provisions that govern Tier I land.	See section 4.0 and subsections
Comprehensive accounting of parcels and acreage located in CBRS units in Monroe County (including areas that would require new infrastructure to pass through a CBRS unit). To include: CBRS Unit #, Parcel RE #, size of parcel, Tier, FLUM, district, location within Monroe County, publicly or privately owned, vacant or developed, description of existing development (single family, multi-family, commercial, etc), type of infrastructure presently available (electricity, water, sewer, telephone, cable) including date the infrastructure was brought to the area.	See section 4.1
An analysis of how the establishment of full infrastructure in an area (under current laws) could affect the assigning of points in the ROGO and NROGO system and how it could affect the Tier designation for properties in Monroe County.	See section 4.3 and 4.6
How are the numerous CBRS Goals, Objectives and Policies of the Comp Plan being implemented today?	See sections 4.4 and 4.9
Are there any disincentives to build in an area without utilities beyond the designation/classification of Tier I lands?	See section 4.7
Is there any variation of protection of the CBRS units within the Tier System without the CBRS Overlay ordinance?	See section 4.10
How would CBRS lands be protected if the CBRS Goals Objectives and Policies in the Year 2010 Comprehensive Land Use Plan were to be weakened or removed?	See section 4.0 and subsections
How would CBRS lands be protected if the CBRS Overlay Ordinance in the Monroe County Code were to be weakened or removed?	See section 4.0 and subsections
How can Monroe County remove CBRS Goals Objectives and Policies from the Comprehensive Land Use Plan, and weaken or remove the prohibition in the Overlay Ordinance, and continue to provide the same level of protection we have had for CBRS units throughout Monroe County?	See section 5.0
How are CBRS properties treated differently from other Tier I lands in the County?	See sections 4.4 and 4.9
Does the Tier System provide for different levels of protection for lands targeted for acquisition?	See section 4.10
Does the Tier System adequately implement the intent of the Comp Plan with regard to lands within CBRS units?	See section 4.0 and subsections
What protections currently exist for CBRS areas in the Comp Plan and LDRs	See section 3.0 and Appendix C
How protections for CBRS areas would change if those lands were subject only to the Tier System	See section 4.0 and subsections
Review and determine any potential impacts if all CBRS Overlay policies and corresponding LDR language be stricken entirely.	See section 4.0 and subsections

# Analysis of CBRS Policies and Regulations in Monroe County

<p>Review and determine any potential impacts of adding the term “undeveloped CBRS areas” to the Comp Plan and Code.</p> <p>Example of suggested change: <i>Add the word UNDEVELOPED as so noted (highlighted) below: In general, future development in the County should be directed to the maximum extent possible away from the UNDEVELOPED Coastal Barrier Resources System (CBRS) units. This should be accomplished through land use policies of the Comprehensive Plan and its implementing LDRs. Other actions which the County should take to discourage further private investment in UNDEVELOPED CBRS units include:</i></p> <p><i>(1) no new bridges, causeways, paved roads or commercial marinas should be permitted to or on UNDEVELOPED CBRS units;</i></p> <p><i>(2) shoreline hardening structures should not be permitted along shorelines of UNDEVELOPED CBRS units;</i></p> <p><i>(3) public expenditures on UNDEVELOPED CBRS units should be limited to property acquisition, restoration and passive recreation facilities;</i></p> <p><i>(4) privately-owned undeveloped land located within the CBRS units should be considered for acquisition by the County; and</i></p> <p><i>(5) the County should coordinate with the Florida Keys Aqueduct Authority (FKAA) and private providers of electricity and telephone service to assess measures which could be taken to discourage extension of facilities and services to UNDEVELOPED CBRS units.</i></p>	<p>Based on the recommendations in the report, it is unnecessary to make a distinction between developed and undeveloped parts of a CBRS unit.</p>
<p>Review and determine any potential impacts associated with the suggestion to: Add the following (below highlighted) CBRS Executive Summary statement, and direction (not to harm existing communities), to all sections of the Comp Plan which reference the CBRS Act so there is no future confusion as to the exact Federal Intent of the Act (undeveloped status was the underpinning of the law), and the Federal direction regarding what actions the County should NOT take (harming of existing communities).</p> <p>SEE: The CBRS Executive Summary, Page 1, Introduction  <a href="http://www.fws.gov/habitatconservation/TaxpayerSavingsfromCBRA.pdf">http://www.fws.gov/habitatconservation/TaxpayerSavingsfromCBRA.pdf</a></p> <p><i>“The undeveloped status of System lands was an important underpinning of the law. The idea was to help steer new construction away from risky, environmentally sensitive places where development was not yet found, not to hurt existing communities where serious commitments of time and money had already been made.”</i></p>	<p>See section 5.0</p>
<p>Review and determine any potential impacts associated with the suggestion to: Add the following (below highlighted) statement, again from the CBRS executive Summary, Page 1, Introduction so as to further clarify the Federal intent of the Act for the reader of the Comp Plan.</p> <p>SEE: The CBRS Executive Summary, Page 1, Introduction  <a href="http://www.fws.gov/habitatconservation/TaxpayerSavingsfromCBRA.pdf">http://www.fws.gov/habitatconservation/TaxpayerSavingsfromCBRA.pdf</a></p> <p><i>The Act is the essence of free-market natural resource conservation; it in no way regulates how people can develop their land, but transfers the full cost from Federal taxpayers to the individuals who choose to build.</i></p>	<p>See section 5.0</p>
<p>The Comp Plan Update references the establishment of the CBRS Act in 1982, and does not reference the Reauthorization of the Act in 2000 which codified the criteria for determining the developed (or “undeveloped”) status of an area for purposes of inclusion under the Act.</p>	<p>Monroe County does not have the authority to modify CBRS boundaries; the developed vs undeveloped status of an area is not relevant to the policy issues at hand.</p>

# Analysis of CBRS Policies and Regulations in Monroe County

<p>Review and determine any potential impacts associated with the suggestion to:ADD the (following) legal definition of “developed” for purposes of application of the CBRS Act and any local overlay, as is so noted in the CBRS ACT reauthorization of 2000, page 18, reference 6.</p> <p><a href="http://www.fws.gov/habitatconservation/CBRA_Digital_Mapping_Pilot_Project.pdf">http://www.fws.gov/habitatconservation/CBRA_Digital_Mapping_Pilot_Project.pdf</a></p> <p><i>“47 FR 35708: “A density threshold of roughly one structure per five acres of fastland is used for categorizing a coastal barrier as developed...All or part of a coastal barrier will be considered developed, even when there is less than one structure per five acres of fastland, if there is a full complement of infrastructure in place...A full complement of infrastructure requires that there be vehicle access to each lot or building site plus reasonable availability of a water supply, a waste water disposal system, and electrical service to each lot or building site.”</i></p> <p><i>“50 FR 8700 states “A man-made structure is defined as a walled and roofed building constructed in conformance with Federal, State, or local legal requirements, with a projected ground area exceeding two hundred square feet.”This criterion is codified in P.L. 106-514 Sec. 2, where a structure is defined as “a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent foundation; and covers an area of at least 200 square feet.”</i></p>	<p>Monroe County does not have the authority to modify CBRS boundaries; the developed vs undeveloped status of an area is not relevant to the policy issues at hand.</p>
<p>Precedent: We need to keep in mind that any additional permitted development or intensification of a current use on coastal barrier islands will set a precedent that may prove to be costly and indefensible in court should it appear that there was “spot zoning” or other irregularities.</p>	<p>Acknowledged</p>
<p>What non-CBRS policies in the Comp Plan will help protect No Name Key’s community character as an off –grid island if the CBRS policies in the Comp Plan are removed?</p>	<p>See section 4.1 I</p>
<p>What non-CBRS ordinances in the Monroe County Code will protect No Name Key’s community character as off-grid if the CBRS overlay ordinance is weakened or removed?</p>	<p>See section 4.1 I</p>
<p>List the aspects of community character that could change on No Name Key if the island were to be brought onto the electric grid (visual effects, noise, etc). Qualitatively identify whether these aspects would likely have a positive, negative, or neutral effect on community character.</p>	<p>See section 4.1 I</p>
<p>What data and analysis was used to justify the various changes in the ROGO and NROGO, which served to weaken the Code regarding the existing level of protection of Community Character and Coastal Barrier Resources System units within the County, with the adoption of the Tier System in 2007?</p>	<p>See Section 4.5 includes a discussion of the protectiveness of the Tier System. No definitive evidence of weakening the protection of community character or CBRS was found.</p>
<p>Determine whether the availability of infrastructure increases potential of development desirability in an area that current does not have infrastructure.</p>	<p>See section 4.8</p>
<p>Evaluate the definition of “development” and determine whether it includes infrastructure (water, sewer, roads, electric, cable, telephone), thereby being an improvement requiring County permitting or compliance with County Comprehensive Plan and Land Development Policy</p>	<p>See section 3.0 (see footnote)</p>
<p>Comprehensive history of Monroe County legislation pertaining specifically to CBRS units. Include date of enactment and description of each particular Comp Plan provision and LDR. Include a description and history of how CBRS properties have been treated by the County in the ROGO point system, NROGO point system and the Tier System, including all pertinent changes to those laws from the version in place at the time of enactment to the current version and how each of those laws was implemented to have an effect on development of properties within CBRS units.</p>	<p>See Appendix E and sections 4.4 and 4.9</p>

# Analysis of CBRS Policies and Regulations in Monroe County

## APPENDIX B



FEMA

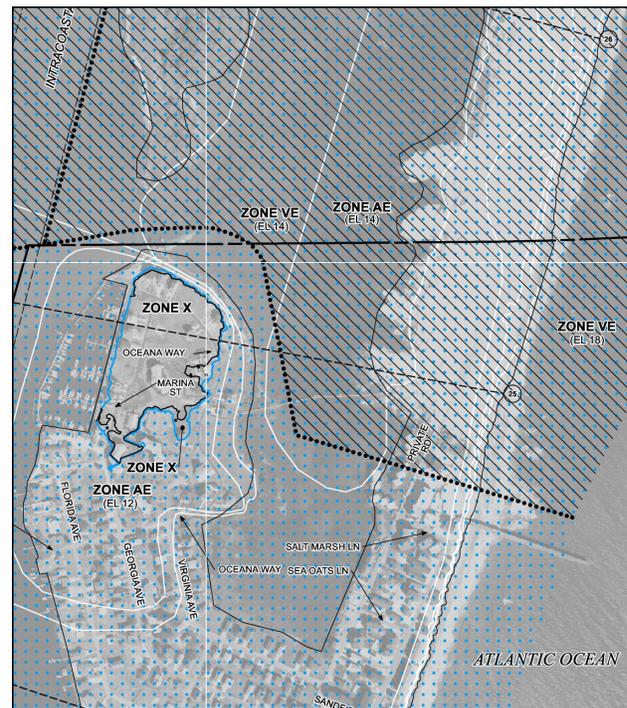
## Fact Sheet

Federal Insurance and Mitigation Administration

### Coastal Barrier Resources Act (CBRA)

In 1982, Congress enacted the Coastal Barrier Resources Act (CBRA, Public Law 97-348; 96 Stat. 1653; 16 U.S.C. 3501 et seq.), which was later amended in 1990 by the Coastal Barrier Improvement Act (CBIA, P.L. 101-591; 104 Stat. 2931). The legislation was implemented as part of a Department of Interior (DOI) initiative to preserve the ecological integrity of areas that serve to buffer the U.S. mainland from storms and provide important habitats for fish and wildlife. In order to discourage further development in certain undeveloped portions of barrier islands, the law prohibits the availability of new Federal financial assistance, including Federal flood insurance, in areas DOI designates as part of the Coastal Barrier Resources System.

- The Coastal Barrier Resources Act (CBRA) protects coastal areas that serve as barriers against wind and tidal forces caused by coastal storms, and serve as habitat for aquatic species.
- The CBRA protects coastal areas from development by limiting Federal financial assistance for development-related activities in designated areas.
- To manage development, limit property damage, and preserve wildlife and natural resources, CBRA restricts Federal financial assistance, including disaster relief assistance provided by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Act and the National Flood Insurance Program (NFIP).
- Coastal Barrier Resources System (CBRS) boundaries and Otherwise Protected Areas (OPAs) are established and mapped by the U.S. Department of Interior's Fish and Wildlife Service (USFWS).
- Lenders should exercise special care with properties in or near these areas.
- Only Congress can revise CBRS boundaries.



CBRS boundaries are identified on Flood Insurance Rate Maps (FIRMs) by patterns of backward slanting diagonal lines, both solid and broken.

### Responsibilities and Restrictions

Various programs within FEMA have different responsibilities and restrictions under CBRA:

- NFIP
- Disaster Relief Assistance provided under the Robert T. Stafford Act, including:
  - Mitigation Grants
  - Public Assistance
  - Individual Assistance

The USFWS also has responsibilities under CBRA.

"FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards."



# Analysis of CBRS Policies and Regulations in Monroe County

Federal Insurance and Mitigation Administration

Coastal Barrier Resources Act (CBRA)

## CBRA and the NFIP

- The NFIP **cannot** provide flood insurance coverage for structures built or substantially improved **after** the area is designated as a CBRS unit (initial designations went into effect October 1, 1983).
- The NFIP **may** provide flood insurance for units built or substantially improved **before** the subject property is included in a designated CBRS unit.
- If an NFIP-insured building within the CBRS unit is substantially improved or substantially damaged, the NFIP policy will be **cancelled**.
- NFIP flood insurance **can** be provided within CBRS units for new structures supporting conservation uses.
- Minimum NFIP floodplain management standards do not prohibit the rebuilding of substantially damaged buildings in CBRS units. However, such structures must meet the community's floodplain management regulations, and NFIP coverage is **not** available for such structures.

## CBRA and FEMA Hazard Mitigation Assistance (HMA) Program

- **Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation (PDM), Flood Mitigation Assistance (FMA), Repetitive Flood Claims (RFC), and Severe Repetitive Loss (SRL)**
  - Acquisition projects in CBRS units and OPAs are eligible only under PDM, FMA, RFC, and SRL, but not under HMGP. Acquisitions are eligible if they are consistent with the purposes of the CBRA, and qualify as projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats.

## CBRA and Public Assistance

- FEMA may reimburse or conduct emergency work such as debris removal and emergency protective measures to eliminate immediate threats to lives, public health, safety, and property.  
*Advance consultation with USFWS is encouraged, but not required for these activities. A report to USFWS, however, is required.*
- FEMA **may** reimburse permanent work on certain types of publicly owned facilities that may be eligible for permanent repair assistance (but not expansion of) such as:

- Essential links to larger systems.
- Restoration of existing navigable channels.
- Repair of energy facilities that are functionally dependent on a coastal location.
- Special purpose facilities such as navigational aids and scientific research facilities.
- Existing roads, structures, or facilities that are consistent with the purposes of CBRA.

***FEMA must consult with USFWS to allow comment before funding is approved for these activities.***

## CBRA and Individual Assistance

- FEMA **may** provide Individual Assistance to applicants located in CBRS units for the following:
  - Financial Temporary Housing Assistance (i.e., Rental Assistance), if they meet the eligibility requirements.
  - Medical, dental, and funeral expenses related to necessary expenses and serious needs.
  - Assistance to repair or replace personal property (e.g., furniture, clothing, and other necessities) if applicants prove they have permanently relocated outside the CBRS or OPAs.
  - Crisis Counseling, Disaster Unemployment Assistance, and Disaster Legal Services.
- FEMA **cannot** provide Individual Assistance to applicants located in CBRS units for the following:
  - Housing Assistance (i.e., Direct Assistance, Repair, Replacement, or Permanent/Semi-Permanent Construction) for a housing unit located in CBRS units.
  - Miscellaneous personal property items, such as chainsaws, generators, dehumidifiers, etc.

## USFWS Responsibilities

- Maintaining CBRS maps.
- Maintaining the administrative record for each unit.
- Consulting with Federal agencies to determine if funds can be spent within CBRS units.
- Determining whether properties are within CBRS units.

## For More Information

CBRA and OPA determinations can be made online at <http://www.fema.gov/business/nfip/cbrs/cbrs.shtm>.

"FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards."

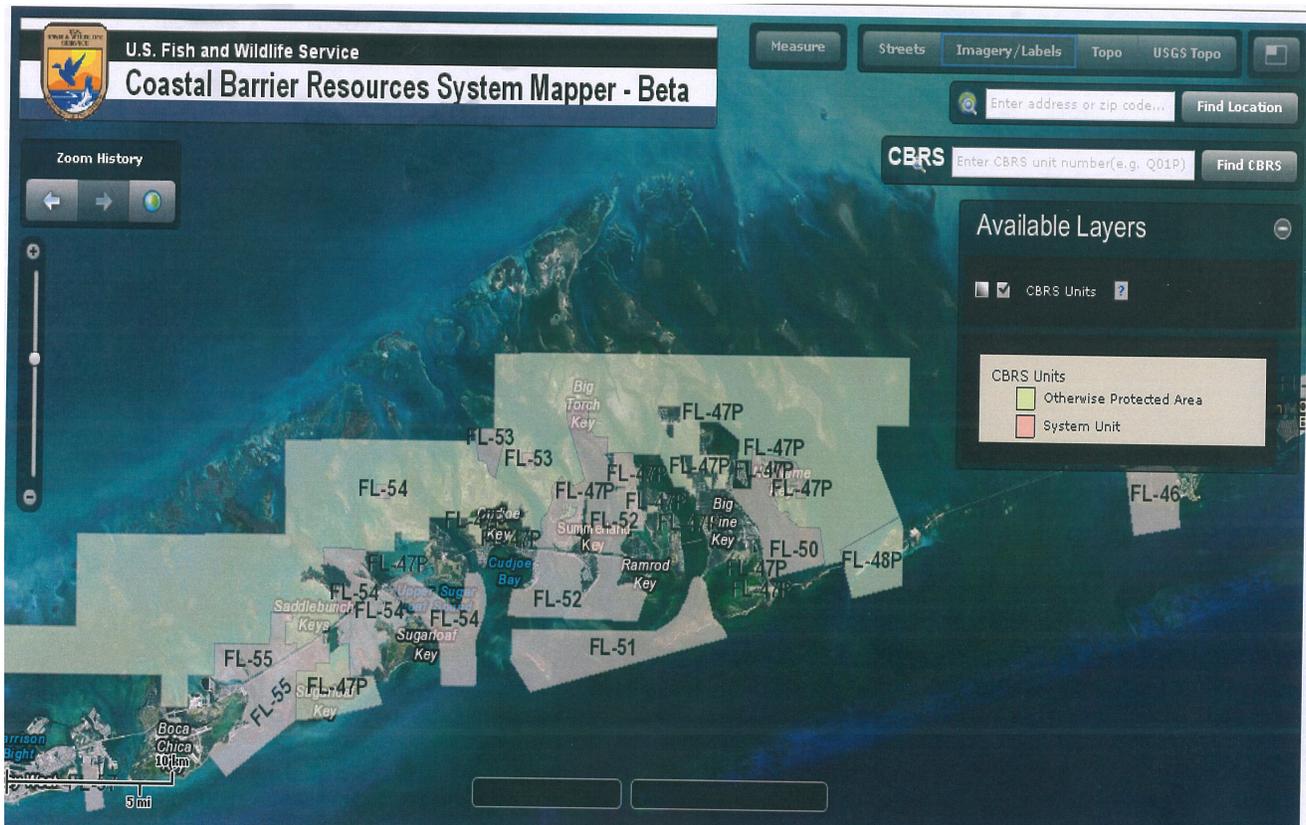
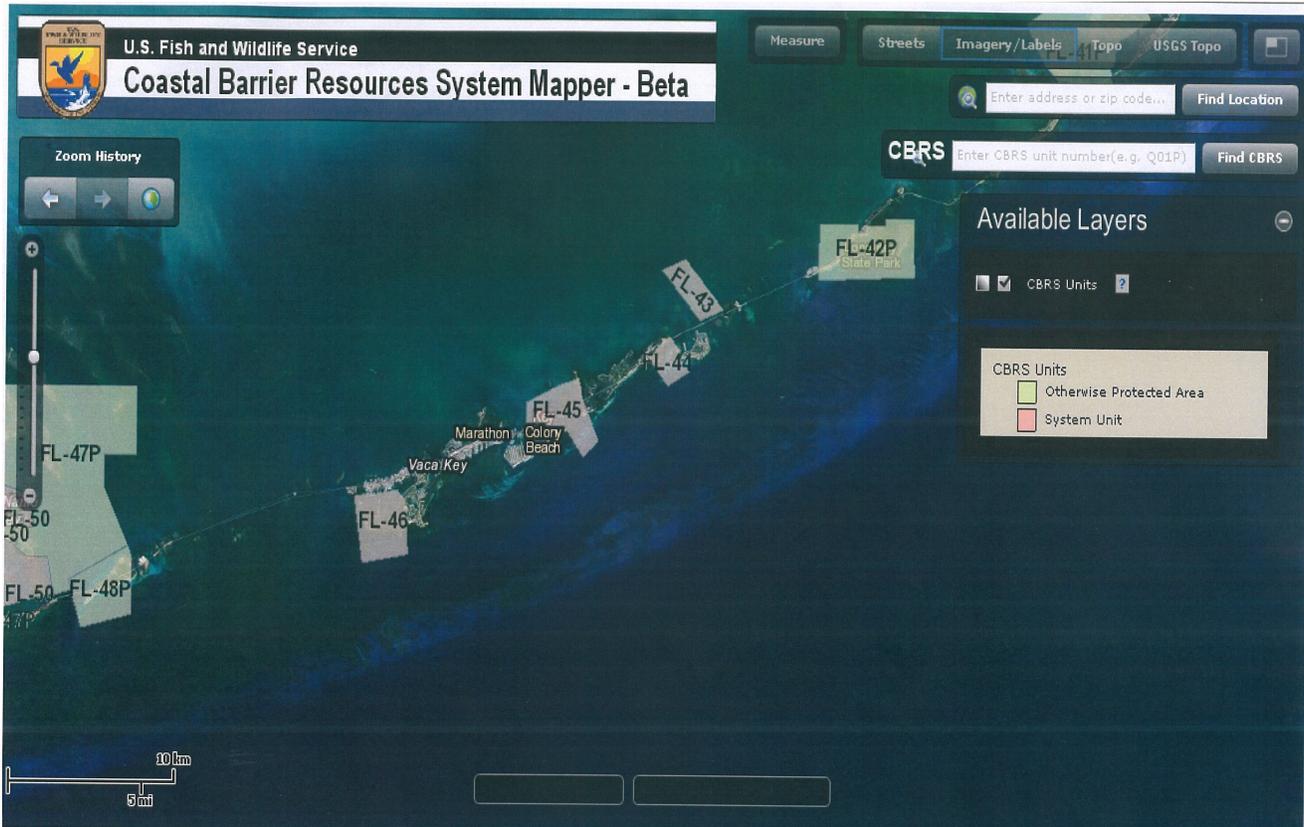


# Analysis of CBRS Policies and Regulations in Monroe County





# Analysis of CBRS Policies and Regulations in Monroe County



# Analysis of CBRS Policies and Regulations in Monroe County

## APPENDIX C

### Existing Comprehensive Plan Goals, Policies and Objectives and Existing Land Development Code Related to CBRS

#### Comprehensive Plan

##### **Objective 102.8**

Monroe County shall take actions to discourage private development in areas designated as units of the Coastal Barrier Resources System. [9J-5.006(3)(b)4]

##### **Policy 102.8.1**

Monroe County shall discourage developments which are proposed in units of Coastal Barrier Resources System (CBRS). [9J-5.006(3)(c)6]

##### **Policy 102.8.2**

Upon adoption of the Comprehensive Plan, Monroe County shall not create new access via new bridges, new causeways, new paved roads or new commercial marinas to or on units of the Coastal Barrier Resources System (CBRS). [9J-5.005(3)(c)6]

##### **Policy 102.8.3**

By January 4, 1997, shoreline hardening structures, including seawalls, bulkheads, groins, rip-rap, etc., shall not be permitted along shorelines of CBRS units. [9J-5.006(3)(c)6]

##### **Policy 102.8.4**

By January 4, 1998, privately-owned undeveloped land located within the CBRS units shall be considered for acquisition by Monroe County for conservation purposes through the Monroe County Natural Heritage and Park Program. [9J-5.006(3)(c)6]

##### **Policy 102.8.5**

Monroe County shall take efforts to discourage the extension of facilities and services provided by the Florida Keys Aqueduct Authority and private providers of electricity and telephone service to CBRS units. These efforts shall include providing each of the utility providers with:

1. a map of the areas of Monroe County which are included in CBRS units;
2. a copy of the Executive Summary in Report to Congress: Coastal Barrier Resources System published by the U.S. Department of the Interior, Coastal Barriers Study Group, which specifies restrictions to federally subsidized development in CBRS units;
3. Monroe County policies regarding local efforts to discourage both private and public investment in CBRS units [9J-5.006(3)(c)6]

##### **Policy 103.2.10**

Monroe County shall take immediate actions to discourage private development in areas designated as units of the Coastal Barrier Resources System. (See Objective 102.8 and related policies.) [9J-5.006(3)(b)4]

##### **Policy 103.2.4**

Upon adoption of the Comprehensive Plan, Monroe County shall require that the following analyses be undertaken prior to finalizing plans for the siting of any new public facilities or the significant expansion (greater than 25 percent) of existing public facilities:

1. assessment of needs
2. evaluation of alternative sites and design alternatives for the selected sites; and
3. assessment of impacts on surrounding land uses and natural resources.

# Analysis of CBRS Policies and Regulations in Monroe County

The assessment of impacts on surrounding land uses and natural resources will evaluate the extent to which the proposed public facility involves public expenditures in the coastal high hazard area and within environmentally sensitive areas, including disturbed salt marsh and buttonwood wetlands, undisturbed beach/berm areas, units of the Coastal Barrier Resources System, undisturbed uplands (particularly high quality hammocks and pinelands), habitats of species considered to be threatened or endangered by the state and/or federal governments, offshore islands, and Conservation Land Protection Areas.

Monroe County shall require that public facilities be developed on the least environmentally sensitive lands and shall prohibit the location of public facilities on North Key Largo, unless no feasible alternative exists and such facilities are required to protect the public health, safety, or welfare.

## **GOAL 209**

Monroe County shall discourage private land uses on its mainland, offshore islands and undeveloped coastal barriers, and shall protect existing conservation lands from adverse impacts associated with private land uses on adjoining lands. [9]-5.012(3)(a); 9J-5.013(2)(a)]

### **Objective 209.3**

Monroe County shall take immediate actions to discourage private development in areas designated as units of the Coastal Barrier Resources System (CBRS). (See Future Land Use Objective 102.8 and related policies.) [9]-5.012(3)(b)1]

### **Objective 215.2**

By January 4, 1997, Monroe County shall initiate programs which require exploration of feasible alternatives to funding of public facilities and infrastructure which will result in the loss of or damage to significant coastal or natural resources, including, but not limited to, wilderness areas, wildlife habitats, and natural vegetative communities. [9]-5.012(2)(b)11]

#### **Policy 215.2.1**

By January 4, 1997, Monroe County shall adopt Land Development Regulations which require consideration of feasible design and siting alternatives for new public facilities and infrastructure proposed within the coastal zone in order to minimize adverse impacts to natural resources. [9]-5.012(3)(c)1]

#### **Policy 215.2.3**

No public expenditures shall be made for new or expanded facilities in areas designated as units of the Coastal Barrier Resources System, saltmarsh and buttonwood wetlands, or offshore islands not currently accessible by road, with the exception of expenditures for conservation and parklands consistent with natural resource protection, and expenditures necessary for public health and safety. [9]-5.012(3)(c)1]

### **Objective 217.4**

With the following exceptions, public expenditures within the CHHA shall be limited to the restoration or enhancement of natural resources and parklands, expenditures required to serve existing development such as the maintenance or repair of existing infrastructure, and expenditures necessary for public health and safety:

1. public expenditures within the CHHA may be permitted where required to meet adopted level of service standards or to maintain or reduce hurricane evacuation clearance times and where no feasible alternatives to siting the required facilities within the CHHA exist.
2. public expenditures within the CHHA may be permitted for improvements and expansions to existing public facilities, which improvements or expansions are designed to minimize risk of damage from flooding. [9]-5.012(3)(b)5]

#### **Policy 217.4.2**

No public expenditures shall be made for new or expanded facilities in areas designated as units of the Coastal Barrier Resources System, undisturbed saltmarsh and buttonwood wetlands, or offshore islands not currently accessible by road, with the exception of expenditures for conservation and parklands consistent with natural resource protection, and expenditures necessary for public health and safety. [9]-5.012(3)(c)1]

# Analysis of CBRS Policies and Regulations in Monroe County

## **Policy 1301.7.12**

By January 4, 1998, Monroe County shall initiate discussions with the FCAA and providers of electricity and telephone service to assess the measures which could be taken to discourage or prohibit extension of facilities and services to Coastal Barrier Resource Systems (CBRS) units.

## **Policy 1401.2.2**

No public expenditures shall be made for new or expanded facilities in areas designated as units of the Coastal Barrier Resources System, undisturbed saltmarsh and buttonwood wetlands, or offshore islands not currently accessible by road, with the exception of expenditures for conservation and parklands consistent with natural resource protection, and expenditures necessary for public health and safety.

## **Land Development Code**

### Sec. 101-1. - Definitions

Coastal Barrier Resources System (CBRS) means those 15 (CBRS) units in the county designated under the Federal Coastal Barrier Resources Act (CBRA) of 1982, comprising undeveloped coastal barriers and all associated aquatic habitats including wetlands, marshes, estuaries, inlets and near shore waters.

### Sec. 130-122. - Coastal barrier resources system overlay district

#### (a) Purpose.

The purpose of the coastal barrier resources system overlay district is to implement the policies of the comprehensive plan by prohibiting the extension and expansion of specific types of public utilities to or through lands designated as a unit of the coastal barrier resources system.

#### (b) Application.

The coastal barrier resources system overlay district shall be overlaid on all areas, except for Stock Island, within federally designated boundaries of a coastal barrier resources system unit on current flood insurance rate maps approved by the Federal Emergency Management Agency, which are hereby adopted by reference and declared part of this chapter. Within this overlay district, the transmission and/or collection lines of the following types of public utilities shall be prohibited from extension or expansion: central wastewater treatment collection systems; potable water; electricity, and telephone and cable. This prohibition shall not preclude the maintenance and upgrading of existing public utilities in place on the effective date of the ordinance from which this section is derived and shall not apply to wastewater nutrient reduction cluster systems.

(Code 1979, § 9.5-258; Ord. No. 43-2001, § 1)

# Analysis of CBRS Policies and Regulations in Monroe County

## APPENDIX D

### Comparison of Subdivisions within CBRS Units to Tier Criteria

CBRS unit	Subdivision (mm & key)	Percent developed	Current Tier Designation	Paved roads	Potable water	Electricity	Tier I					Draft	
							Environmentally Sensitive Upland Habitat (Habitat GIS Layer data)	Within State/Federal Acquisition boundary	Known locations of threatened & endangered species	Conservation & Residential Conservation FLUM	Minimal development		Minimal infrastructure (paved roads, potable water, electricity)
FL-35	Treasure Trove 1 & 2 (SR 905, North Key Largo)	0.00%	I	1 - Yes 2 - No	1 - Yes 2 - No	1 - Yes 2 - No	Yes (Hammock)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	Yes	Meets 6 of 6 criteria of Tier I
FL-35	Elbow Light Club (SR 905, North Key Largo)	5.90%	I	Yes	Yes	Yes	Yes (Hammock, Developed & Mangroves)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	No	Meets 5 of 6 criteria of Tier I
FL-35	J.H.T (SR 905, North Key Largo)	4.80%	I	Yes	Yes	Yes	Yes (Hammock, Mangroves, Developed & Undeveloped Land)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	No (RM)	Yes	No	Meets 4 of 6 criteria of Tier I
FL-35	Atlantic View Estates (SR 905, North Key Largo)	0%	I	partial	partial	partial	Yes (Hammock, Buttonwood & Mangroves)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	Yes	Meets all 6 criteria of Tier I
FL-35	Largo Edmar (SR 905, North Key Largo)	0%	I	partial (no)	partial	partial (no)	Yes (Hammock)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	Yes	Meets all 6 criteria of Tier I
FL-35	Ocean Reef Shores (SR 905, North Key Largo)	15.40%	I	Yes	Yes	Yes	Yes (Hammock & Developed Land)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	No (RM)	Yes	No	Meets 4 of 6 criteria of Tier I
FL-35	Gulfstream Shores (SR 905, North Key Largo)	34.4%	I	Yes	Yes	Yes	Yes? (Undeveloped Land)	Yes North Key Largo Hammocks FF	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	No (RM)	Yes	No	Meets 3 of 6 criteria of Tier I
FL-39	Largo Beach (includes Tier I and III) (MM 91, Tavernier)	42.60%	I & III	partial	partial	partial	Yes? (appears to be mainly Developed Land & Mangroves with some Hammock, Salt Marsh & Scrub Mangrove)	Yes Florida Keys Ecosystem FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Partial (Developed & Hammock - RM) (Wetlands with some hammock - RC)	Yes	Yes	Meets 4 of 6 criteria of Tier I
FL-50	Dolphin Estates (No Name Key)	18.20%	I	Yes	No	No	No (Exotic, Developed & Undeveloped Land)	Yes Coupon Bight/Key Deer FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	No (MCF)	Yes	Yes	Meets 4 of 6 criteria of Tier I
FL-50	Galleon Bay Revised (No Name Key)	0%	I	partial	No	No	Yes (Hammock & Undeveloped Land)	Yes Coupon Bight/Key Deer FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	No (MCF)	Yes	Yes	Meets 5 of 6 criteria of Tier I
FL-50	Tuxedo Park (No Name Key)	0%	I	No	No	No	Yes (Pineland & Hammock)	Yes Coupon Bight/Key Deer FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	Yes	Meets all 6 criteria of Tier I
FL-50	Ocean Heights (No Name Key)	0%	I	No	No	No	Yes (Pineland)	Yes Coupon Bight/Key Deer FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	Yes	Meets all 6 criteria of Tier I
FL-50	Refuge Point (No Name Key)	0%	I	No	No	No	Yes (Hammock, Freshwater wetland, Buttonwood, Scrub Mangrove & Mangroves)	Yes Coupon Bight/Key Deer FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC & C)	Yes	Yes	Meets all 6 criteria of Tier I
FL-52	Buccaneer Beach Estates (Middle Torch Key)	0%	I	No	No	No	No (Buttonwood, Scrub Mangrove, Mangroves, Salt Marsh, Water - with small patch of Hammock)	Yes Florida Keys Ecosystem FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC)	Yes	Yes	Meets 5 of 6 criteria of Tier I
FL-52	Middle Torch Key Estate (Middle Torch Key)	2%	I	partial (no)	No	Yes	Yes (Mangroves, Scrub Mangrove, Salt Marsh, Hammock, Buttonwood, & Freshwater wetland)	Yes Florida Keys Ecosystem FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC, C & RM)	Yes	Yes	Meets all 6 criteria of Tier I
FL-52	Dom's (Big Torch Key)	20%	I	Yes	No	Yes	Yes (Hammock, Buttonwood, Mangroves, Scrub Mangrove & Developed Lands)	Yes Florida Keys Ecosystem FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	No (RL)	Yes	Yes?	Meets 4 of 6 criteria of Tier I
FL-52	Rainbow Beach (Big Torch Key)	0.2%	I	partial	No	No	Yes (Hammock, Freshwater wetland, Scrub mangrove, Mangroves, and Water)	Yes Florida Keys Ecosystem FF Project	Identified in USFWS Species Focus Area (potentially suitable habitat for 9 federally protected species)	Yes (RC & C)	Yes	Yes	Meets all 6 criteria of Tier I

# Analysis of CBRS Policies and Regulations in Monroe County

## APPENDIX D

### Comparison of Subdivisions within CBRS Units to Tier Criteria - continued

CBRS unit	Subdivision (mm & key)	Tier III-A	Tier III				Draft
		Environmentally Sensitive Upland Habitat (1 acres)	NOT Environmentally Sensitive Upland Habitat (dispersed & isolated fragments)	Existing platted subdivision	Substantially Developed (50% or more development)	Complete infrastructure (paved roads, potable water, electricity)	
FL-35	Treasure Trove 1 & 2 (SR 905, North Key Largo)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-35	Elbow Light Club (SR 905, North Key Largo)	Yes	No	Yes	No	Yes	Meets 2 of 4 criteria of Tier III
FL-35	J.H.T (SR 905, North Key Largo)	Yes	No	Yes	No	Yes	Meets 2 of 4 criteria of Tier III
FL-35	Atlantic View Estates (SR 905, North Key Largo)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-35	Largo Edmar (SR 905, North Key Largo)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-35	Ocean Reef Shores (SR 905, North Key Largo)	Yes	No	Yes	No	Yes	Meets 2 of 4 criteria of Tier III
FL-35	Gulfstream Shores (SR 905, North Key Largo)	Yes	No	Yes	No	Yes	Meets 2 of 4 criteria of Tier III
FL-39	Largo Beach (includes Tier I and III) (MM 91, Tavernier)	Yes	No	Yes	No	No	Meets 1-2 of 4 criteria of Tier III
FL-50	Dolphin Estates (No Name Key)	No	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-50	Galleon Bay Revised (No Name Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-50	Tuxedo Park (No Name Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-50	Ocean Heights (No Name Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-50	Refuge Point (No Name Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-52	Buccaneer Beach Estates (Middle Torch Key)	No	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-52	Middle Torch Key Estate (Middle Torch Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-52	Dom's (Big Torch Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III
FL-52	Rainbow Beach (Big Torch Key)	Yes	No	Yes	No	No	Meets 1 of 4 criteria of Tier III

# Analysis of CBRS Policies and Regulations in Monroe County

## APPENDIX E

### History of Monroe County CBRS Legislation

July 1, 1985: Florida's State Comprehensive Plan became effective.

1986: The County adopted the State Comprehensive Plan as an interim land use control.

November 1, 1990: The Coastal Barrier Improvement Act (CBIA) reauthorized the Coastal Barrier Resource System (CBRS) Act of 1982; expanded the CBRS to include undeveloped coastal barriers along the Florida Keys and other areas; and added a new category of coastal barriers: "otherwise protected areas" (OPAs).

April 15, 1993: The County adopted the *Monroe County 2010 Comprehensive Plan* (the "Plan"), pursuant to Chapter 163, Part II, F.S., which included the existing Goals, Objectives and Policies identified in Appendix C. However, subsequent legal proceedings prompted a Final Order and Recommendations by the Administration Commission. The effect of the Final Order was that 90 percent of the Plan became effective but the disputed provisions required further action. Because of this Final Order, it was necessary to amend the Plan in order to bring it into compliance and to make it consistent with the "Principles for Guiding Development" as required by Chapter 380, F.S.

January 4, 1996: The Plan was amended pursuant to Rule 9J-14.022, F.A.C.

January 2, 1996: The Plan was adopted by Rule 28-20.100, Part I.

July 14, 1997: The remainder of the Plan was adopted by Rule 28-20.100, Part II, resulting in the "Work Program";

December 18, 2001: Ordinance 043-2001 was adopted creating MCC Section 9.5-258, "Coastal Barrier Resources System Overlay District", which included a prohibition of the extension and expansion of utilities to or through lands designated as CBRS unit.

September 17, 2008: Subsequent to a Court Order granting summary judgment in favor of the defendants: Taxpayers for the Electrification of No Name Key, Inc, et. al. v Monroe County (Case No. 99-819-CA-19), Ordinance 020-2008 was adopted by the County which amended MCC Section 9.5-258 to allow for the provision of utilities to develop properties located within the CBRS Overlay District.

December 12, 2008: Florida Department of Community Affairs (DCA) rejected Ordinance 020-2008 for inconsistency with the Rule 28-29 F.A.C.: *Land Planning - Part VIII Boundary And Principles For Guiding Development For The Florida Keys Area Of Critical State Concern*. At that time, DCA determined an amendment to the Comprehensive Plan was required in order to resolve the conflict between it and MCC Section 9.5-258.

February 08, 2009: Ordinance 003-2009 was adopted rescinding Ordinance 0202-2008. Thus the original language of MCC Section 935-258, which prohibits extension and expansion of utilities within the CBRS units, is currently in effect.

**MINUTES  
OF THE MONROE COUNTY  
BOARD OF COUNTY COMMISSIONERS**

 Unofficial until approved  
by the BOCC

Regular Meeting  
Board of County Commissioners  
Wednesday, May 15, 2013  
Key Largo, Florida

A Regular Meeting of the Monroe County Board of County Commissioners convened at 9:00 A.M., at the Murray Nelson Government Center. Present and answering to roll call were Commissioner Heather Carruthers, Commissioner Danny Kolhage, Commissioner Sylvia Murphy, Commissioner David P. Rice and Mayor George Neugent. Also present at the meeting were Roman Gastesi, County Administrator; Bob Shillinger, County Attorney; Pamela Hancock, Deputy Clerk; County Staff, members of the press and radio; and the general public.

**ADDITIONS, CORRECTIONS, DELETIONS**

Item A Motion was made by Commissioner Rice and seconded by Commissioner Carruthers granting approval of the Additions, Corrections and Deletions to the Agenda. Motion carried unanimously.

**PRESENTATION OF AWARDS**

Item B1 Presentation of Mayor's Proclamation declaring the 17th of May, 2013 Domingo Rosillo del Toro Day.

Item B2 Presentation of Mayor's Proclamation declaring May 19 through May 23, 2013 as Emergency Medical Services Week.

Item B3 Presentation of Mayor's Proclamation declaring May 13 through May 17, 2013 as Law Enforcement Memorial Week.

**MISCELLANOUES**

Representative Holly Raschien addressed the Board concerning the legislative session. Ms. Raschien announced that Florida Keys Days will be held on March 25, 2014; and that in July she is planning a major summit for wastewater; and that in September there will be several legislative leaders coming down and that she would like to give them a county-wide tour.

**BULK APPROVALS**

Motion was made by Commissioner Murphy and seconded by Commissioner Carruthers granting approval of the following items by unanimous consent:

Item C4 Board granted approval of a Memorandum of Agreement between the American Humane Association and Monroe County Board of County Commissioners to provide animal sheltering assistance, to help with care for animal victims of disasters both natural and manmade, and to provide preparedness training to first responders and animal care agencies, at no cost to the county; and authorization for the County Administrator to execute any other required documentation in relation to the application process.

Item C6 Board granted approval of the Issuance (renewal) of a Class A Certificate of Public Convenience and Necessity (COPCN) to Ocean Reef Volunteer Fire Department, Inc. d/b/a Ocean Reef Public Safety Department for the operation of an ALS transport ambulance service for the period June 1, 2013 through May 31, 2015.

Item C7 Board granted approval of Assignment of Rights to Tax Refund.

Item C8 Board granted approval of Consent to Assignment of Lease from Keren Adlen and Dani Tobaly, dba Jet Lag Accessories, LLC to Alexandria Eaton Pierobon.

Item C9 Board granted approval of Lease Renewal Agreement for retail rental space with Keren Adlen and Dani Tobaly, dba Jet Lag Accessories, LLC at the Key West International Airport.

Item C10 Board granted approval of Lease Extension Agreement with Greyhound Lines for space at the Key West International Airport.

Item C11 Board granted approval of Task Order #2013-001 with CDM Smith for Project Design and Permitting Services (the "Project") for the Florida Keys Marathon Airport Terminal Sewer Laterals.

Item C12 Board granted approval of Change Order No.2, D.L. Porter Constructors, Inc., Baggage Claim Hall Renovations Project, Key West International Airport.

Item C13 Board granted approval of Amendment 004 of the Alliance for Aging, Inc. Standard Contract, Older Americans Act (OAA) Contract AA-1329 between the Alliance For Aging Inc. (AAA) and the Monroe County Board of County Commissioners (Social Services/In Home and Nutrition Programs) for the current contract period of January 1, 2013 to December 31, 2013.

Item C14 Board granted approval of State of Florida Department of Economic Opportunity Federally-Funded Weatherization Assistance Program Agreement, Contract# 13WX-0G-11-54-01-039 between Monroe County Board of County Commissioners (Community Services/Social Services) and the State of Florida, Department of Economic Opportunity.

Item C15 Board granted approval of Amendment 003 to the Community Care for the Elderly (CCE) Contract KC-1271 between the Alliance for Aging, Inc. (Area Agency on Aging) and the Monroe County Board of Commissioners (Social Services/In-Home Services) for Fiscal

Year July 1, 2012 to June 30, 2013 to decrease funding by \$12,119.00, due to loss of clients and approaching contract end date.

Item C16 Board adopted the following Resolutions for the Transfer of Funds and for the Receipt of Unanticipated Funds:

Receipt of Unanticipated Funds (OMB Schedule Item No. 1).

**RESOLUTION NO. 135-2013**

Said Resolution is incorporated herein by reference.

Receipt of Unanticipated Funds (OMB Schedule Item No. 2).

**RESOLUTION NO. 136-2013**

Said Resolution is incorporated herein by reference.

Receipt of Unanticipated Funds (OMB Schedule Item No. 3).

**RESOLUTION NO. 137-2013**

Said Resolution is incorporated herein by reference.

Receipt of Unanticipated Funds (OMB Schedule Item No. 4).

**RESOLUTION NO. 138-2013**

Said Resolution is incorporated herein by reference.

Receipt of Unanticipated Funds (OMB Schedule Item No. 5).

**RESOLUTION NO. 139-2013**

Said Resolution is incorporated herein by reference.

Transfer of Funds (OMB Schedule Item No. 6).

**RESOLUTION NO. 140-2013**

Said Resolution is incorporated herein by reference.

Receipt of Unanticipated Funds (OMB Schedule Item No. 7).

**RESOLUTION NO. 141-2013**

Said Resolution is incorporated herein by reference.

Transfer of Funds (OMB Schedule Item No. 8).

**RESOLUTION NO. 142-2013**

Said Resolution is incorporated herein by reference.

Receipt of Unanticipated Funds (OMB Schedule Item No. 9).

**RESOLUTION NO. 143-2013**

Said Resolution is incorporated herein by reference.

Transfer of Funds (OMB Schedule Item No. 10).

**RESOLUTION NO. 144-2013**

Said Resolution is incorporated herein by reference.

Transfer of Funds (OMB Schedule Item No. 11).

**RESOLUTION NO. 145-2013**

Said Resolution is incorporated herein by reference.

Item C17 Board adopted the following Resolution to repeal Resolution No. 224-2008 and revise policy for compensation for public emergency response work for essential personnel.

**RESOLUTION NO. 146-2013**

Said Resolution is incorporated herein by reference.

Item C18 Board granted approval to pay \$344,715 renewal premium to Citizens Property Insurance Corporation for Windstorm Insurance policy.

Item C19 Board adopted the following Resolution to allow the Benefits office staff to purchase healthy food items for participants who attend and complete educational lunch and learn activities coordinated and scheduled by the Benefits staff.

**RESOLUTION NO. 147-2013**

Said Resolution is incorporated herein by reference.

Item C20 Board granted approval to execute Amendment 1 to the Task Order with CH2M Hill Engineers, Inc. to clarify consultant's services during construction and to extend the date of completion. This project is funded by Florida Department of Transportation (FDOT) Local Agency Program (LAP) Agreement.

Item C21 Board granted approval of Amendment 2 to the Contract with Metric Engineering, Inc. for Engineering Design and Permitting Services for the US 1 Bayside Shared Use Path Project to extend the expiration date of the contract until December 1, 2013. This project is funded by the District Three Transportation Impact Fees.

Item C22 Board granted approval to negotiate with Parsons Brinckerhoff, the highest ranked respondent, for the Construction Engineering and Inspection Services (CEI), for the Old SR 940 Leg A Watson Bridge (# 904310) Repair Project. This project is funded by Florida Department of Transportation (FDOT) through a Local Agency Program (LAP) Agreement. If an agreement cannot be reached with the highest ranked respondent, request approval to negotiate with the next highest ranked respondent and to continue until a satisfactory negotiation is achieved.

Item C23 Board granted approval of Amendment 1 to the Interlocal Agreement (ILA) with the City of Marathon to provide another year of funding at 7.5% of the contract amount or \$18,750, whichever is less, to fund the Pigeon Key Ferry for the annual term commencing on July 1, 2013.

Item C24 Board granted approval of a second Agreement with Comcast for internet services for the Duck Key Security System Installation and Maintenance project.

Item C25 Board granted approval to advertise a Request for Qualifications (RFQ) for On Call Engineering Services.

Item C26 Board granted approval to execute a Contract with Kisinger Campo and Associates (KCA), the highest ranked RFQ respondent, for engineering design and permitting services for the Card Sound Bridge Repair project. The engineering design and permitting services will be funded by Florida Department of Transportation (FDOT) through a Local Agency Program (LAP) Agreement.

Item C27 Board granted approval of a Contract with Advanced Roofing for the Lancelot Lester Justice Building Roof Replacement. This project will be funded by ad valorem.

Item C28 Board granted approval of a Contract with MBI/K2M Architecture Inc. to provide professional services as required to prepare construction drawings to route the sanitary sewer from the Marathon Courthouse, Marathon Sheriff's Sub-station, and the Marathon Library, to U.S. Highway 1 and connect to the City of Marathon's sewer system. This contract is funded by the one-cent infrastructure tax.

Item C30 Board granted approval of a Contract with Pedro Falcon Electrical Contractors Inc. for the ADA Compliance Segment #4 project. This ADA Segment is funded by a Community Development Block Grant (CDBG).

Item C31 Board granted approval of a Contract with William P. Horn Architect, P.A. for Professional Services for the Design through Construction Administration of a Fitness Trail at Higgs Beach. Funding will be from the one-cent infrastructure tax.

Item C32 Board granted approval of the monthly report on Change Orders reviewed by the County Administrator's Office. Said report is incorporated herein by reference.

Item C33 Board granted approval to amend Exhibit II, Solid Waste rates, approved by the BOCC on September 21, 2012, concerning solid waste collection, disposal, and recycling service rates for residential properties for Fiscal Year 2012/2013, to correct scrivener's errors. These corrections do not impact the current cost of services to residents; however, some businesses will see an increase in their monthly maintenance fees, roll-off collection rate, and compactor collection fees. Contractor will not make increase retroactive but will charge correct rate starting May 1, 2013.

Item C34 Board granted approval to enter into a one-year Residential Lease Agreement commencing June 1, 2013, with a County Employee for Location E.

Item C35 Board granted approval to enter into a one-year Residential Lease Agreement commencing June 1, 2013, with a County Employee for Location F.

Item C36 Board granted approval of second option to renew with U. S. Water Services Corporation for the operation and maintenance of wastewater treatment plant for the Roth Building, Monroe County.

Item C37 Board granted approval to advertise for bids for the inspection, testing, maintenance and repairs of Fire Protection Systems per NFPA 25 for the following buildings for an initial Term of (2) two years with (3) three, 1 year renewal options. Buildings included are: Monroe County Detention Center, Harvey Government Center, Lester Building, Monroe County Courthouse Annex/Old Jail, Marathon Government Annex, Marathon Jail, Plantation Key Jail, Monroe County Main Courthouse, Monroe County Sheriff Administration Building, Department of Juvenile Justice Building, Bayshore Manor and Freeman Justice Building.

Item C38 Board granted approval of second Renewal Agreement with Best Janitorial & Supplies, Inc. for janitorial services at the Big Pine Key Library.

Item C39 Board granted approval of second Renewal Agreement with Best Janitorial & Supplies, Inc. for janitorial services at the George Dolezal Marathon Library.

Item C40 Board granted approval of second Renewal Agreement with Best Janitorial & Supplies, Inc. for janitorial services at the Islamorada Library.

Item C41 Board granted approval of second Renewal Agreement with Best Janitorial & Supplies, Inc. for janitorial services at the Key Largo Library.

#### **TOURIST DEVELOPMENT COUNCIL**

Item D1 Board granted approval of an Amendment to Agreement with Key West Burlesque to revise Exhibit C outlining the named schedule of events.

#### **DIVISION OF GROWTH MANAGEMENT**

Item H1 Board granted approval of the re-appointment of Mr. Gary Centonze to one (1) three (3) year term to the Contractors' Examining Board beginning May 15, 2013 and ending May 14, 2016.

Item H2 Board granted approval of the re-appointment of Mr. Steve Henson to one (1) three (3) year term to the Contractors' Examining Board beginning May 15, 2013 and ending May 14, 2016.

Item H3 Board granted approval of a Contract with Metric Engineering, Inc. for the project management of a habitat restoration project with Dagny Johnson Key Largo Hammock Botanical State Park as mitigation for the construction of the Key Largo Wastewater Treatment District wastewater treatment plant.

Item H4 Board granted approval of Third Amendment to Occupancy Agreement and Ground Lease between Monroe County and Habitat for Humanity of the Upper Keys, Inc. to allow Lessee to plat the leased property for the construction of seven single family homes and act as agent for Monroe County, Lessor and Owner.

Item H5 Board adopted the following Resolution acknowledging the existence and proposed execution of the Multi-Party Agreement Under Section 380.032 Florida Statutes, between Ocean Reef Community Association, Inc., the Florida Department of Economic Opportunity (DEO) and Terra Cotta Realty (Florida), Inc., a Florida corporation and owner of Pumpkin Key.

**RESOLUTION NO. 148-2013**

Said Resolution is incorporated herein by reference.

**MONROE COUNTY SHERIFF DEPARTMENT**

Item K1 Board granted approval of the request for the following expenditure from the Law Enforcement Trust Fund:

\$25,000.00 *Take Stock in Children*: to support “scholarships, mentors, projects and events” and to provide state-matching scholarships for low-income families and support the leadership camp experience at the Sheriff’s Youth Ranch.

**MONROE COUNTY HEALTH DEPARTMENT**

Item L1 Board granted approval of First Amendment to the Core Contract between Monroe County Board of County Commissioners and the State of Florida, Department of Health for operation of the Monroe County Health Department – Contract Year 2012-2013.

**COMMISSIONERS’ ITEMS**

Item O2 Board granted approval of Commissioner Kolhage’s appointment of Tim Root to the Affordable Housing Advisory Committee representing the Residential Home Building Industry, replacing Sherry Phillips.

Item O3 Board granted approval of Commissioner Kolhage’s appointment of Joe Pais to the Community Development Block Grant Citizens Advisory Task Force, replacing John Hernandez, with a term expiring May 17, 2017.

**COUNTY CLERK**

Item P2 Board granted official approval of the Board of County Commissioners minutes from the March 20, 2013, Regular Meeting previously distributed).

Item P3 Board granted approval of the following Warrants for the month of April 2013: **General Fund (001)**, in the amount of \$3,312,855.55; **Fine & Forfeiture Fund (101)**, in the amount of \$3,249,925.11; **Road and Bridge Fund (102)**, in the amount of \$164,669.57; **TDC District Two Penny (115)**, in the amount of \$257,401.32; **TDC Admin. & Promo 2 Cent (116)**, in the amount of \$813,625.26; **TDC District 1,3 Cent (117)**, in the amount of \$735,183.77; **TDC District 2,3 Cent (118)**, in the amount of \$25,802.11; **TDC District 3,3 Cent (119)**, in the amount of \$161,419.94; **TDC District 4,3 Cent (120)**, in the amount of

\$102,489.38; **TDC District 5,3 Cent (121)**, in the amount of \$211,103.02; **Gov. Fund Type Grants (125)**, in the amount of \$306,032.14; **Impact Fees Roadways (130)**, in the amount of \$75,106.80; **Impact Fees Parks & Rec (131)**, in the amount of \$23,730.00; **Fire & Amb District 1 L&M Keys (141)**, in the amount of \$188,813.55; **Upper Keys Health Care (144)**, in the amount of \$3,324.56; **Uninc Svc Dist Parks & Rec (147)**, in the amount of \$84,188.55; **Plan, Build, Zoning (148)**, in the amount of \$60,149.50; **Municipal Policing (149)**, in the amount of \$515,234.64; **911 Enhancement Fee (150)**, in the amount of \$76,079.33; **Duck Key Security (152)**, in the amount of \$7,756.52; **Boating Improvement Fund (157)**, in the amount of \$11,623.86; **Misc. Special Revenue Fund (158)**, in the amount of \$115,939.35; **Environmental Restoration (160)**, in the amount of \$4,205.33; **Court Facilities Fees-602 (163)**, in the amount of \$88,224.27; **Stock Island Wastewater (171)**, in the amount of \$1,000.00; **Building Fund (180)**, in the amount of \$24,184.22; **Cent Infra Surtax (304)**, in the amount of \$16,444.09; **INFR Sls Srtx Rev Bds2007 (308)**, in the amount of \$273,903.83; **Big Coppitt Wastewater Pr (310)**, in the amount of \$1,000.00; **Duck Key Wastewater (311)**, in the amount of \$1,000.00; **Cudjoe Regional (312)**, in the amount of \$28,104.56; **Card Sound Bridge (401)**, in the amount of \$9,670.06; **Marathon Airport (403)**, in the amount of \$40,801.73; **Key West Intl. Airport (404)**, in the amount of \$289,524.73; **KW AIP Series 2006 Bonds (405)**, in the amount of \$31,690.64; **MSD Solid Waste (414)**, in the amount of \$1,263,564.44; **Worker's Compensation (501)**, in the amount of \$11,689.69; **Group Insurance Fund (502)**, in the amount of \$839,866.43; **Risk Management Fund (503)**, in the amount of \$43,903.57; **Fleet Management Fund (504)**, in the amount of \$88,911.77; **Fire&EMS LOSAP Trust Fund (610)**, in the amount of \$2,325.00.

Item P4 Board granted approval of Tourist Development Council Expenditures for the month of April 2013: **Advertising**, in the amount of \$1,413,507.54; **Bricks & Mortar Projects/Interlocal**, in the amount of \$242,625.38; **Visitor Information Services**, in the amount \$66,794.33; **Events**, in the amount of \$149,217.57; **Office Supplies & Oper Costs**, in the amount of \$26,373.72; **Personnel Services**, in the amount of \$189,873.56; **Public Relations**, in the amount of \$36,695.54; **Sales & Marketing**, in the amount of \$158,952.83; **Telephone & Utilities**, in the amount of \$18,043.56; **Travel**, in the amount of \$10,564.77.

Item P5 Board granted approval to remove surplus equipment from inventory via disposal or advertise for bid.

### COUNTY ADMINISTRATOR

Item Q2 Board granted approval of the re-appointment of Rick Freeburg to the Health Council of South Florida for a two year term in the category of Provider.

Item Q3 Board adopted the following Resolution authorizing the temporary closing of the Northbound Lanes of US1 from mile marker 98.2 to mile marker 100 from 10:00 a.m. to 11:30 a.m. for the annual 4th of July Parade sponsored by The Reporter Newspaper.

### RESOLUTION NO. 149-2013

Said Resolution is incorporated herein by reference.

Item Q6 Notice of upcoming meetings related to RESTORE Act activities.

**COUNTY ATTORNEY**

Item R3 Board granted approval to advertise a Public Hearing to consider adoption of an Ordinance amending Section 2-59(a) and (b) and creating 2-59 (d) Monroe County Code authorizing the County Attorney and Assistant County Attorneys to accept service of process on behalf of the County in limited circumstances.

Item R4 Board granted approval of Third Amendment to Lease Agreement extending the lease for office space for the County Attorney's Office for one (1) year to expire August 31, 2014.

Item R5 Board adopted the following Resolution granting approval of amendment to Board of County Commissioners Administrative Procedures Section 1.03(i) allowing ex-parte communication pursuant to Ordinances No. 035-2010 and No. 012-2013.

**RESOLUTION NO. 150-2013**

Said Resolution is incorporated herein by reference.

Motion carried unanimously.

**COUNTY ADMINISTRATOR**

Item Q5 Wendy Blondin, Project Manager representing AMEC and Rhonda Haag, Sustainability Program Manager addressed the Board concerning approval of a Contract with AMEC Environment & Infrastructure, Inc. in the amount of \$37,725; to perform an extensive analysis of the existing canal documentation, conduct field visits to the estimated 502 canals in the County, recommend the top 15 proposed demonstration sites, and in coordination with the County and the Canal Restoration Subcommittee recommend the final estimated five (5) demonstration projects to be designed and constructed. After discussion, motion was made by Commissioner Rice and seconded by Commissioner Murphy granting approval of the item. Motion carried unanimously.

The Board of County Commissioners meeting adjourned for the Board of Governors for the Fire and Ambulance District I meeting.

**FIRE & AMBULANCE DISTRICT 1  
BOARD OF GOVERNORS**

The Board of Governors for the Fire and Ambulance District I convened. Present and answering to roll call were Commissioner Danny Kolhage, Mayor George Neugent, Commissioner David P. Rice, Councilman Clark Snow and Mayor Norman Anderson.

James Callahan, Fire Chief advised the Board that the Conch Key Fire Station should be ready later this month or the first of next month; and that Stock Island Fire Station is ahead of schedule.

Item G2 James Callahan, Fire Chief addressed the Board concerning approval of the First Renewal Agreement between the Board of County Commissioners, Board of Governors of Fire and Ambulance District 1 of Monroe County, and Advanced Data Processing, Inc. (d.b.a. ADPI-Intermedix), effective from June 1, 2013 through May 31, 2014, for ground and air rescue transport billing and related professional services. After discussion, motion was made by Commissioner Rice and seconded by Councilman Snow granting approval of the item. Motion carried unanimously.

Item G3 James Callahan, Fire Chief addressed the Board concerning a request to issue a Request for Proposal (RFP) for maintenance of Monroe County fire rescue vehicles. After discussion, motion was made by Commissioner Kolhage and seconded by Councilman Snow granting approval of the item. Motion carried unanimously.

There being no further business, the meeting of Board of Governors for the Fire and Ambulance District I was adjourned.

\* \* \* \* \*

The Board of County Commissioners meeting reconvened with all Commissioners present.

### **MISCELLANEOUS BULK APPROVALS**

Item C1 Bob Ward, Information Technology Director and Bob Shillinger, County Attorney addressed the Board concerning approval of a Comcast Enterprise Services Master Services Agreement FL-278919-dkeen for sixty (60) months with Comcast Cable Communications Management, LLC, and associated First Amendment to Comcast Enterprise Services Master Services Agreement No. FL-278919-dkeen outlining the terms and conditions under which the BOCC will purchase offered services from Comcast. After discussion, motion was made by Commissioner Carruthers and seconded by Commissioner Murphy granting approval of the item. Motion carried unanimously.

Item C2 Motion was made by Commissioner Kolhage and seconded by Commissioner Murphy granting approval of a Comcast Enterprise Services Sales Order Form # FL-278919-dkeen-240376 as an addendum to Comcast Enterprise Services Master Services Agreement FL-278919-dkeen with associated First Amendment to Comcast Enterprise Services Master Services Agreement No. FL-278919-dkeen to provide Comcast wide area Ethernet services at the Monroe County Attorney's Office at 1111 12th Street Key West FL 33040 at speed of 50 Mb/s and wide area Ethernet services at the Harvey Government Center at 1200 Truman Ave Key West FL 33040 at a speed of 100 Mb/s. Total cost for 36 month term is \$58,464. Motion carried unanimously.

## **ENGINEERING**

Item N1 Kevin Wilson, Public Works & Engineering Director introduced James Bobat, representing the Duck Key Property Owners Association. Mr. Bobat addressed the Board concerning the appeal by the Duck Key Property Owners Association (DKPOA) of denial of a right of way permit to landscape on county rights-of-way near various wastewater lift stations. Bob Shillinger, County Attorney addressed the Board.

After discussion, motion was made by Commissioner Rice and seconded by Commissioner Murphy directing staff to do an Ordinance change and amend it with the appropriate restrictions. Motion carried unanimously.

Bob Shillinger, County Attorney advised the Board that this is the one type of quasi-judicial hearing, in which they are engaged, that is not covered by the ex parte disclosure Ordinance that is in place for land use issues. Mr. Shillinger asked if anyone had discussions with anyone outside of the record here today, to disclose what they are and if they've affected their decision here today. Commissioner Rice advised that he discussed it with Kevin Wilson and staff; and Commissioner Carruthers advised that she had discussions with Mr. Hunter about the general concept regarding the lift stations. Both Commissioners indicated that those conversations did not affect their decisions here today. Mr. Shillinger also advised that if any person wished to appeal this decision, they would have to make a transcript and have it prepared by a certified court reporter at their own expense. It would be made part of the record on appeal, and that the transcript from recordings does not provide sufficiently accurate records.

After further discussion, Item N1 was continued to the June meeting in Marathon, with direction to staff to develop an agreement with the Duck Key Property Owner's Association.

## **COMMISSIONERS' ITEMS**

Item O1 Dr. Aaron Adams made a presentation of the Economic Study, with the results of the Bonefish Tarpon foundation value of the fishery to Monroe County, partially funded by the Board of County Commissioners.

## **MISCELLANEOUS BULK APPROVALS**

Item C3 Motion was made by Commissioner Kolhage and seconded by Commissioner Rice granting approval of the First Renewal Agreement between the Board of County Commissioners of Monroe County and the Board of Governors of Fire and Ambulance District 1 with Advanced Data Processing, Inc. (d.b.a. ADPI-Intermedix), effective from June 1, 2013 through May 31, 2014, for ground and air rescue transport billing and related professional services. Motion carried unanimously.

Item C42 Kevin Wilson, Public Works & Engineering Director addressed the Board concerning approval of sale of County property to Islamorada, Village of Islands, legally described as Lot 1, 2, and 24, Block 11 of Key Heights Section Two, (RE#00417340-000000), located at 103 Key Heights Drive, Islamorada, at the NW corner of the intersection of US-1 and

Key Heights Drive for use as a sewer pump station by the Village; and adopted the following Resolution authorizing the sale as prescribed by statute, the purchase and sale contract with the Village, and execution of deed, seller's affidavit, and other documents as required for completion of the transaction as approved by the County Attorney. The proposed net sales price including transfer of the eight (8) Transient Residential Units (TRU) that are legally established on the property is \$510,000. After discussion, motion was made by Commissioner Kolhage and seconded by Commissioner Carruthers to accept staff recommendations with a reduction of 10%, the selling price will be \$477,000 with the \$20,000 allowance for cleanup to be taken at closing and correcting all of the documents with the adjusted price. Ted Blackburn, Vice Mayor, Islamorada Village of Islands addressed the Board. Roll call vote was taken with the following results:

Commissioner Carruthers	Yes
Commissioner Kolhage	Yes
Commissioner Murphy	No
Commissioner Rice	Yes
Mayor Neugent	No

Motion carried.

#### **RESOLUTION NO. 151-2013**

Said Resolution is incorporated herein by reference.

Item C5 James Callahan, Fire Chief addressed the Board concerning approval of the Renewal Agreement between the Board of County Commissioners of Monroe County and J. A. LaRocco Enterprises, Inc. for the installation of fire hydrants in unincorporated Monroe County using Ad Valorem taxes, Impact Fees, and other funding sources such as grants, private donations, etc. After discussion, the item was withdrawn and staff was directed to go out for bid.

#### **STAFF REPORTS**

Item E7 Intergovernmental Affairs - Lisa Tennyson, Director Legislative Affairs & Grants Acquisition updated the Board on important amendments made to legislation pertaining to the Growth Management Division; and advised the Board on late legislation pertaining to the RESTORE Act.

#### **COUNTY ADMINISTRATOR**

Item Q7 Elizabeth Young, Executive Director of Florida Keys Council of the Arts addressed the Board concerning approval of policy and procedure under which gifts or loans of Art may be donated to Monroe County. After discussion, motion was made by Commissioner Murphy and seconded by Commissioner Rice to adopt the following Resolution. Motion carried unanimously.

#### **RESOLUTION NO. 152-2013**

Said Resolution is incorporated herein by reference.

## **MONROE COUNTY SHERIFF DEPARTMENT**

Item K2 Lisa Tennyson, Director Legislative Affairs & Grants Acquisition addressed the Board concerning approval of the Fiscal Year 2013 recommendations of the Monroe County Shared Asset Forfeiture Fund Advisory Board. Said recommendations are incorporated herein by reference. After discussion, motion was made by Commissioner Carruthers and seconded by Commissioner Murphy that they be funded as recommended, except no more than their funding request. Motion carried unanimously.

### **COUNTY ADMINISTRATOR**

Item Q1 Roman Gastesi, County Administrator introduced Wanda Reina, Senior Code Compliance Inspector, Upper Keys. Mr. Gastesi referred the Board to his written report dated April 30, 2013. Kevin Wilson, Public Works & Engineering Director and Christine Hurley, Growth Management Director addressed the Board. Board discussed the timetable on creating the prioritization list of projects.

### **COUNTY ATTORNEY**

Item R6 Bob Shillinger, County Attorney addressed the Board concerning direction regarding Florida Power and Light Company Turkey Point Units 6 and 7 Power Plant siting hearings. Mr. Shillinger advised that there are some public hearings coming up regarding the on-going regulatory litigation over the siting of the nuclear power plants at Turkey Point, starting around July 8<sup>th</sup> and continuing through to August 9<sup>th</sup>. Mr. Shillinger wanted to alert the public to the public hearings in the event that they may testify before the Administrative Hearing Officer on July 17<sup>th</sup>, 23<sup>rd</sup> and 25<sup>th</sup>. Steven D. Scroggs, Senior Director Project Development, Florida Power & Light gave a short presentation on what their project is. Board directed the County Attorney's Office to participate in the hearings.

### **COUNTY ADMINISTRATOR**

Item Q4 Roman Gastesi, County Administrator and Rhonda Haag, Sustainability Program Manager addressed the Board concerning approval for Monroe County Board of County Commissioners to execute Amendment No. 1 to a Contract with the Redman Consulting Group, Inc. for consulting services related to the waste management and recycling contracts to provide additional funding in the amount of \$5,000. After discussion, motion was made by Commissioner Rice and seconded by Commissioner Kolhage granting approval of the item. Motion carried unanimously.

### **WASTEWATER ISSUES**

Item J1 Kevin Wilson, Public Works & Engineering Director addressed the Board concerning adoption of a Resolution approving the form of a Clean Water State Revolving Fund Construction Loan Agreement with the Florida Department of Environmental Protection (FDEP); authorizing execution and delivery of such agreement; and authorizing the institution of

a bond validation proceeding with respect to the debt obligation to be incurred in connection with the loan agreement to finance the Cudjoe Regional Wastewater Treatment project as described in the Facilities Plan. The following individual addressed the Board: Steve Gibbs. After discussion, motion was made by Commissioner Rice and seconded by Commissioner Murphy to adopt the following Resolution. Motion carried unanimously.

**RESOLUTION NO. 153-2013**

Said Resolution is incorporated herein by reference.

Item J2 A Public Hearing was held to consider adoption of the Cudjoe Regional Wastewater Supplemental Assessment Program Initial Assessment Resolution describing the method of assessment for the Inner Island expansion areas and properties developed subsequent to adoption of the Inner Island assessment resolution on July 18, 2012 based on permits issued by Monroe County Building Department. Kevin Wilson, Public Works & Engineering Director; Roman Gastesi, County Administrator; and Bob Shillinger, County Attorney addressed the Board. There was no public input. After discussion, motion was made by Commissioner Murphy and seconded by Commissioner Carruthers to adopt the following Resolution. Motion carried unanimously.

**RESOLUTION NO. 154-2013**

Said Resolution is incorporated herein by reference.

Kevin Wilson, Public Works & Engineering Director advised that the Final Assessment Resolution Hearing will be held on June 19, 2013, at 3:00 p.m.

Item J3 A Public Hearing was held to consider adoption of the Cudjoe Regional Wastewater Supplemental Assessment Program Initial Assessment Resolution describing the method of assessment for the Outer Island expansion areas and properties developed subsequent to adoption of the Outer Island assessment resolution on July 18, 2012 based on permits issued by Monroe County Building Department. There was no public input. Motion was made by Commissioner Murphy and seconded by Commissioner Rice to adopt the following Resolution. Motion carried unanimously.

**RESOLUTION NO. 155-2013**

Said Resolution is incorporated herein by reference.

Item J4 A Public Hearing was held to consider adoption of the Cudjoe Regional Wastewater Supplemental Assessment Program Initial Assessment Resolution describing the method of assessment for the Venture Out parcels that were coded as vacant properties and, therefore, not included in Resolution 197-2012 for the Inner Islands of the Cudjoe Regional Centralized Wastewater Treatment System adopted on July 18, 2012. F.S. 718-120 states that each condominium parcel should be separately assessed. A separate billing was mailed to these properties in November 2012. There was no public input. Motion was made by Commissioner Murphy and seconded by Commissioner Rice to adopt the following Resolution. Motion carried unanimously.

### **RESOLUTION NO. 156-2013**

Said Resolution is incorporated herein by reference.

Item J5 A Public Hearing was held to consider adoption of the Big Coppitt/Duck Key Supplemental Assessment Program Initial Assessment Resolution describing the method of assessment for the Big Coppitt/Duck Key properties developed subsequent to adoption of Resolution 302-2007 in 2007 for the Big Coppitt and Duck Key Municipal Service Taxing Units based on permits issued by Monroe County Building Department. There was no public input. Motion was made by Commissioner Murphy and seconded by Commissioner Kolhage to adopt the following Resolution. Motion carried unanimously.

### **RESOLUTION NO. 157-2013**

Said Resolution is incorporated herein by reference.

Item J6 Motion was made by Commissioner Rice and seconded by Commissioner Murphy granting approval to execute Amendment 4 with Government Services Group, Inc. (GSG) for the development and administration of the Non-Ad Valorem Assessment Program for Centralized Cudjoe Regional Supplemental Services (Vacant Venture Out with Water Service, Expanded Areas as of 16 January 2013, and Pre-Capacity Fee Development). Kevin Wilson, Public Works & Engineering Director addressed the Board. After discussion, the motion carried unanimously.

### **EMPLOYEE SERVICES**

Item M1 Sid Webber, Insurance Consultant with Interisk gave an update on additional insurance coverage with Citizens Property Insurance and request to rescind Board action of August 15, 2012 granting approval to purchase increased Primary Wind coverage based on recent appraisal. After discussion, motion was made by Commissioner Carruthers and seconded by Commissioner Kolhage granting approval of the item. Motion carried unanimously.

### **DIVISION OF GROWTH MANAGEMENT**

Item II Christine Hurley, Growth Management Director; and Michael Davis and John Abbott, representing Keith & Schnars addressed the Board concerning the results of the "Analysis of Coastal Barrier Resources System Policies and Regulations in Monroe County, Florida", the data and analysis, prepared by Keith and Schnars, P.A., regarding the Coastal Barrier Resources System (CBRS) and the County's CBRS Comprehensive Plan policies and Land Development Code (LDC). The following individuals addressed the Board: Hallett Douville, Anne Press, representing Solar's Smart Company; Alicia Putney, representing the Solar Community of No Name Key; Kandy Kimble, Kathy Brown, representing the No Name Key Property Owner's Association, Inc.; Beth Ramsey-Vickrey, Andrew Tobin, and Deb Curlee, representing Last Stand. Bob Shillinger, County Attorney addressed the Board. After discussion, motion was made by Commissioner Rice and seconded by Commissioner Kolhage directing staff to implement the Keith & Schnars report and phased recommendations. Roll call vote was taken with the following results:

Commissioner Carruthers	Yes
Commissioner Kolhage	Yes
Commissioner Murphy	No
Commissioner Rice	Yes
Mayor Neugent	Yes

Motion carried.

### **PUBLIC HEARINGS**

Item S1 A Public Hearing was held to consider adoption of a Resolution by the Board of County Commissioners to amend Resolution No. 332-2012, the Planning & Environmental Resources Fee Schedule to establish a new fee for a letter of understanding related only to identifying the status of a nonconforming use in that such a letter requires less staff time to prepare than a typical letter of understanding; and repeal any other fees schedules inconsistent herewith. There was no public input. Motion was made by Commissioner Murphy and seconded by Commissioner Kolhage to adopt the following Resolution. Motion carried unanimously.

#### **RESOLUTION NO. 158-2013**

Said Resolution is incorporated herein by reference.

Item S2 A Public Hearing was held to consider adoption of an Ordinance amending Monroe County Code Chapter 23, Article III, Section 23-78, Forms, etc. and Section 23-111, Vending machines, in order to eliminate the issuance of paper business tax receipts and stickers and decals, as well as remove the requirements that the aforementioned receipts be displayed at the place of business or on the vending machines. There was no public input. After discussion, motion was made by Commissioner Murphy and seconded by Commissioner Rice to adopt the following Ordinance. Motion carried unanimously. Bob Shillinger, County Attorney addressed the Board.

#### **ORDINANCE NO. 021-2013**

Said Resolution is incorporated herein by reference.

### **DIVISION OF GROWTH MANAGEMENT**

Item I2 Christine Hurley, Growth Management Director addressed the Board concerning the Key Largo Wastewater Treatment District CR-905 improvement project relative to the Coastal Barrier Resources System (CBRS) Unit #FL-35 and the expenditure of federal funds. After discussion, motion was made by Commissioner Murphy and seconded by Commissioner Rice directing staff to prepare a revised letter to send to the Executive Director of the Key Largo Wastewater Treatment District that explains that the current policies do not permit us to issue the permits, but that the Board has directed staff to move forward with the Code amendment related to that and to include those timelines. Motion carried unanimously.

## COUNTY ADMINISTRATOR

Item Q8 Lisa Tennyson, Director Legislative Affairs & Grants Acquisition addressed the Board concerning approval of RESTORE Act Local Committee and project award process titled *Monroe County RESTORE Act Discussion of Guiding Principles and Ranking Criteria for "Local Pot", prepared by the Office of Management & Budget, dated May 15, 2013.* Ms. Tennyson advised the Board that first meeting of the RESTORE Act Local Committee will meet tomorrow in Marathon at 11:00 a.m. After discussion, motion was made by Commissioner Rice and seconded by Commissioner Carruthers to use the Guiding Principles and Ranking Criteria as a starting point for discussion with the advisory panel and that staff will bring them back for final approval after they have that input. Motion carried unanimously.

## COUNTY ATTORNEY

Item R7 Bob Shillinger, County Attorney gave the Board a Report on the May 14, 2013 hearing before the Public Service Commission in the matter of Reynolds v. Utility Bd. of the City of KW d/b/a Keys Energy Services, PSC Docket No. 120054-EM. The following individuals addressed the Board: Alicia Putney, representing the Solar Community of No Name Key; John Lentini, Deb Curlee, representing Last Stand; Bart Smith, representing Robert & Juli Reynolds; and Andrew Tobin, representing No Name Property Owners Association. After discussion, motion was made by Commissioner Rice and seconded by Commissioner Kolhage that the County 1) not appeal the decision of the Public Service Commission to the extent that it represents the staff recommendation of the Public Service Commission; 2) to the extent possible by law treat the PSC decision as a final decision in the matter; 3) in the event that a Writ of Mandamus is sought to provide permits for electrical service on No Name Key by the Reynolds the Newtons or any other similarly situated property owners that the county staff is directed to not oppose the entry of Writ with the following conditions; a) that any Writs seek no relief beyond the findings and orders of the PSC that as enunciated by the PSC staff recommendation and that any Writ seek no relief beyond the granting of electrical connection permits to private residences on No Name Key; and 4) we institute no further appeals of any existing litigation and not oppose any person currently appealing any county decisions denying electrical service to persons on No Name Key. Roll call vote was taken with the following results:

Commissioner Carruthers	No
Commissioner Kolhage	Yes
Commissioner Murphy	No
Commissioner Rice	Yes
Mayor Rice	Yes

Motion carried.

## PUBLIC HEARINGS

Item T1 The second of two Public Hearings was held to consider adoption of an Ordinance by the Monroe County Board of County Commissioners amending the Monroe County Code by

establishing 2 Commercial Districts; amending Section 130-2, Land Use Districts Established; creating Section 130-51, Purpose of the Commercial 1 District (C1); creating Section 130-52, Purpose of the Commercial 2 District (C2); creating, within Article III Permitted and Conditional uses, Section 130-102, Commercial 1 District (C1), and Section 130-103, Commercial 2 District (C2); and amending Section 130-164, Maximum Nonresidential Land Use Intensities and District Open Space. There was no public input. Motion was made by Commissioner Carruthers and seconded by Commissioner Kolhage to adopt the following Ordinance. Motion carried unanimously.

**ORDINANCE NO. 022-2013**

Said Resolution is incorporated herein by reference.

Item T2 A Public Hearing was held to consider adoption of an Ordinance by the Monroe County Board of County Commissioners amending the Monroe County Code to include the Commercial 1 (C1) and Commercial 2 (C2) land use districts within the following sections: Section 114-20 Fences; Section 114-99 Required Landscaping; Section 114-126 District Boundary Buffers; Section 114-127 Required Scenic Corridor and Major Street Buffers; Section 130-186 Minimum Yards; Section 142-4 Signs Requiring a Permit and Specific Standards; Chapter 146, entitled "Wireless Communications Facilities," Section 146-3 Applicability, Section 146-4 Uses by Land Use District, and Section 146-5 Development Standards; Referencing C1 and C2 land use districts where appropriate. There was no public input. Motion was made by Commissioner Kolhage and seconded by Commissioner Rice to adopt the following Ordinance. Motion carried unanimously.

**ORDINANCE NO. 023-2013**

Said Resolution is incorporated herein by reference.

**COUNTY ATTORNEY**

Item R1 Bob Shillinger, County Attorney discussed the redacted inspection report from the Florida Department of Transportation on the Old Seven Mile Bridge. Motion was made by Commissioner Kolhage and seconded by Commissioner Rice to authorize the County Attorney's Office to file an action in the Circuit Court seeking a court order authorizing the County to release unredacted copies to the Department of Transportation inspection reports of the Old Seven Mile Bridge for a showing of good cause. Motion carried unanimously. Kevin Wilson, Public Works & Engineering Director addressed the Board.

Item R2 Bob Shillinger, County Attorney read the required language into the record requesting approval to hold an Attorney-Client Closed Session in the matter of KW Resort Utilities Corp. v. Monroe County, PSC Docket No. 130086-SU at the June 19, 2013 BOCC meeting in Marathon, FL at 1:30 p.m. or as soon thereafter as may be heard. Motion was made by Commissioner Kolhage and seconded by Commissioner Carruthers granting approval of the item. Motion carried unanimously. Kevin Wilson, Public Works & Engineering Director addressed the Board.

There being no further business, the meeting of the Board of County Commissioners was adjourned.

Amy Heavilin, CPA, Clerk  
and ex-officio Clerk to the  
Board of County Commissioners  
Monroe County, Florida

*Pamela J. Hancock, D.C.*



**MEMORANDUM**  
**MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT**

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

**From:** Emily Schemper, Senior Planner

**Date:** June 20, 2013

**Subject:** *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-158, IMPROVED SUBDIVISION AND COMMERCIAL FISHING VILLAGE DISTRICT DENSITIES, AND SECTION 130-159, URBAN RESIDENTIAL—MOBILE HOME DISTRICT DENSITY; TO REMOVE SUBSECTIONS REDUCING DENSITY FOR CONTIGUOUS LOTS UNDER COMMON OWNERSHIP TO BE CONSISTENT WITH THE ALLOCATED DENSITY PROVISIONS WITHIN THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN AND THE LAND DEVELOPMENT CODE; AND TO ELIMINATE POTENTIAL FOR INEQUITABLE ENFORCEMENT; 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:** June 25, 2013

## **I. REQUEST**

This is a request from the Planning & Environmental Resources Department to amend §130-158 and §130-159 of the Monroe County Code (MCC) to remove subsections which eliminate the density associated with a platted lot by the simple act of a property owner purchasing two contiguous Improved Subdivision (IS), Urban Residential Mobile Home (URM), or Commercial Fishing Village (CFV) lots on any date after September 15, 1986.

## **II. RELEVANT PRIOR COUNTY ACTIONS**

On May 16, 2013, the Senior Director of Planning & Environmental Resources issued Administrative Interpretation #2013-01, directing staff to not enforce the provisions of MCC §130-158(b) and §130-159(b) due to issues with their inequity, and possible legality.

### III. REVIEW

The adopted sections of MCC under review read as follows:

**Sec. 130-158. Improved subdivision and commercial fishing village district densities.**

(a) Notwithstanding the density limitations of section 130-157, the owner of a lot in an improved subdivision district or commercial fishing village district shall be entitled to develop a single-family detached dwelling on the lot, provided that:

- (1) The lot has sufficient land area and dimensions to meet the requirements for the installation of on-site wastewater treatment systems;
- (2) The lot was a lawful buildable lot eligible for a building permit on the effective date of the ordinance from which this chapter is derived; and
- (3) The development of a single-family detached dwelling on the lot conforms to each and every other requirement of the plan.

(b) In the event contiguous lots are owned in common ownership on or after the effective date of the ordinance from which this chapter is derived, the owner thereof shall be entitled to one unit per two lots or 12,500 square feet of land area, exclusive of rights-of-way, whichever area is less, provided that in no event shall a landowner be entitled to more dwelling units than buildable lots were provided for in the plat as originally approved by the county and filed with the clerk of the court.

**Sec. 130-159. Urban residential—mobile home district density.**

(a) Notwithstanding the density limitations of section 130-157, the owner of a lot in an urban residential—mobile home district shall be entitled to develop a dwelling on the lot, provided that:

- (1) The lot has sufficient land area and dimensions to meet the requirements of F.A.C. ch. 64E-6 for the installations of on-site wastewater treatment systems;
- (2) The lot was a lawful buildable lot eligible for a building permit on the effective date of the ordinance from which this chapter is derived; and
- (3) The development of a single-family detached dwelling on the lot conforms to each and every other requirement of the plan.

(b) In the event contiguous lots are owned in common ownership on or after the effective date of the ordinance from which this chapter is derived, the owner thereof shall be entitled to one unit per two lots or 8,000 square feet of land area, exclusive of rights-of-way, whichever area is less; provided that in no event shall a landowner be entitled to more dwelling units than buildable lots were provided for in the plat as originally approved by the county and filed with the clerk of the court.

Density is regulated by the adopted Comprehensive Plan (CP) and the adopted Monroe County Code (MCC). Consistent with CP Policy 101.4.21, MCC §130-157 states that the residential allocated density for the IS and URM land use districts is 1 dwelling unit per lot (with no maximum net density assigned). There is not a density for CFV assigned in MCC §130-157; however controlling CP Policy 101.4.21 specifies that the allocated density for the CFV district is 1 dwelling unit per lot (with no maximum net density available).

In most communities, withstanding compliance with other regulations, a property owner may reasonably presume there is adequate residential density associated with each platted lot within a platted subdivision.

MCC §130-158(b) and §130-159(b) state that, “in the event contiguous lots are owned in common ownership on or after [September 15, 1986], the owner thereof shall be entitled to one unit per two lots or 12,500 square feet of land area, exclusive of rights-of-way, whichever area is less.”

Effectively, if applied, this regulation eliminates the density associated with a platted lot by the simple act of a property owner purchasing two contiguous IS, URM, or CFV lots on any date after September 15, 1986.

It should be noted for IS lots that are also designated Residential Medium (RM), §130-158(b) is inconsistent with CP Policy 101.4.3 that in part states “Development on vacant land within [the RM] category shall be limited to one residential dwelling unit for each such platted lot or parcel which existed at the time of plan adoption.”

This regulation is not dependent on any development application. Therefore, a property owner may purchase two lots with reasonable intent to develop two dwelling units only to find out upon building permit submittal that one of the lots is unbuildable.

It is not common practice for a regulatory body to eliminate the density associated with a platted lot with directly informing the property owner (via a building permit condition, unity of title requirement, etc.). In addition, it is an unreasonable expectation for a regulatory body to assume that 1) all potential property owners are aware of such an ambiguous regulation and 2) all potential property owners of IS, URM and CFV lots should carry out a title search for every contiguous lot to determine if a contiguous lot was once under common ownership. Further, since MCC §130-158(b) and §130-159(b) were adopted into code, the County has done no outreach to inform the community of this financially damaging restriction.

There are also systematic issues for planners who may in good intent try to apply MCC §130-158(b) and §130-159(b). It is impractical, difficult and, in some cases, impossible, for staff to research the past ownership of a lot as 1) Growth Management staff does not have readily available access to all documents recorded with the Clerk of Courts; 2) not all ownership documents are recorded with the Clerk of Courts, and 3) recent real estate transactions are not immediately recorded or available for review. Further, even if such information was readily available and complete, it would be a time consuming task to research real estate transactions for each building permit application for a new dwelling unit on a platted lot (as well as research real estate transactions for every contiguous lot thereto).

As a result, staff would ultimately enforce MCC §130-158(b) and §130-159(b) in an inequitable manner. Such would violate the principles of good planning related to equity and be inconsistent with MCC §101-3(b), which provides the purpose of the LDC, which states “**in order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly and progressive development of the unincorporated areas of the county, it is the intent of this chapter that the development process in the county be efficient, in terms of time and expense; effective, in terms of addressing the natural resource and public facility implications of proposed development; and equitable, in terms of consistency with**

**established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the county.”**

In addition, for IS lots designated RM on the future land use map (of which the majority are designated such) MCC §130-158(b) is in direct conflict with CP Policy 101.4.3 which states that development should be limited to one dwelling unit per lot.

#### **IV. PROPOSED AMENDMENT**

Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and additions are underlined):

##### **Sec. 130-158. Improved subdivision and commercial fishing village district densities.**

(a) Notwithstanding the density limitations of section 130-157, the owner of a lot in an improved subdivision district or commercial fishing village district shall be entitled to develop a single-family detached dwelling on the lot, provided that:

- (1) The lot has sufficient land area and dimensions to meet the requirements for the installation of on-site wastewater treatment systems;
- (2) The lot was a lawful buildable lot eligible for a building permit on the effective date of the ordinance from which this chapter is derived; and
- (3) The development of a single-family detached dwelling on the lot conforms to each and every other requirement of the plan.

~~(b) In the event contiguous lots are owned in common ownership on or after the effective date of the ordinance from which this chapter is derived, the owner thereof shall be entitled to one unit per two lots or 12,500 square feet of land area, exclusive of rights of way, whichever area is less, provided that in no event shall a landowner be entitled to more dwelling units than buildable lots were provided for in the plat as originally approved by the county and filed with the clerk of the court.~~

##### **Sec. 130-159. Urban residential—mobile home district density.**

(a) Notwithstanding the density limitations of section 130-157, the owner of a lot in an urban residential—mobile home district shall be entitled to develop a dwelling on the lot, provided that:

- (1) The lot has sufficient land area and dimensions to meet the requirements of F.A.C. ch. 64E-6 for the installations of on-site wastewater treatment systems;
- (2) The lot was a lawful buildable lot eligible for a building permit on the effective date of the ordinance from which this chapter is derived; and
- (3) The development of a single-family detached dwelling on the lot conforms to each and every other requirement of the plan.

~~(b) In the event contiguous lots are owned in common ownership on or after the effective date of the ordinance from which this chapter is derived, the owner thereof shall be entitled to one unit per two lots or 8,000 square feet of land area, exclusive of rights of way, whichever area is less; provided that in no event shall a landowner be entitled to more dwelling units than buildable lots were provided for in the plat as originally approved by the county and filed with the clerk of the court.~~

## **V. STAFF RECOMMENDATION**

Staff has found that the proposed text amendment would be consistent with one or more of the required 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 new issues and recognition of a need for additional detail or comprehensiveness.

Staff has found that the proposed text amendments would be consistent with the Monroe County Year 2010 Comprehensive Plan, the Florida Keys Principles for Guiding Development, and Sections 163.3194, 163.3201 and 163.3202, Florida Statute.

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

## **VI. EXHIBITS**

1. Monroe County Code §130-157. Maximum residential density and district open space.
2. Comprehensive Plan Policies
3. Consistency with the Florida Keys Principles for Guiding Development, Comprehensive Plan and Florida Statutes

## Exhibit 1

### Monroe County Code - Section 130-157. Maximum residential density and district open space.

The maximum residential density and district open space shall be in accordance with the following table:

<i>Land Use District</i>	<i>Allocated Density DU/Acre</i>	<i>Maximum Net Density DU/Buildable Area</i>	<i>Open Space Ratio*</i>
Urban commercial	6.0	12.0	0.2
Urban residential	6.0	12.0	0.2
(Affordable housing)	6.0	25.0	0.2
(Employee housing)	6.0	25.0	0.2
<b>Urban residential mobile home (URM)</b>	<b>1/lot</b>	<b>0</b>	<b>0.2</b>
Mobile home parks per section 101-1	5.0	7.0	0.2
URM-limited	1/lot	0	0.2
Suburban commercial	3.0	6.0	0.2
(Employee housing)	3.0	15.0	0.2
Suburban residential	0.5	5.0	0.5
Suburban residential LTD	0.5	3.0	0.5
Sparsely settled	0.5	0	0.8
Native	0.25	0	*
Mainland native	0.01	0	0.99
Offshore island	0.1	0	0.95
<b>Improved subdivision</b>	<b>1/lot</b>	<b>0</b>	<b>0.2</b>
Commercial fishing**	3.0	12.0	0.2
Destination resort	1.0	18.0	0.2

Industrial	1.0	2.0	0.2
Maritime industry	1.0	2.0	0.2
Mixed use	1.0	12.0	0.2
(Affordable housing)	1.0	18.0	0.2
(Employee housing)	1.0	18.0	0.2
Military facility	6.0	12.0	0.2
Park and refuge	0.25	0	0.9
*See additional open space ratios in chapter 118; in accordance with section 101-2(1), the most restrictive of these ratios applies.			
**The allocated and maximum net densities listed in this table do not apply to CFSD-20 (Little Torch). See section 130-79(14)c. for residential densities.			

## Exhibit 2

### Monroe County Year 2010 Comprehensive Plan – Relevant Adopted Policies

#### 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. [9J-5.006(3)(c) 1 and 7]

#### Policy 101.4.21

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 <sup>(b)</sup> (per acre)	Maximum Net Density <sup>(a)(b)(i)</sup> (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) <sup>(h)</sup> (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
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) <sup>(h)</sup> (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) <sup>(h)</sup> (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) <sup>(g)(i)</sup> (SC, UC, DR, RV, MU and MI zoning)	1-6 du 5-15 rooms/spaces 1 du (MI zoning)	2-18 du 10-25 rooms/spaces 2 du (MI zoning)	0.10-0.45 (SC, UC, DR, RV, and MU zoning)  0.30-0.60 (MI zoning)
Mixed Use/Commercial Fishing (MCF) <sup>(g)</sup> (CFA, CFV <sup>(c)</sup> , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40

Public Facilities (PF) <sup>(h)</sup> (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) <sup>(h)</sup> (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 <sup>(d)</sup> , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
<b>Residential Medium (RM)</b> <b>(IS zoning)</b>	approx. 0.5-8 du <b>(1 du/lot)</b> 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D <sup>(e)</sup> , URM <sup>(e)</sup> , and UR <sup>(f)</sup> 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.
- (j) A mixture of uses shall be maintained for parcels designated as MI zoning district that are within the MC future land use category. Working waterfront and water dependent uses, such as marina, fish house/market, boat repair, boat building, boat storage, or other similar uses, shall comprise a minimum of 35% of the upland area of the property, pursuant to Policy 101.4.5.

## Exhibit 3

### Consistency Review

**1. The proposed amendment to remove subsection (b) from Monroe County Code (MCC) §130-158 and §130-159 to be consistent with the allocated density provisions within the Monroe County Year 2010 Comprehensive Plan and the Land Development Code, and to eliminate potential for inequitable enforcement is consistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statute.**

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

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
  - 4. The Florida Keys Aqueduct and water supply facilities;
  - 5. Sewage collection, treatment, and disposal facilities;
  - 6. Solid waste treatment, collection, and disposal facilities;
  - 7. Key West Naval Air Station and other military facilities;
  - 8. Transportation facilities;
  - 9. Federal parks, wildlife refuges, and marine sanctuaries;
  - 10. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
  - 11. City electric service and the Florida Keys Electric Co-op; and
  - 12. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.

- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

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

**2. The proposed amendment to remove subsection (b) from Monroe County Code (MCC) §130-158 and §130-159 to be consistent with the allocated density provisions within the Monroe County Year 2010 Comprehensive Plan and the Land Development Code, and to eliminate potential for inequitable enforcement is consistent with the adopted Comprehensive Plan as described in the staff report.**

**3. The proposed amendment to remove subsection (b) from Monroe County Code (MCC) §130-158 and §130-159 to be consistent with the allocated density provisions within the Monroe County Year 2010 Comprehensive Plan and the Land Development Code, and to eliminate potential for inequitable enforcement is consistent with Part II of Chapter 163, Florida Statute (F.S.). Specifically, the amendment furthers:**

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

163.3161(10), F.S. - It is the intent of the Legislature that all governmental entities in this state recognize and respect judicially acknowledged or constitutionally protected private property rights. It is the intent of the Legislature that all rules, ordinances, regulations, comprehensive plans and amendments thereto, and programs adopted under the authority of this act must be developed, promulgated, implemented, and applied with sensitivity for private property rights and not be unduly restrictive, and property owners must be free from actions by others which would harm their property or which would constitute an inordinate burden on property rights as those terms are defined in s. 70.001(3)(e) and (f). Full and just compensation or other appropriate relief must be provided to any property owner for a governmental action that is determined to be an invalid exercise of the police power which constitutes a taking, as provided by law. Any such relief must ultimately be determined in a judicial action.

163.3194(1)(b), F.S. – All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

163.3194(3)(a), F.S. – A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

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

163.3202(2), F.S. - Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

- (a) Regulate the subdivision of land.
- (b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
- (c) Provide for protection of potable water wellfields.
- (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
- (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
- (f) Regulate signage.
- (g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government's comprehensive plan.
- (h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

- (i) Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: The Development Review Committee and  
Townasley Schwab, Sr. Director of Planning & Environmental Resources

From: Timothy Finn, Planner *T.F.*

Date: June 24, 2013

Subject: *Request for a Minor Conditional Use Permit for the Transfer of a ROGO Exemption (TRE) from a sender site on Big Pine Key to a receiver site on Saddlebunch Key (File #2012-154)*

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**Meeting: June 25, 2013**

---

1 I REQUEST:

2  
3 The applicant is requesting a minor conditional use permit approving the Transfer of a  
4 ROGO Exemption (TRE) from a sender site located on Big Pine Key to a receiver site  
5 located on Saddlebunch Key. The TRE is associated with a lawfully established RV space (a  
6 type of transient residential unit) that had previously existed on the sender site. If this  
7 application is approved, the TRE will be utilized to establish a new RV space on the receiver  
8 site.  
9

10 Sender Site Location:

11 Address: 81 Park Circle, Saddlebunch Keys, Mile Marker 14.5 (Atlantic Ocean side of  
12 US 1)  
13

14 Legal Description: A portion of Tract "D", Saddlebunch Key Vehicle Park (PB7-51),  
15 Saddlebunch Key, Monroe County, Florida  
16

17 Current Real Estate (RE) Number: 00120490.000187  
18  
19

20 Receiver Site Location:

21 Address: 29859 Overseas Highway (US 1), Big Pine Key, Mile Marker 29.8 (Gulf of  
22 Mexico side of US 1)  
23

24 Legal Description: A parcel of land in Section 27, Township 66, Range 29, Big Pine Key,  
25 Monroe County, Florida  
26

27 Current Real Estate (RE) Numbers: 00111882.00100 through 00111882.009800  
28  
29

30 Applicant:

31 Sender Site Owner: Breezy Pines LLC  
32

33 Receiver Site Owner: Ogle, William E.  
34

35 Agent: Owen Trepanier, Trepanier and Associates  
36

1  
2 **II RELEVANT PRIOR COUNTY/CITY ACTIONS:**  
3

4 *Sender Site:*  
5

6 On June 15, 2009, the Director of Planning & Environmental Resources issued a Letter of  
7 Understanding, which outlined uses lawfully in existence on the property (Planning  
8 Department File #29029). Staff determined that 89 recreational vehicle (RV) spaces and  
9 12 mobile homes were lawfully established and may be reestablished, exempt from the  
10 ROGO. Additionally, the letter addressed how nonconforming uses and/or structures on  
11 the site could be remedied in the future.  
12

13 On December 3, 2009, the Director of Planning & Environmental Resources approved a  
14 minor conditional use permit establishing the sender site as an approved sender site for  
15 the transfer of three (3) TRE's to a receiver site(s) to be approved and determined at later  
16 date (Planning Department File #29087). The approval was memorialized by  
17 Development Order #10-09, recorded in the official records of Monroe County on  
18 February 23, 2010.  
19

20 *Receiver Site:*  
21

22 In 1988, an application was submitted for the plat approval for 80 lots (Planning  
23 Department Files #88032 and #88057). Preliminary plat approval was granted by the  
24 Planning Commission at a public hearing on December 12, 1988 and memorialized by  
25 Planning Commission Resolution #4-88. Final plat approval was granted by the Planning  
26 Commission at a public hearing on March 16, 1989 and memorialized by Planning  
27 Commission Resolution #1-89. The plat of Saddlebunch Recreational Vehicle Park was  
28 approved by the Monroe County Board of County Commissioners in 1989. The plat is  
29 filed for record in Plat Book 7 at Page 51. Board of County Commissioners Resolution  
30 #340-1989 memorialized the approval.  
31

32 Building Permit #871-0688/#A-18487 approved site preparation and the construction of a  
33 sewer treatment plant for an "80 UNIT RECREATIONAL VEHICLE PARK". The  
34 application included a "Paving & Drainage Plan" by Frederick H. Hildebrandt Inc.  
35 showing a total of 80 lots.  
36

37 On November 29, 2007, the property owner submitted an application for a building  
38 permit for the after-the-fact construction of several accessory structures associated with a  
39 RV space (Application #071-5060). The application was not approved by the Planning  
40 Department following a determination that RE #00120490.000187, often referred to as  
41 Lot 81, was not a platted lot and not approved by Building Permit #871-0688/#A-18487.  
42

43 On April 25, 2012, a Letter of Development Rights Determination was issued by the  
44 Planning and Environmental Resources Department. In the letter, it was determined that  
45 80 transient residential dwelling units (in the form of RV spaces) and 1 permanent  
46 residential dwelling unit (in the form of an apartment) are lawfully established at

1 Bluewater RV park. RE #00120490.000187 was not recognized as a lawfully platted lot  
2 and staff did not find any records in the Growth Management Divisions' files approving  
3 the right to have an occupied RV space on the parcel.  
4

5 *General:*

6  
7 On March 20, 2013, Ordinance #013-2013 was passed and adopted by the Monroe County  
8 Board of County Commissioners. The ordinance amended MCC §130-22(2) to clarify that  
9 TRE's may be transferred to RV parks.

10  
11 **III BACKGROUND INFORMATION:**

12  
13 *Sender Site:*

14  
15 Land Use District: Part Urban Residential-Mobile Home (URM) and part Suburban  
16 Commercial (SC)

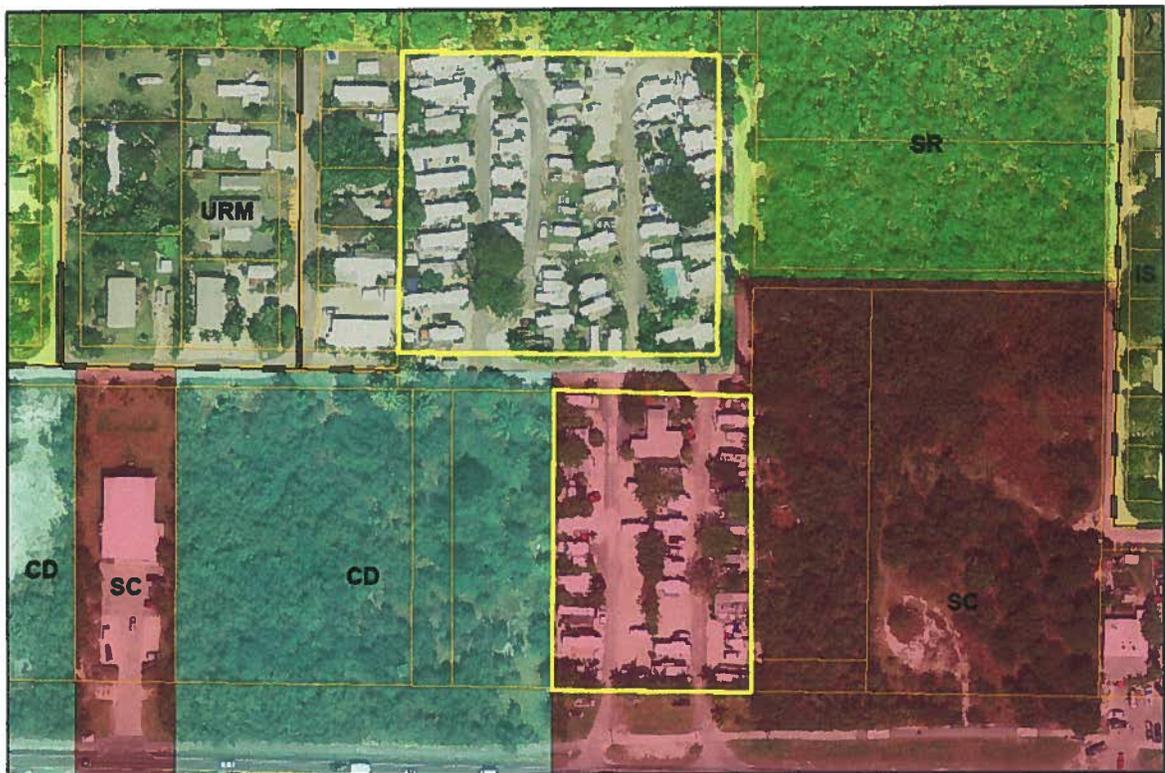
17  
18 Future Land Use Map (FLUM) Designation: Part Residential High (RH) and part Mixed  
19 Use/Commercial (MC)

20  
21 Tier Designation: Tier III

22  
23 Existing Use: Recreational vehicles and mobile homes

24  
25 Existing Vegetation / Habitat: Scarified

26  
27 Community Character of Immediate Vicinity: Mixed Use (Conservation land, single-  
28 family residential, mobile homes, commercial and office)



51 Sender Site with Land Use Districts Overlaid (Aerial dated 2012)

1 *Receiver Site:*

2 Land Use District: Recreational Vehicle (RV)

3 Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)

4 Tier Designation: Tier III

5 Existing Use: Vacant

6 Existing Vegetation / Habitat: Scarified

7 Community Character of Immediate Vicinity: Mixed Use (Single family residential and  
8 RV)



37 Receiver Site with Land Use Districts Overlaid (Aerial dated 2012)

38  
39  
40 **IV REVIEW OF APPLICATION:**

41 Pursuant to MCC §138-22(2), the following criteria must be met to transfer to a hotel, motel,  
42 or RV park [Note: this section was recently revised by Ordinance #013-2013 and although  
43 effective is not reflected on municode.com at this time]:

- 44  
45  
46 a. *Eligibility of sender unit or space.* In order to be an eligible sender unit or space, the unit  
47 or space shall be a hotel room, motel room, campground space, recreational vehicle  
48 space, mobile home, or dwelling unit found to have been lawfully established:

49  
50 ***In compliance:*** The sender space is a RV space that was found to be lawfully established  
51 in a Letter of Understanding dated June 15, 2009 and by Development Order #10-09.

1  
2 b. *Criteria for redevelopment off-site:*

3  
4 1. *Transfer to a hotel, motel, or recreational vehicle park.* A lawfully established hotel  
5 room, motel room, campground space, or recreational vehicle space may be  
6 transferred offsite to another hotel, motel or recreational vehicle park if the:

7  
8 i. Sender site is an eligible ROGO exemption and was used as a transient residential  
9 unit in accordance with section 101-1:

10  
11 ***In compliance:*** As defined in MCC §101-1, a *transient residential unit* means a  
12 dwelling unit used for transient housing such as hotel or motel room, seasonal  
13 residential unit, or space for parking a recreational vehicle or travel trailer. The  
14 RV space to be transferred was found to be lawfully established in a Letter of  
15 Understanding dated June 15, 2009. It has since been removed from the sender  
16 site and is eligible to transfer off-site pursuant to Development Order #10-09.

17  
18 ii. Receiver site/unit meets all of the following criteria:

19  
20 ***(AA) The receiver site is located in the same ROGO subarea as the sender site,***  
21 ***with the exception that ROGO exemptions associated with transient***  
22 ***residential dwelling units may be transferred from the Big Pine and No Name***  
23 ***Key ROGO subarea to the Lower Keys ROGO subarea:***

24  
25 ***In compliance:*** The sender site is located in the Big Pine and No Name Key  
26 ROGO subarea and the receiver site is located in the Lower Keys ROGO  
27 subarea.

28  
29 ***(BB) The receiver unit shall only be constructed within a) a tier III designated***  
30 ***area or b) a tier III-A (special protection area) designated area where the***  
31 ***development does not involve the clearing of any native habitat:***

32  
33 ***In compliance:*** The receiver site is within a Tier III designated area.

34  
35 ***(CC) Receiver unit shall not be constructed within a velocity (V) zone:***

36  
37 ***In compliance:*** A portion of the receiver site is within a VE zone. However,  
38 part of the property is within an AE zone that has sufficient area for a RV.

39  
40 ***Receiver Site Development:***

41  
42 If designed appropriately, a new RV space would be permitted. The following regulations  
43 pertain to use and density of the receiver site (a full review shall be carried out upon  
44 submittal a building permit application):

45  
46 1. Purpose of the RV district (MCC §130-42):

1  
2 ***In compliance:*** A new RV space would be consistent with this purpose. The purpose of  
3 the of the RV district is to establish areas suitable for the development of destination  
4 resorts for recreational vehicles and other transient units such as seasonal residential  
5 units.  
6

7 2. Purpose of the MC FLUM category (MC Policy 101.4.5):  
8

9 ***In compliance:*** A new RV space within an existing RV park community would be  
10 consistent with this purpose. The principal purpose of the MC land use category is to  
11 provide for the establishment of commercial land use (zoning) districts where various  
12 types of commercial retail and office may be permitted at intensities which are consistent  
13 with the community character and the natural environment. Employee housing and  
14 commercial apartments are also permitted. In addition, MC land use districts are to  
15 establish and conserve areas of mixed uses, which may include maritime industry, light  
16 industrial uses, commercial fishing, transient and permanent residential, institutional,  
17 public, and commercial retail uses. This land use category is also intended to allow for  
18 the establishment of mixed use development patterns, where appropriate. Various types  
19 of residential and non-residential uses may be permitted; however, heavy industrial uses  
20 and similarly incompatible uses shall be prohibited. The County shall continue to take a  
21 proactive role in encouraging the maintenance and enhancement of community character  
22 and recreational and commercial working waterfronts.  
23

24 3. Permitted Uses (MCC §130-92):  
25

26 ***In compliance:*** RV spaces are permitted as of right in the RV district.  
27

28 4. Residential Density – RV district (MCC §130-162):  
29

Allocated Density	Total Size of Site	Allocated Allowed	Proposed
15 spaces / acre	0.19 acres (8,222 SF)	2.85 spaces	1.00 space

30  
31 ***In compliance:*** The proposed development of one RV space will utilize 35% of the  
32 allocated density for the receiver site.  
33

34 5. Residential Density – MC FLUM category (MC Policy 101.4.21):  
35

Allocated Density	Total Size of Site	Allocated Allowed	Proposed
5-15 spaces / acre	0.19 acres (8,222 SF)	2.85 spaces	1.00 space

36  
37 ***In compliance:*** The proposed development of one RV space will utilize 35% of the  
38 allocated density for the receiver site.  
39  
40  
41  
42

1 V RECOMMENDATION:

2  
3 Staff recommends APPROVAL to the Director of Planning & Environmental Resources with  
4 the following conditions:

- 5  
6 1. Following the passing of all applicable appeal periods associated with this  
7 development order, the property owner shall submit a building permit application for  
8 the establishment of a new RV space on the receiver site.  
9

**File #:** **2012-154**

**Owner's Name:**

Sender Site Property Owner: Breezy Pines, LLC

Receiver Site Property Owner: Ogle, William

**Applicant:** Breezy Pines, LLC

**Agent:** Owen Trepanier and Associates

**Type of Application:** Minor-TRE

**Key:** Sender: Big Pine Key  
Receiver: Saddlebunch Key

**RE:** Sender: 00111882.(000100-009800)  
Receiver: 00120490.000187

**Additional Information added to File 2012-154**

County of Monroe  
Growth Management Division

Planning & Environmental Resources  
Department

2798 Overseas Highway, Suite 410  
Marathon, FL 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



Board of County Commissioners

Mayor David Rice, Dist. 4  
Mayor Pro Kim Wigington Tem Dist. 1  
Heather Carruthers, Dist. 3  
George Neugent, Dist. 2  
Sylvia J. Murphy, Dist. 5

*We strive to be caring, professional and fair*

Date: 11.20.12  
Time: \_\_\_\_\_

Dear Applicant:

This is to acknowledge submittal of your application for Minor Conditional Use Permit  
Type of application (TRE)

Breezy Pines LLC  
Project / Name to the Monroe County Planning Department.

Thank you.

Cassi Scanlon

Planning Staff

**Karl D. Borglum**  
**Property Appraiser**  
**Monroe County, Florida**

Key West (305) 292-3420  
 Marathon (305) 289-2550  
 Plantation Key (305) 852-7130

**Search Results**

P 1/3

Website tested on IE8,  
 IE9, & Firefox.  
 Requires Adobe Flash  
 10.3 or higher

Search Again

Alternate Key	Parcel ID	Owner	Physical Location
<u>8762828</u>	00111880-000020	BREEZY PINES LLC T/C	VACANT LAND BIG PINE KEY
<u>8762828</u>	00111880-000020	BREEZY PINES RE ESTATES CONDO INC	VACANT LAND BIG PINE KEY
<u>9088504</u>	00111882-000200	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 2 BIG PINE KEY
<u>9088505</u>	00111882-000300	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 3 BIG PINE KEY
<u>9088506</u>	00111882-000400	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 4 BIG PINE KEY
<u>9088507</u>	00111882-000500	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 5 BIG PINE KEY
<u>9088508</u>	00111882-000600	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 6 BIG PINE KEY
<u>9088509</u>	00111882-000700	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 7 BIG PINE KEY
<u>9088510</u>	00111882-000800	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 8 BIG PINE KEY
<u>9088511</u>	00111882-000900	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 9 BIG PINE KEY
<u>9088512</u>	00111882-001000	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 10 BIG PINE KEY
<u>9088513</u>	00111882-001100	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 11 BIG PINE KEY
<u>9088514</u>	00111882-001200	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 12 BIG PINE KEY
<u>9088516</u>	00111882-001400	BREEZY PINES RV ESTATES CONDOMINIUM ASSN	29859 OVERSEAS HWY Unit: LOT 14 BIG PINE KEY
<u>9088517</u>	00111882-001500	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 15 BIG PINE KEY
<u>9088518</u>	00111882-001600	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 16 BIG PINE KEY
<u>9088519</u>	00111882-001700	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 17 BIG PINE KEY
<u>9088520</u>	00111882-001800	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 18 BIG PINE KEY
<u>9088521</u>	00111882-001900	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 19 BIG PINE KEY
<u>9088522</u>	00111882-002000	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 20 BIG PINE KEY

P 213

<a href="#">9088523</a>	00111882-002100	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 21 BIG PINE KEY
<a href="#">9088525</a>	00111882-002300	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 23 BIG PINE KEY
<a href="#">9088528</a>	00111882-002600	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 26 BIG PINE KEY
<a href="#">9088529</a>	00111882-002700	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 27 BIG PINE KEY
<a href="#">9088530</a>	00111882-002800	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 28 BIG PINE KEY
<a href="#">&lt;&lt; First</a> <a href="#">&lt; Prev</a> [Records 1 - 25 of 39] <a href="#">Next &gt;</a> <a href="#">Last &gt;&gt;</a> <a href="#">Jump to Page 1 of 2</a> 			

This page has been visited 45,753 times.

Monroe County Property Appraiser  
 Karl D. Borglum  
 P.O. Box 1176  
 Key West, FL 33041-1176

**Karl D. Borglum**  
**Property Appraiser**  
**Monroe County, Florida**

Key West (305) 292-3420  
 Marathon (305) 289-2550  
 Plantation Key (305) 852-7130

**Search Results**

P 3/3

Website tested on IE8,  
 IE9, & Firefox.  
 Requires Adobe Flash  
 10.3 or higher

[Search Again](#)

Alternate Key	Parcel ID	Owner	Physical Location
<a href="#">9088531</a>	00111882-002900	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 29 BIG PINE KEY
<a href="#">9088533</a>	00111882-003100	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 31 BIG PINE KEY
<a href="#">9088534</a>	00111882-003200	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 32 BIG PINE KEY
<a href="#">9088538</a>	00111882-003600	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 36 BIG PINE KEY
<a href="#">9088540</a>	00111882-003800	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 38 BIG PINE KEY
<a href="#">9088541</a>	00111882-003900	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 39 BIG PINE KEY
<a href="#">9088544</a>	00111882-004100	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 41 BIG PINE KEY
<a href="#">9088545</a>	00111882-004200	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 42 BIG PINE KEY
<a href="#">9088547</a>	00111882-004400	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 44 BIG PINE KEY
<a href="#">9088549</a>	00111882-004600	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 46 BIG PINE KEY
<a href="#">9088556</a>	00111882-005200	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT 52 BIG PINE KEY
<a href="#">9088584</a>	00111882-007900	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT A-19 BIG PINE KEY
<a href="#">9088586</a>	00111882-008100	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT B-1 BIG PINE KEY
<a href="#">9088592</a>	00111882-008600	BREEZY PINES LLC	29859 OVERSEAS HWY Unit: LOT B-6 BIG PINE KEY
<< First < Prev [Records 26 - 39 of 39] Next > Last >> Jump to Page 2 of 2			

This page has been visited 45,759 times.

Monroe County Property Appraiser  
 Karl D. Borglum  
 P.O. Box 1176  
 Key West, FL 33041-1176

BIG PINE GAS AND FOOD INC  
1502 CORUNA AVE  
CORAL GABLES, FL 33156-6318

BRUNET JULIE A  
29753 HENRY LN  
BIG PINE KEY, FL 33043

DUFF MICHAEL  
29757 HENRY LN  
BIG PINE KEY, FL 33043-3136

GOLDEN CHRISTOPHER D AND SHERI L  
PO BOX 430549  
BIG PINE KEY, FL 33043-0549

KIMMELL ANDREW R  
29775 HENRY LN  
BIG PINE KEY, FL 33043

MONROE COUNTY BOARD OF COUNTY  
COMMISSIONERS  
500 WHITEHEAD STREET  
KEY WEST, FL 33040

REYES PEDRO A AND R CHRISTINE  
5451 NW 172ND ST  
MIAMI GARDENS, FL 33055-3938

TRILSCH PETER  
27362 ANTIGUA LN  
RAMROD KEY, FL 33042

BLAUTH VERA  
29799 HENRY LN  
BIG PINE KEY, FL 33043-3136

DAVIS TRACY S AND CHARLOTTE ANN  
29795 HENRY LN  
BIG PINE KEY, FL 33043-3136

ELSENSOHN JOSEPH G  
29791 HENRY LN  
BIG PINE KEY, FL 33043

JAKIMIEC RICHARD  
29767 HENRY LN  
BIG PINE KEY, FL 33043

MERCURIO MATTHEW M  
4451 W SELTICE WAY TRLR 13  
COEUR D ALENE, ID 83814-8915

MONROE COUNTY COMPREHENSIVE  
PLAN LAND AUTHORITY  
1200 TRUMAN AVE STE 207  
KEY WEST, FL 33040-7270

SEACAMP ASSOCIATION INC  
1300 BIG PINE AVE  
BIG PINE KEY, FL 33043

BOARD OF TRUSTEES OF THE INTNL  
3900 COMMONWEALTH BLVD MAIL  
STA 115  
TALLAHASSEE, FL 32399-3000

DELANI LORI L REV TR AGR 1/31/06  
29787 HENRY LN  
BIG PINE KEY, FL 33043-3136

EVERHOME MORTGAGE  
8100 NATIONS WAY  
JACKSONVILLE, FL 32256-4405

KEY WEST HMA PHYSICIAN  
MANAGEMENT LLC  
5811 PELICAN BAY BLVD STE 500  
NAPLES, FL 34108-2704

MEYER JEFFREY B & SHIRLEY MARY E  
E/S &  
29842 OVERSEAS HIGHWAY  
BIG PINE KEY, FL 33043

REYES PEDRO & CHRISTINE  
5451 NW 172ND ST  
CAROL CITY, FL 33055

SENIOR DAVE W  
400 BARTLOW RD  
GEORGETOWN, OH 45121-9602

SPON LABELS

sender cite. - verified by CS-112812

BLUEWATER KEY RV OWNERSHIP PARK  
2950 US HWY 1  
KEY WEST, FL 33040

BLUEWATER KEY RV OWNERSHIP PARK  
PROPERTY ASSOC INC  
2950 US HWY 1  
KEY WEST, FL 33040

BLUEWATER LOT 3 LLC  
PO BOX 420846  
SUMMERLAND KEY, FL 33042-0846

MID OHIO SECURITIES CORP  
211 RAINBOW DR UNIT 11142  
LIVINGSTON, TX 77399-2011

SADDLEBUNCH RECREATIONAL VEHICLE  
PARK INC  
PO BOX 409  
KEY WEST, FL 33041-0409

TUGGLE KAY D TRUSTEE  
1454 WEST PERSHING ROAD  
DECATUR, IL 62526

BLUEWATER KEY RV OWNERSHIP PARK  
PROPERTY ASSOC INC  
2950 US HWY 1  
KEY WEST, FL 33040

BLUEWATER LOT 1 LLC  
PO BOX 420846  
SUMMERLAND KEY, FL 33042-0846

CLARK RITA MCCAFFREY  
PO BOX 420846  
SUMMERLAND KEY, FL 33042

OSBORN JOHN W AND CAROL A  
PO BOX 420223  
SUMMERLAND KEY, FL 33042-0223

SMITH RICHARD C  
2275 MORGAN HILL RD  
WASTON, PA 18042

BLUEWATER KEY RV OWNERSHIP PARK  
PROPERTY ASSOC INC  
2950 US HWY 1  
KEY WEST, FL 33040

BLUEWATER LOT 2 LLC  
PO BOX 420846  
SUMMERLAND KEY, FL 33042-0846

CLINTON RIVER LEASING INC  
36990 LAMPHIER ST  
HARRISON TOWNSHIP, MI 48045

ROWAN DENISE I  
45 EVERGREEN DR  
GOULDSBORO, PA 18424-8820

SMITH WILLIAM AND JUDY  
14826 SUGAR BOWL RD  
MYAKKA CITY, FL 34251

SPON LABELS -

received & site - verified by CS 11.28.12

**End of Additional File 2012-154**



11/19/12

Ms. Gail Creech  
Planning Coordinator  
Monroe County Planning and Environmental Resources  
2798 Overseas Highway  
Marathon, Florida



**RE: Request for a Minor Conditional Use Permit for the Transfer of a ROGO Exemption from 29859 Overseas Hwy, Cudjoe, (RE Parent # 0011882 with split outs 000100 through 009800) to Lot 81, Park Cir, Saddlebunch (RE #00120490-000187)**

Dear Ms. Creech,

Attached you will find a Request for a Minor Conditional Use Permit for the Transfer of a ROGO Exemption Application and the supporting documentation. This application is being submitted to transfer TRE-DO10-09-1 to Saddlebunch Recreational Vehicle Park PB7-51, Lot 81 and Pt Lot 80/Part Lot D, a.k.a. "Lot 81", Park Circle, Saddlebunch Key, FL (RE Number 00120490-000187)

Development Order 10-09<sup>1</sup> approved the Minor Conditional Use Permit to Transfer 3 Transient ROGO Exemptions from Breezy Pines Recreational Vehicle Estates, at 29859 Overseas Hwy, Big Pine Key (RE Parent # 0011882 with split outs 000100 through 009800).

The TRE's have the following identifying numbers:

TRE ID No.	Owner
TRE-DO10-09-01	Breezy Pines, LLC
TRE-DO10-09-02	Breezy Pines, LLC
TRE-DO10-09-03	Trepanier & Associates, Inc.

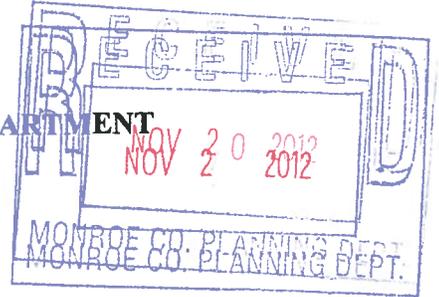
Please contact us if you have any questions or need any additional information.

Best Regards,

Owen Trepanier

<sup>1</sup> Attached

APPLICATION  
MONROE COUNTY  
PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT



**Request for a Minor Conditional Use Permit for the Transfer of ROGO Exemption (TRE):  
RECEIVER SITE APPROVAL**

**An application must be deemed complete and in compliance with the Monroe County Code by the Staff prior to the item being scheduled for review**

Conditional Use, Transfer of ROGO Exemption Application Fee: \$1,740.00

*In addition to the application fee, the following fees also apply:*

Advertising Costs: \$245.00

Surrounding Property Owner Notification: \$3.00 for each property owner required to be noticed

**Date of Submittal:** 11 / 19 / 2012  
Month Day Year

**Applicant / Agent:**

Trepanier and Associates

Name

402 Appelrouth Lane, Key West, FL, 33040

Mailing Address (Street, City, State, Zip Code)

305.293.8983

Daytime Phone

owen@owentrepanier.com

Email Address

**Sender Site Property Owner:**

Breezy Pines, LLC c/o Mr. Joseph Cleghorn

Name

1421 First St., Key West, FL 33040

Mailing Address (Street, City, State, Zip Code)

305.293.8983

Daytime Phone

APPLICATION

Sender Site Legal Description:

(If in metes and bounds, attach legal description on separate sheet)

Breezy Pines RV Estates Condominium Cudjoe
Block Lot Subdivision Key
00111882 - (000100-009800)
Real Estate (RE) Number Alternate Key Number
29859 Overseas Highway, Cudjoe Key, FL 30
Street Address (Street, City, State, Zip Code) Approximate Mile Marker

Receiver Site Property Owner:

Mr. William E. Ogle
Name

16880 Tamarind Rd., Summerland Key, FL 33042
Mailing Address (Street, City, State, Zip Code)

305.293.8983
Daytime Phone

Receiver Site Legal Description:

(If in metes and bounds, attach legal description on separate sheet)

Part Lot D ("AKA Lot 81") Saddlebunch Rec. Vehicle Park Saddlebunch
Block Lot Subdivision Key
00120490-000187 9084936
Real Estate (RE) Number Alternate Key Number
Lot 81 Park Cir, Saddlebunch Key, FL
Street Address (Street, City, State, Zip Code) Approximate Mile Marker

Sender Site Land Use District Designation: URM and SC

Receiver Site Land Use District Designation: RV

Sender Site Existing Land Use: Recreational Vehicle Park

Receiver Site Existing Land Use: Recreational Vehicle Park

Development Order No. permitting dwelling units to be transferred off Sender Site: 10-09

Amount of dwelling units to be transferred to Receiver Site: 1 (TRE-DO10-09-1)

Has a previous application been submitted for this site within the past two years? Yes \_\_\_ No x

All of the following must be submitted in order to have a complete application submittal:

(Please check as you attach each required item to the application)

- Complete application (unaltered and unbound);
Correct fee (check or money order to Monroe County Planning & Environmental Resources);
Proof of ownership for both sender and receiver sites (i.e. Warranty Deed);

APPLICATION

- Copy of Development Order establishing dwelling units to be transferred off sender site;
- Current Property Record Card(s) from the Monroe County Property Appraiser for receiver site;
- Location map of receiver site;
- Photograph(s) of receiver site from adjacent roadway(s);
- Signed and Sealed Boundary Survey of receiver site, prepared by a Florida registered surveyor – 6 sets (at a minimum, survey should include elevations; location and dimensions of all existing structures, paved areas and utility structures; all bodies of water on the site and adjacent to the site; total acreage by land use district; and total acreage by habitat);
- Typed name and address mailing labels of all property owners within a 300 foot radius of the receiver site. This list should be compiled from the current tax rolls of the Monroe County Property Appraiser. In the event that a condominium development is within the 300 foot radius, each unit owner must be included

If applicable, the following must be submitted in order to have a complete application submittal:

- Notarized Agent Authorization Letter (note: authorization is needed from all owner(s) of the sender site and receiver site properties)
- Any Letters of Understanding pertaining to the proposed transfer
- Vegetation Survey or Habitat Evaluation Index (please contact Monroe County Environmental Resources prior to application submittal to determine if this documentation is necessary)

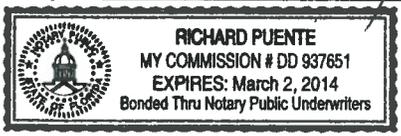
If deemed necessary to complete a full review of the application, the Planning & Environmental Resources Department reserves the right to request additional information.

If for any reason the minor conditional use permit application requires review and consideration by the Monroe County Planning Commission, additional fees, mailing labels and copies of plans shall be required prior to item being scheduled for commission review.

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

Signature of Applicant: [Handwritten Signature] Date: 11/16/12

Sworn before me this 16 day of November, 2012



[Handwritten Signature: Richard Puente]  
Notary Public  
My Commission Expires

Please send the complete application package to the Monroe County Planning & Environmental Resources Department, Marathon Government Center, 2798 Overseas Highway, Suite 400, Marathon, FL 33050.

Doc# 1631016 03/07/2007 9:37AM  
Filed & Recorded in Official Records of  
MONROE COUNTY DANNY L. KOLHAGE

This Instrument Prepared By and Return to:

DAVID S. BERNSTEIN, ESQ.  
Ruden, McClosky, Smith,  
Schuster & Russell, P.A.  
Post Office Box 14034  
St. Petersburg, FL 33733

03/07/2007 9:37AM  
DEED DOC STAMP CL: PW \$35,000.00

Doc# 1631016  
BK 2277 Pg# 1079

Parcel No. 00111880 - 000100

Space above this line for recorder's use only

### SPECIAL WARRANTY DEED

THIS INDENTURE made as of February 28, 2007, by and between BREEZY PINES R.V. ESTATES, LLLP, a Florida limited liability limited partnership ("Grantor"), for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations in hand paid, receipt of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases and conveys unto BREEZY PINES, LLC, a Florida limited liability company, whose address is 1421 First Street, Key West, Florida 33040 ("Grantee"), that certain real property in the County of Monroe, State of Florida, more fully described on Exhibit "A" attached hereto and made a part hereof by this reference.

TOGETHER with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, reversion, remainder and easement thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

And the Grantor does hereby covenant that, except for the title exceptions set forth on Exhibit "B" attached hereto and made a part hereof, Grantor does fully warrant the title to the above described real estate so hereby conveyed and will defend the same against the lawful claims, arising out of events occurring prior to the recording of this Deed, of all persons claiming by, through or under the Grantor, but against none other.

IN WITNESS WHEREOF, the Grantor aforesaid has set its hand and seal as of February 28 2007.

WITNESSES:

Print Name: RAWNA SCHMERIN

Print Name: DAVID SCHMERIN

Address:

BREEZY PINES R.V. ESTATES, LLLP, a  
Florida limited liability limited partnership

By: Stuart Perlman  
STUART PERLMAN,  
Authorized General Partner

401 South Old Woodward, Suite 470  
Birmingham, MI 48009

Space above this line for recorder's use only

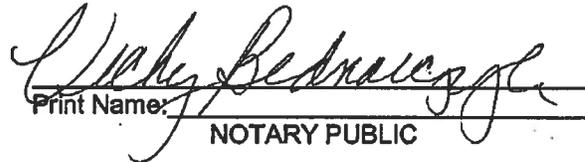
Doc# 1631016  
Bk# 2277 Pg# 1080

STATE OF MICHIGAN  
COUNTY OF OAKLAND

I hereby certify that on this 7th day of February, 2007, before me personally appeared STUART PERLMAN as Authorized General Partner of BREEZY PINES R.V. ESTATES, LLLP, a Florida limited liability limited partnership, to me known to be the person described in and who executed the foregoing instrument, and acknowledged the execution thereof to be his free act and deed as such Authorized General Partner on behalf of said partnership, for the use and purposes therein mentioned, and the said instrument is the act and deed of said partnership. He is ✓ personally known to me or has produced a \_\_\_\_\_ driver's license as identification.

WITNESS my signature and official seal at \_\_\_\_\_ in the County of Oakland and State of Michigan, the day and year last aforesaid.

My Commission Expires:

  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC

VICKY BEDNARCZYK  
NOTARY PUBLIC WAYNE CO., MI  
MY COMMISSION EXPIRES Jul 16, 2007  
ACTING IN OAKLAND COUNTY, MI

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A parcel of land in the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 66 South, Range 29 East, on Big Pine Key, Monroe County, Florida, being more particularly described by metes and bounds as follows:

**Parcel I**

Commencing at the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 66 South, Range 29 East, run West along the North boundary line of the Southeast 1/4 of the Northeast 1/4 of said Section 27, for a distance of 390 feet to a point on the Westerly right-of-way line of a 40 foot road; thence run South along the Westerly right-of-way line of said 40 foot road for a distance of 301.11 feet to the POINT OF BEGINNING of the parcel of land hereinafter described; from said POINT OF BEGINNING continue running South along the Westerly right-of-way line of said 40 foot roadway for a distance of 305 feet to a point; thence bear West at right angles to the preceding course and along the Northerly right-of-way line of another 40 foot road for a distance of 318.62 feet to a point; thence bear North and at right angles to the preceding course for a distance of 305 feet to a point; thence bear East and at right angles to the preceding course for a distance of 318.62 feet to the POINT OF BEGINNING.

**Parcel II**

Four tracts of land in the Southeast 1/2 of the Northeast 1/4 of Section 27, Township 66 South, Range 29 East, on Big Pine Key, Monroe County, Florida, also being described as Tracts 1 and 4 and 2 and 5 of the "CAHILL TRACT" on an unrecorded sketch of survey made by C.G. Bailey, Registered Florida Land Surveyor Number 620, dated March 17, 1953, and being more particularly described by metes and bounds as follows:

Beginning at a point of intersection of the West line of Section 26, Township 66 South, Range 29 East and the centerline of U.S. Highway No. 1, run North 100 feet along the West line of Section 26, to a point; thence West along the North right-of-way line of U.S. Highway No. 1, for a distance of 350 feet to the POINT OF BEGINNING of the tracts hereinafter described; from said POINT OF BEGINNING continue bearing West along the North right-of-way line of U.S. Highway No. 1, for a distance of 200 feet to a point; thence in a Northerly direction paralleling the Section line of Section 26, Township 66 South, Range 29 East for a distance of 302.02 feet to a point on the South side of a 40 foot road or easement; thence Easterly along the Southerly side of said 40 foot road or easement for a distance of 200 feet to a point which is 350 feet West of the West line of said Section 26 and 302.55 feet North of the POINT OF BEGINNING; thence South for a distance of 302.55 feet back to the POINT OF BEGINNING.

**Parcel III**

TOGETHER WITH a non-exclusive right-of-way easement for ingress and egress over and across the property described in EXHIBIT "A" attached to Declaration of Right of Way Easement recorded in O.R. Book 1081, Page 1293, of the public records of Monroe County, Florida, being more particularly described as follows:

A parcel of land located in the SE 1/2 of the Northeast 1/4 of Section 27, Township 66 South, Range 29 East, on Big Pine Key, Monroe County, Florida, also described as the "CAHILL TRACT" on an unrecorded sketch of survey made by C.G. Bailey, Registered Florida Land Surveyor Number 620, dated March 17, 1953, and being more particularly described by metes and bounds as follows: Commencing at a point of intersection of the West line of Section 26, Township 66 South, Range 29 East and the centerline of U.S. Highway No. 1, run North 100 feet along the West line of said Section 26, to a point due East of the Southeast corner of Lot 1 of the "CAHILL TRACT"; thence run North 89 deg 52 min 48 sec West, a distance of 350.94 feet to the Southeast corner of Lot 1 of the "CAHILL TRACT"; thence run North 89 deg 53 min 31 sec West, a distance of 200.04 feet to the Southwest corner of Lot 2 of the "CAHILL TRACT"; thence run North 89 deg 53 min 08 sec West, a distance of 100.08 feet to the Southwest corner of Lot 3 of the "CAHILL TRACT"; thence continue

North 89 deg 53 min 08 sec West, a distance of 39.96 feet (40.00 feet by record) to the Southeast corner of Lot 7 of the "CAHILL TRACT"; thence run North 00 deg 00 min 27 sec West, a distance of 301.62 feet (301.69 feet by record) to a point on the Northeast corner of Lot 13 of the "CAHILL TRACT" for a POINT OF BEGINNING;

Thence from the POINT OF BEGINNING take the following courses:

1. run Westerly along the Northern boundary of said Lot 13 of the "CAHILL TRACT" a distance of approximately 18.62 feet to a point on the said Northern boundary due South of the Southwest corner of Lot 21 of the "CAHILL TRACT";
2. thence run due North a distance of 40 feet to the Southwest corner of Lot 21 of the "CAHILL TRACT";
3. thence run North 89 deg 58 min 45 sec East along the Southern boundary line of Lot 21 of the "CAHILL TRACT" to the Southeast corner of Lot 21 of the "CAHILL TRACT" a distance of 318.37 feet (318.62 feet by record);
4. thence run North 00 deg 01 min 29 sec East along the Eastern boundary line of Lot 21 of the "CAHILL TRACT" to the Northeast corner of said Lot 21 of the "CAHILL TRACT" a distance of 304.91 feet (305 feet by record)
5. thence run due East a distance of 40 feet to a point on the Western boundary of Lot 19 of the "CAHILL TRACT";
6. thence run South 00 deg 00 min 07 sec East along the Westerly boundaries of Lot 19 of the "CAHILL TRACT" to the Southwest corner of Lot 19 of the "CAHILL TRACT";
7. thence run Easterly along the Southerly boundary line of said Lot 19 of the "CAHILL TRACT" approximately 350 feet to the Southeast corner of said Lot 19 of the "CAHILL TRACT", abutting Sandy Circle Road;
8. thence run due South along the Western boundary line of said Sandy Circle Road a distance of 20 feet to a point due South of the Southeast corner of said Lot 19 of the "CAHILL TRACT";
9. thence run North 89 deg 56 min 52 sec West approximately 350 feet to a point due South of the Southwest corner of Lot 19 of the "CAHILL TRACT";
10. thence run South 00 deg 01 min 15 sec East to the Northeast corner of Lot 4 of the "CAHILL TRACT";
11. thence run South 89 deg 56 min 39 sec West along the Northern boundary of Lots 4 and 5 of the "CAHILL TRACT" a distance of 200.03 feet (200 feet by record) to the Northwest corner of Lot 5 of the "CAHILL TRACT";
12. thence run North 89 deg 59 min 36 sec West, a distance of 99.94 feet (100 feet by record) to the Northwest corner of Lot 6 of the "CAHILL TRACT";
13. thence continue running North 89 deg 59 min 36 sec West, a distance of approximately 40 feet to a point on the Northeast corner of Lot 13 of the "CAHILL TRACT" to the POINT OF BEGINNING.

**EXHIBIT "B"**  
**PERMITTED EXCEPTIONS**

- 1 Taxes for the year 2007 and subsequent years.
- 2 Utility Easement along the West boundary recorded in O.R. Book 365, Page 919, of the public records of Monroe County, Florida. (as to Parcel II)
- 3 Unrecorded Cable Television Multiple Unit Agreement dated November 1, 1987, by and between Knut Wiedemann and TCI Cablevision of Florida, Inc., as shown in Warranty Deed recorded in O.R. Book 1076, Page 346, of the public records of Monroe County, Florida.
- 4 Terms and conditions of Declaration of Right of Way Easement recorded in O.R. Book 1081, Page 1293, of the public records of Monroe County, Florida. (as to Parcel III)
- 5 State Law under Chapter 76-190 and Chapter 22F-8.02, of the Florida Administrative Code for Land Planning for the Florida Keys Area of Critical State Concern recorded in O.R. Book 668, Page 43.
- 6 County Ordinance No. 10-1977, providing for Annual Levy on Garbage and Trash Collection Fees to be assessed upon this parcel of land, and Amendment thereof, County Ordinance No. 13-1978.

**MONROE COUNTY**  
**OFFICIAL RECORDS**

Grantee: William E. Ogle  
Address: 3575 Lone Star Circle, Condo 611  
Justin, TX 76247-8904  
Parcel #: 8765592

DEED DOC STAMP CL: FP \$3,850.00

Doc# 1495466  
Bk# 2083 Pg# 1047

**WARRANTY DEED**

THIS INDENTURE, made this 5 day of February 2005, between Appert's Inc., a/k/a Appert, Inc., a Minnesota Corporation, party of the first part, and William E. Ogle, a single man, party of the second part, whose address is 3575 Lone Star Circle, Condo 611, Justin, TX 76247-8904.

WITNESSETH, that the said party of the first part, for and in consideration of the sum of **TEN AND 00/100 ---- DOLLARS**, and other good and valuable consideration to the party of the first part paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said party of the second part, and his heirs and assigns forever, the following described land, situated, lying and being in Monroe County, Florida, to wit:

**As described in Schedule "A" attached hereto**

**SUBJECT TO:** Taxes for the year 2005 and subsequent years; conditions, restrictions, limitations, and easements of record.

**TO HAVE AND TO HOLD** the same unto the said party of the second part in fee simple.

And the said party of the first part does hereby fully warrant the title to said land and will defend the same against the lawful claims and demands of all persons whomsoever.

**IN WITNESS WHEREOF**, the said party of the first part has caused these presents to be signed and sealed, the day and year first above written.

*Prepared by and return to:*

**Charles M. Milligan, Esq.**  
513 Whitehead Street  
P.O. Box 1367  
Key West, FL 33041-1367  
305-294-8885

Signed and sealed in the presence of:

CHARLES M. MILLIGAN  
WITNESS #1 PRINT

[Signature]  
WITNESS #1 SIGNATURE

Lora Jenkins  
WITNESS #2 PRINT

Lora Jenkins  
WITNESS #2 SIGNATURE

Appert, Inc.  
By: [Signature]  
Timothy Appert, President

State of Florida  
County of Monroe

BEFORE ME, the undersigned authority, personally appeared Timothy Appert who being of full age and duly sworn according to law, and being personally known to me or having produced identification in the form of \_\_\_\_\_, this day acknowledged before me that he is the president of Appert, Inc., a Minnesota Corporation and that he is authorized to execute this Deed and did so execute the foregoing Deed without duress or coercion for the purposes contained therein intending to be bound.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at said County and State this 5 day of February 2005.

[Signature]  
Notary Public  
My Commission Expires:



Charles M. Milligan  
MY COMMISSION # DD247014 EXPIRES  
December 13, 2007  
BONDED THRU TROY FAIN INSURANCE, INC.

Prepared by and return to:

Charles M. Milligan, Esq.  
513 Whitehead Street  
P.O. Box 1367  
Key West, FL 33041-1367  
305-294-8885

EXHIBIT "A"

LEGAL DESCRIPTION:

A portion of Tract "D", "SADDLEBUNCH RECREATIONAL VEHICLE PARK", according to the plat thereof, as recorded in Plat Book 7, at Page 51 of the Public Records of Monroe County, Florida and being more particularly described as follows:

BEGIN at the Northwest corner of Lot 80, of said "SADDLEBUNCH RECREATIONAL VEHICLE PARK"; thence N.72°00'00"E., along the Northerly Line of said Lot 80 a distance of 78.85 feet to the Mean High Water Line of Lower Sugarloaf Bay; thence meander the said Mean High Water Line of Sugarloaf Bay for the following six (6) metes and bounds; (1) thence N.26°40'02"E., a distance of 7.60 feet; (2) thence N.37°39'17"E., a distance of 12.78 feet; (3) thence N.23°15'53"E., a distance of 4.43 feet; (4) thence N.01°53'17"W., a distance of 9.13 feet; (5) thence N.18°58'42"E., a distance of 8.73 feet; (6) thence N.24°04'38"E., a distance of 11.73 feet; thence N.82°17'21"W., and leaving the said Mean High Water Line of Lower Sugarloaf Bay a distance of 96.85 feet; thence S.26°31'21"W., a distance of 60.59 feet to the Northeasterly Right-of-Way Line of Bluewater Drive and a point on a curve to the right, having: a radius of 55.00 feet, a central angle of 45°28'39", a chord bearing of S.40°44'19"E. and a chord length of 42.52 feet; thence along the arc of said curve, an arc length of 43.66 feet to the Point of Beginning.

Parcel contains 6863.70 square feet or 0.16 acres, more or less.

Subject to all easements as shown on said Plat of "SADDLEBUNCH RECREATIONAL VEHICLE PARK". \*\*

AND:

A portion of Lot 80, "SADDLEBUNCH RECREATIONAL VEHICLE PARK", according to the plat thereof, as recorded in Plat Book 7, at Page 51 of the Public Records of Monroe County, Florida and being more particularly described as follows:

BEGIN at the Northwest corner of Lot 80, of said "SADDLEBUNCH RECREATIONAL VEHICLE PARK"; thence N.72°00'00"E., along the Northerly Line of said Lot 80 a distance of 78.85 feet to the Mean High Water Line of Lower Sugarloaf Bay; thence meander the said Mean High Water Line of Sugarloaf Bay for the following six (3) metes and bounds; (1) thence S 16°49'07" W a distance of 13.63 feet; (2) thence S 30°49'46" W., a distance of 21.33feet; (3) thence S 30°53'22" W., a distance of 5.30 feet; thence N 82°22'29" W, and leaving the said Mean High Water Line of Lower Sugarloaf Bay a distance of 46.42 feet; thence S 34°14'38" W., a distance of 15.52 feet to the Northeasterly Right-of-Way Line of Bluewater Drive and a point on a curve to the left, having: a radius of 55.00 feet, a central angle of 19°16'24", a chord bearing of N.08°21'48"W. and a chord length of 18.41 feet; thence along the arc of said curve, an arc length of 18.50 feet to the Point of Beginning. Containing 1353.5 square feet, more or less

\*\* The above described portion of Tract "D" shall hereinafter be described as Lot 81 of "SADDLEBUNCH RECREATIONAL VEHICLE PARK."

County of Monroe  
Growth Management Division

**Office of the Director**  
2798 Overseas Highway  
Suite #400  
Marathon, FL 33050  
Voice: (305) 289-2517  
FAX: (305) 289-2854



**Board of County Commissioners**  
Mayor Sylvia J. Murphy, Dist. 5  
Mayor Pro Tem Heather Carruthers, Dist. 3  
Kim Wigington, Dist. 1  
George Neugent, Dist. 2  
Mario Di Gennaro, Dist. 4

*We strive to be caring, professional and fair*

December 4, 2009

Mr. Owen Trepanier  
402 Applerouth Lane  
Key West, FL 33040

RE: D.O. #10-09

Dear Mr. Trepanier:

Enclosed is a copy of Development Order 10-09 approving your client's request for a Minor Conditional Use permit as described and enclosed herein.

The Monroe County Planning Department is required by the Monroe County Code to record all conditional use approvals. The procedure is to hold the notarized development order until the 30-day public appeal period has lapsed, approximately **January 4, 2010**. Before the expiration date, you must write a check in the amount of **\$27.00** payable to **Danny L. Kolhage, Clerk of Circuit Court**, and **mail it** to the Planning Coordinator, 2798 Overseas Highway, Suite 410, Marathon, FL 33050.

After the 30-day public appeal period has lapsed, we will then transmit the development order to DCA. DCA has a 45-day period in which to prepare their waiver which cannot run concurrent with the 30-day public appeal period. A Planning Department representative will record the notarized development order for you after the DCA waiver period has ended and we receive their waiver letter. After the development order has been recorded, a copy will be sent to you.

Section 110-69 of the Monroe County Code requires that written notice be given to all property owners within 300 feet of the property that is subject to a conditional use approval. Should a property owner wish to appeal the decision, they may do so within 30 days of the date of this notice.

Please contact the undersigned at 305-289-2500 if you have further questions.

Sincerely,

Debby Tedesco,  
Planning Commission Coordinator

Enclosure

CC Breezy Pines, LLC



**MONROE COUNTY, FLORIDA  
MINOR CONDITIONAL USE  
DEVELOPMENT ORDER NO. 10-09**

A DEVELOPMENT ORDER APPROVING THE REQUEST BY TREPANIER & ASSOCIATES ON BEHALF OF BREEZY PINES, LLC FOR A MINOR CONDITIONAL USE PERMIT TO TRANSFER THREE (3) TRANSIENT TRANSFERRABLE RESIDENTIAL RATE OF GROWTH ORDINANCE (ROGO) EXEMPTIONS TO ONE OR MORE RECEIVER SITES TO BE DETERMINED AND APPROVED AT A FUTURE DATE, FROM PROPERTY LEGALLY DESCRIBED AS PARCELS OF LAND IN SECTION 27, TOWNSHIP 66, RANGE 29, BIG PINE KEY, MONROE COUNTY, FLORIDA, AND HAVING REAL ESTATE NUMBERS 00111880.000020 (PRIOR RIGHT OF WAY ABANDONMENT) AND PARENT NUMBER 00111882 WITH SPLIT OUTS 000100 THROUGH 009800.

---

**WHEREAS**, during a regularly scheduled meeting held on December 1, 2009, the Development Review Committee of Monroe County conducted a review and consideration of the request by Trepanier & Associates, on behalf of Breezy Pines, LLC for a minor conditional use permit pursuant to §138-22 of the Monroe County Code; and

**WHEREAS**, the subject property is located at 29859 Overseas Highway (US 1), Big Pine Key, approximate Mile Marker 30, and is legally described as parcels of land in Section 27, Township 66, Range 29, Big Pine Key, Monroe County, Florida, currently having real estate (RE) numbers 00111880.000020 (prior right-of-way abandonment) and parent number 00111882 with split outs 000100 through 009800; and

**WHEREAS**, the Applicant is seeking development approval to transfer three (3) ROGO exempt transient residential units from the subject site to one or more sender sites to be determined and approved at a future date; and

**WHEREAS**, the Development Review Committee and Director of Planning & Environmental Resources reviewed the following documents and other information relevant to the request:

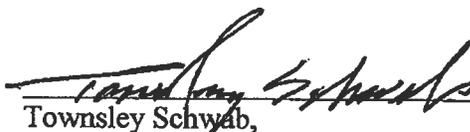
WHEREAS, the record established, the testimonies offered, and the evidence submitted, support the findings of fact adopted by the Development Review Committee (DRC); and

NOW THEREFORE, BE IT RESOLVED BY THE DIRECTOR OF PLANNING & ENVIRONMENTAL RESOURCES OF MONROE COUNTY, FLORIDA that the request for a Minor Conditional Use Permit is hereby APPROVED, subject to the following conditions:

As recommended by Staff and the Development Review Committee (DRC), the following conditions are attached to the Minor Conditional Use Permit approval:

1. Should the applicant choose not to transfer the three (3) transient transferable Residential Rate of Growth Ordinance (ROGO) exemptions (TREs) authorized by this development order, prior Planning & Environmental Resources Department approval shall be required to determine if such an action would be permitted by the Land Development Code at that time.
2. This development order only establishes the subject parcel as an eligible sender site for three (3) transient transferable Residential Rate of Growth Ordinance (ROGO) exemptions (TREs). Under current regulations, a new minor conditional use permit application and development order shall be required for each non-related receiver site identified in the future. Receiver site(s) shall be reviewed for eligibility and compliance with the Monroe County Comprehensive Plan and Land Development Code at that time.

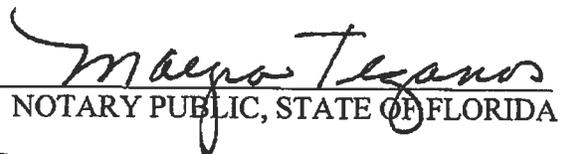
Date 12-03-09



Townsley Schwab,  
Sr. Director of Planning & Environmental Resources and  
Chair of the Development Review Committee

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared Townsley Schwab, to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me the she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 3<sup>rd</sup> day of December, 2009.



NOTARY PUBLIC, STATE OF FLORIDA



**Karl D. Borglum**  
**Property Appraiser**  
**Monroe County, Florida**

Key West (305) 292-3420  
Marathon (305) 289-2550  
Plantation Key (305) 852-7130

**Property Record Card -**  
**Map portion under construction.**

Website tested on IE8,  
IE9, & Firefox.  
Requires Adobe Flash  
10.3 or higher

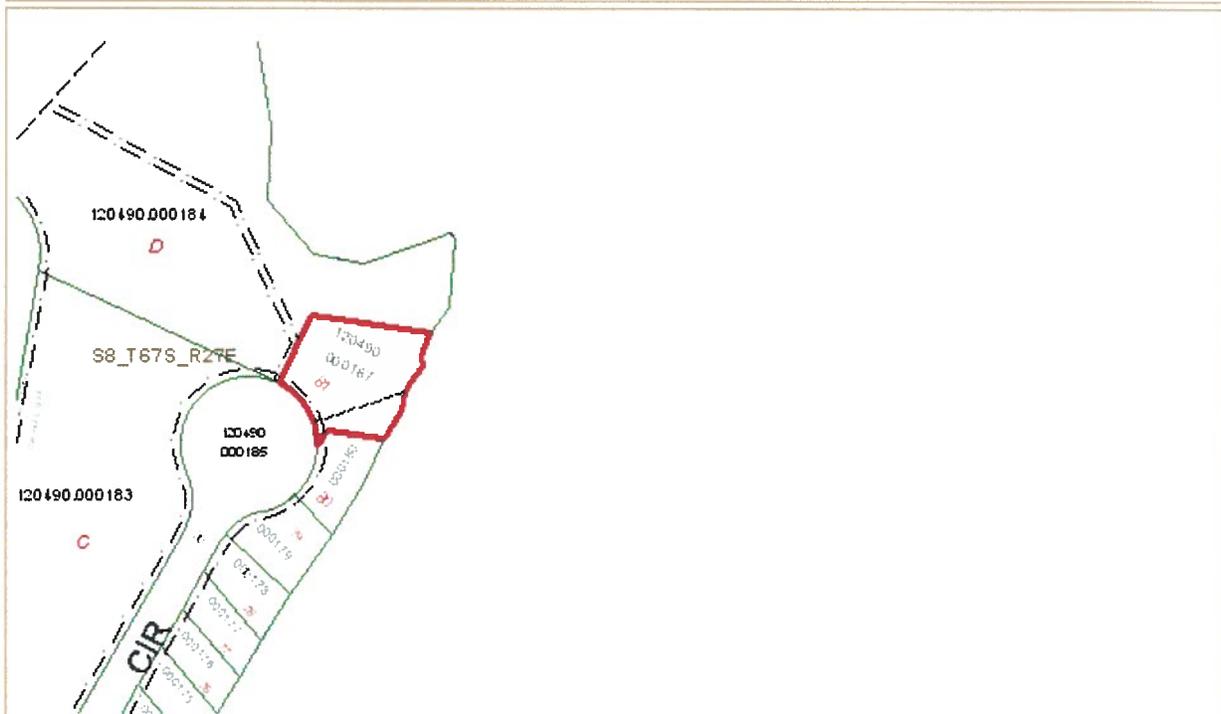
**Alternate Key: 9084936 Parcel ID: 00120490-000187**

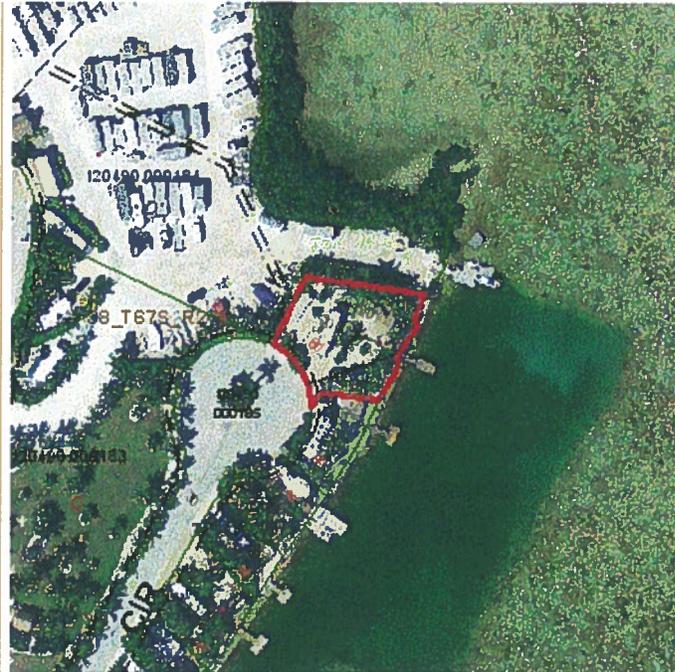
**Ownership Details**

**Mailing Address:**  
OGLE WILLIAM E  
16880 TAMARIND RD  
SUMMERLAND KEY, FL 33042-3515

**Property Details**

**PC Code:** 00 - VACANT RESIDENTIAL  
**Millage Group:** 110C  
**Affordable Housing:** No  
**Section-Township-Range:** 08-67-27  
**Property Location:** LOT 81 PARK CIR SADDLEBUNCH KEY  
**Subdivision:** SADDLEBUNCH REC VEHICLE PARK  
**Legal Description:** SADDLEBUNCH RECREATIONAL VEHICAL PARK PB7-51 LT 81 & PT LOT 80 OR1156-1288/89 OR1425-1417 OR1547-122/23 OR1554-2246/48 OR2083-1047/49





Show Parcel Map that can launch map - Must have Adobe Flash Player 10.3 or higher

### Land Details

Land Use Code	Frontage	Depth	Land Area
020W - MOB HOM WATERFRONT			8,217.00 SF

### Misc Improvement Details

Nbr	Type	# Units	Length	Width	Year Built	Roll Year	Grade	Life
1	WD2:WOOD DECK	48 SF	8	6	1991	1992	2	40
2	SW2:SEAWALL	344 SF	86	4	1998	1999	2	60
3	TK2:TIKI	700 SF	28	25	1998	1999	5	40
4	PT2:BRICK PATIO	1,518 SF	0	0	1998	1999	1	50

### Appraiser Notes

LARGE LOT (WAS SPLIT FROM A EVEN LARGER LOT); ADD ADJ'S.

LOT 81 WAS COMPRISED OF A PORTION OF TRACT D, SADDLEBUNCH RECREATIONAL VEHICLE PARK, AS DESCRIBED IN DOCUMENT #1495466 BK# 2083 AND PG# 1049

SPLIT OUT LT 81 AND PT 80 FROM RE00120490-000180 PER DEED OR 2083-1047 OR2083-1075 DONE FOR 2006 TAX ROLL

### Building Permits

Bldg Number	Date Issued	Date Completed	Amount	Description	Notes
99100270	01/22/1999	12/31/1999	1,000	Residential	INSTALL ELECTRIC SERVICE & METER

## Parcel Value History

Certified Roll Values.

[View Taxes for this Parcel.](#)

Roll Year	Total Bldg Value	Total Misc Improvement Value	Total Land Value	Total Just (Market) Value	Total Assessed Value	School Exempt Value	School Taxable Value
2012	0	22,267	604,243	626,510	622,260	0	626,510
2011	0	22,886	633,774	656,660	565,691	0	656,660
2010	0	23,602	490,663	514,265	514,265	0	514,265
2009	0	24,126	523,374	547,500	515,416	0	547,500
2008	0	24,842	443,718	468,560	468,560	0	468,560
2007	0	21,750	493,020	514,770	514,770	0	514,770
2006	0	21,240	493,020	514,260	514,260	0	514,260

## Parcel Sales History

NOTE: Sales do not generally show up in our computer system until about two to three months after the date of sale. If a recent sale does not show up in this list, please allow more time for the sale record to be processed. Thank you for your patience and understanding.

Sale Date	Official Records Book/Page	Price	Instrument	Qualification
2/5/2005	2083 / 1047	550,000	WD	Z

This page has been visited 34,201 times.

Monroe County Property Appraiser  
Karl D. Borglum  
P.O. Box 1176  
Key West, FL 33041-1176

# Monroe County, Florida

MCPA GIS Public Portal

MONROE COUNTY PROPERTY  
APPRAISER OFFICE



THIS PROPERTY LOCATION MAP HAS BEEN COMPILED FOR INTERNAL OFFICE USE AS AN AID IN THE PREPARATION OF THE MONROE COUNTY TAX ROLL. IT IS NOT A SURVEY AND THE OWNERSHIP INFORMATION DEPICTED THEREON SHOULD NOT BE RELIED UPON FOR TITLE PURPOSES. NEITHER MONROE COUNTY NOR THE OFFICE OF THE PROPERTY APPRAISER ASSUMES RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS.

1:9,225

Date: 11/14/2012

# Monroe County, Florida

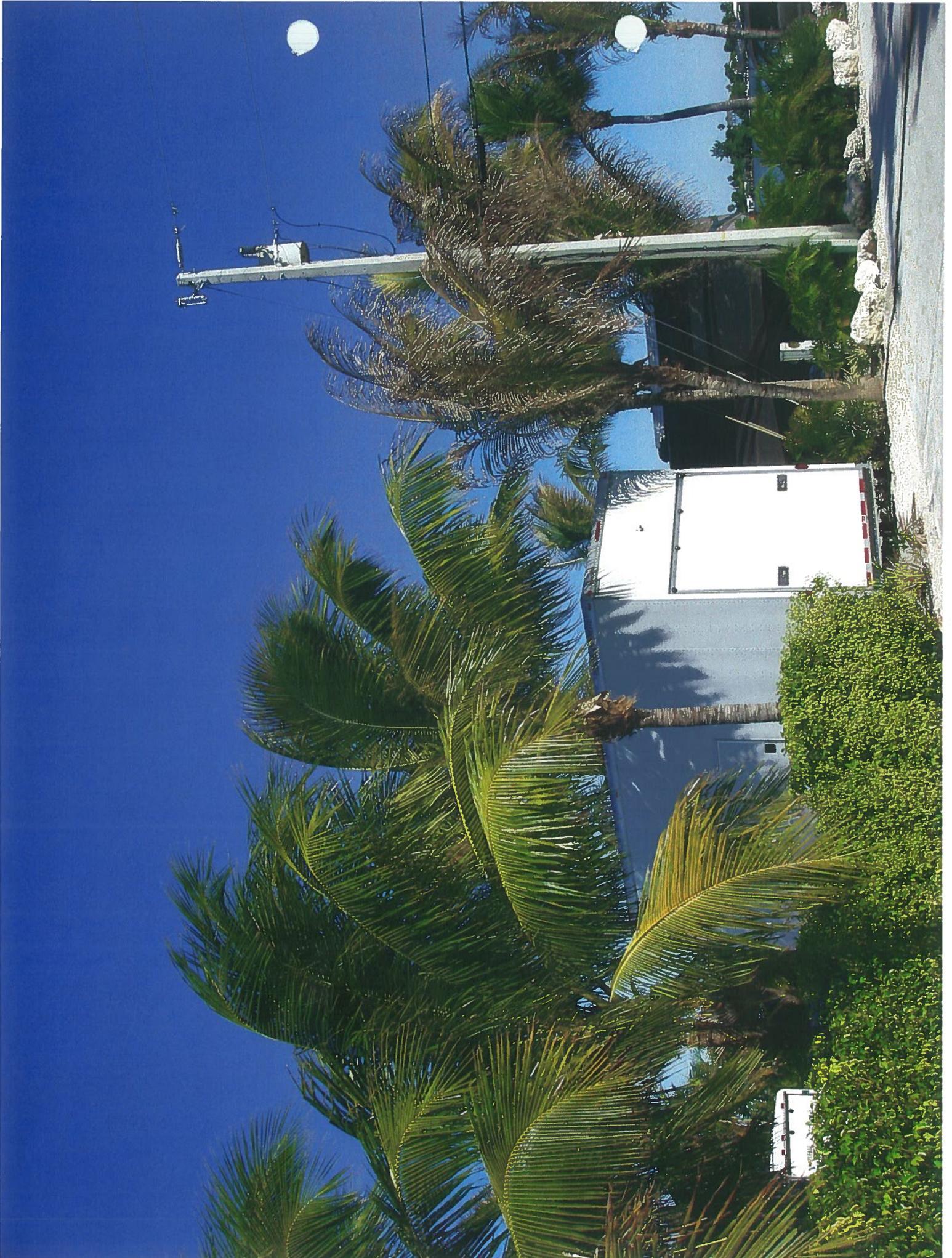
MCPA GIS Public Portal

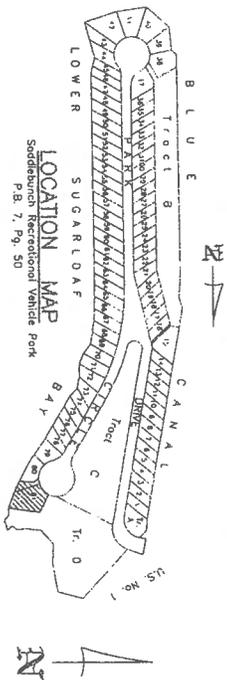
MONROE COUNTY PROPERTY APPRAISER OFFICE



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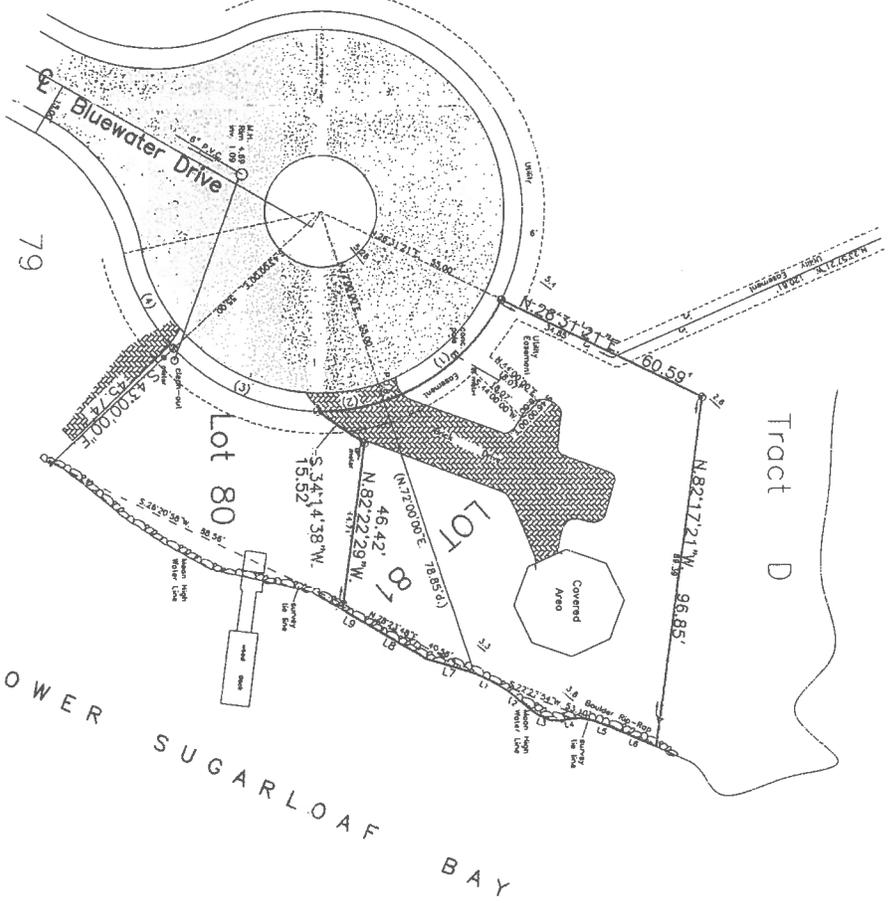
1:613  
Date: 11/14/2012





**LEGEND DESCRIPTION**  
 A portion of Tract "O", "SADDLEBUNCH RECREATIONAL VEHICLE PARK", according to the plat thereof, as recorded in Plat Book 7, of Page 51 of the Public Records of Monroe County, Florida and being more particularly described as follows:  
 BEGIN at the Northwest corner of Lot 80, of said "SADDLEBUNCH RECREATIONAL VEHICLE PARK", and run North 72°00'00"E, a distance of 78.85 feet to the Mean High Water Line of Lower Sugarloaf Bay; thence meander the said Mean High Water Line of Lower Sugarloaf Bay for the following six (6) meters and bounds: (1) thence S 16°15'00"W, a distance of 15.53 feet; (2) thence N 10°15'31.7"W, a distance of 4.43 feet; (3) thence N 23°15'53"E, a distance of 4.43 feet; (4) thence N 01°53'17"W, a distance of 9.13 feet; (5) thence N 18°58'42"E, a distance of 8.73 feet; (6) thence N 24°04'38"E, a distance of 1.72 feet; thence N 67°01'21"E, a distance of 96.85 feet; thence S 26°31'21"W, a distance of 60.59 feet to the Northerly Right-of-Way Line of Bluewater Drive and a point on a curve to the right, having a radius of 35.00 feet, a central angle of 42.82 degrees including the arc of said curve, an arc length of 43.86 feet to the Point of Beginning.  
 Parcel contains 8853.70 square feet or 0.16 acres, more or less.  
 Subject to all easements as shown on said Plat of "SADDLEBUNCH RECREATIONAL VEHICLE PARK".

**AND:**  
 A portion of Lot 80, "SADDLEBUNCH RECREATIONAL VEHICLE PARK", according to the plat thereof, as recorded in Plat Book 7, of Page 51 of the Public Records of Monroe County, Florida and being more particularly described as follows:  
 BEGIN at the Northwest corner of Lot 80, of said "SADDLEBUNCH RECREATIONAL VEHICLE PARK", thence N 72°00'00"E, along the Northerly Line of said Lot 80 a distance of 78.85 feet to the Mean High Water Line of Lower Sugarloaf Bay; thence meander the said Mean High Water Line of Lower Sugarloaf Bay for the following six (6) meters and bounds: (1) thence S 16°15'00"W, a distance of 15.53 feet; (2) thence N 10°15'31.7"W, a distance of 4.43 feet; (3) thence N 23°15'53"E, a distance of 4.43 feet; (4) thence N 01°53'17"W, a distance of 9.13 feet; (5) thence N 18°58'42"E, a distance of 8.73 feet; (6) thence N 24°04'38"E, a distance of 1.72 feet; thence N 67°01'21"E, a distance of 96.85 feet; thence S 26°31'21"W, a distance of 60.59 feet to the Northerly Right-of-Way Line of Bluewater Drive and a point on a curve to the left, having a radius of 35.00 feet, a central angle of 42.82 degrees including the arc of said curve, an arc length of 43.86 feet to the Point of Beginning.  
 Containing 13535 square feet, more or less.



**SURVEYOR'S NOTES:**  
 North arrow based on assumed meridian  
 Reference Bearing, R/W Bluewater Drive  
 \* denotes existing elevation  
 Elevations based on N.G.V.D. 1929 Datum  
 Elevation Mark: 90'

**ABBREVIATIONS:**  
 S/W = Story  
 R/W = Right-of-Way  
 P = Point  
 M = Measured  
 O = Old  
 C = Contour  
 E = Elevation  
 B.M. = Bench Mark  
 P.B. = Plat Book  
 pg. = page

**MANUMENTATION:**  
 ⊙ = set 1/2" from Pipe, P.L.S. No. 2749  
 ⊙ = Found 1/2" from Pipe, P.L.S. No. 2749  
 ⊙ = Found 5/8" from Bar  
 ⊙ = Set P.M. N.M.H., P.L.S. No. 2749  
 ⊙ = Found P.M. N.M.H.

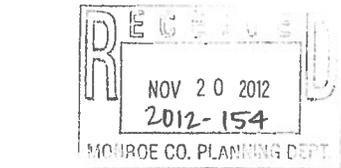
**ABBREVIATIONS:**  
 o/h = Overhead  
 F/L = Final  
 Ir. = Irregular  
 conc. = concrete  
 I.B. = Iron Bolt  
 I.R. = Iron Rod  
 C.B.S. = Concrete Block Sluice  
 cov'd = Covered  
 wd. = Wood  
 w.m. = Water Meter  
 P.L. = Planter

**Legend:**  
 B = Concrete Utility Pole  
 ⊙ = Wood Utility Pole  
 ⊙ = with Guy wire  
 ⊙ = Water Meter  
 ⊙ = Water Valve  
 ⊙ = Clean out

**Field Work performed on: 8/9/04**  
 © C.B. = Storm Water Catch Basin

Tranby Apartment		Lot 81, Bluewater RV Park, Saddlebunch Key, FL	
<b>BOUNDARY SURVEY</b>			
Scale: 1"=20'	Par: 178-1	Book: 154	Page: 81
Date: 10/19/04	Traced: JHC	Plat: 81-307-81	Dist: 307-81
REVISIONS AND/OR ADDITIONS			
<b>FREDERICK H. HILDBRANDT</b> ENGINEER PLANNER SURVEYOR 3142 Bayshore Drive Suite 205 (305) 261-5468 Fax: (305) 283-0237			

**LEGEND DESCRIPTION**  
 A portion of Tract "O", "SADDLEBUNCH RECREATIONAL VEHICLE PARK", according to the plat thereof, as recorded in Plat Book 7, of Page 51 of the Public Records of Monroe County, Florida and being more particularly described as follows:  
 BEGIN at the Northwest corner of Lot 80, of said "SADDLEBUNCH RECREATIONAL VEHICLE PARK", and run North 72°00'00"E, a distance of 78.85 feet to the Mean High Water Line of Lower Sugarloaf Bay; thence meander the said Mean High Water Line of Lower Sugarloaf Bay for the following six (6) meters and bounds: (1) thence S 16°15'00"W, a distance of 15.53 feet; (2) thence N 10°15'31.7"W, a distance of 4.43 feet; (3) thence N 23°15'53"E, a distance of 4.43 feet; (4) thence N 01°53'17"W, a distance of 9.13 feet; (5) thence N 18°58'42"E, a distance of 8.73 feet; (6) thence N 24°04'38"E, a distance of 1.72 feet; thence N 67°01'21"E, a distance of 96.85 feet; thence S 26°31'21"W, a distance of 60.59 feet to the Northerly Right-of-Way Line of Bluewater Drive and a point on a curve to the right, having a radius of 35.00 feet, a central angle of 42.82 degrees including the arc of said curve, an arc length of 43.86 feet to the Point of Beginning.  
 Parcel contains 8853.70 square feet or 0.16 acres, more or less.  
 Subject to all easements as shown on said Plat of "SADDLEBUNCH RECREATIONAL VEHICLE PARK".



**Authorization Form**

I, Breezy Pines, LLC. authorize  
Please Print Name(s) of Owner(s)

Trepanier & Associates, Inc. to be the representative for 29859 Overseas Hwy  
Address/ Project Name

and act on my/our behalf with regard to this issue.

*Kenneth Bollenback*

Signature of Owner  
Mr. Kenneth Bollenback,  
MGRM of Breezy Pines, LLC.

Signature of Joint/Co-owner if applicable

Subscribed and sworn to (or affirmed) before me on \_\_\_\_\_ (date) by

\_\_\_\_\_  
Please Print Name of Affiant

He/She is personally known to me or has  
presented \_\_\_\_\_  
as identification

*Mary Kulig*  
Notary's Signature and Seal



Kenneth Bollenback Name of Acknowledger printed or stamped

Managing member Title or Rank

\_\_\_\_\_  
Commission Number, if any

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DIVISION OF CORPORATIONS



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## Detail by Entity Name

### Florida Limited Liability Company

BREEZY PINES, LLC

#### Filing Information

**Document Number** L07000019977  
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**Event Date Filed** 02/26/2007  
**Event Effective Date** NONE

#### Principal Address

160 SCARLET BLVD.  
OLDSMAR FL 34677 US

Changed 05/14/2010

#### Mailing Address

160 SCARLET BLVD.  
OLDSMAR FL 34677 US

Changed 05/14/2010

#### Registered Agent Name & Address

BOLLENBACK, KENNETH  
160 SCARLET BLVD.  
OLDSMAR FL 34677 US

Name Changed: 08/11/2010

Address Changed: 08/11/2010

#### Manager/Member Detail

##### Name & Address

Title MGRM

BOLLENBACK, KEN  
160 SCARLET BLVD.  
OLDSMAR FL 34677

#### Annual Reports

Report Year Filed Date

2010 04/07/2010  
 2011 01/20/2011  
 2012 02/09/2012

**Document Images**

- [02/09/2012 -- ANNUAL REPORT](#)
- [01/20/2011 -- ANNUAL REPORT](#)
- [08/11/2010 -- Reg. Agent Change](#)
- [08/11/2010 -- CORLCMMRES](#)
- [05/14/2010 -- ADDRESS CHANGE](#)
- [04/07/2010 -- ANNUAL REPORT](#)
- [04/16/2009 -- ANNUAL REPORT](#)
- [03/18/2008 -- ANNUAL REPORT](#)
- [02/26/2007 -- LC Article of Correction](#)
- [02/20/2007 -- Florida Limited Liability](#)

**Note:** This is not official record. See documents if question or conflict.

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Frs |uh'wL #5qg#Svdf |#Srdf lny  
Vwobh# #a ugá/#G hsdup hgw# #/wóh

11/10/12  
(Date)

I hereby authorize Trepawier & Associates, Inc. be listed as authorized agent  
(Name of Agent)

for William Ogle for the application submittal for  
(Name of Property Owner(s) the Applicant(s))

Property described as Lot: \_\_\_\_\_, Block Part lot D (A.K.A LOT #1)  
Subdivision: Saddlebunch Rec. Vehicle Park (island): Saddlebunch  
and Real Estate number: 00120490-000187

This authorization becomes effective on the date this affidavit is notarized and shall remain in effect until terminated by the undersigned. This authorization acts as a durable power of attorney only for the purposes stated.

The undersigned understands the risks and liabilities involved in the granting of this agency and accepts full responsibility for any and all of the actions of the agent named herein related to the processing of the services requested, application(s) and/or the acquisition of approvals/permits for the aforementioned applicant. The applicant(s) hereby indemnifies and holds harmless Monroe County, its officers, agents and employees for any damage to applicant caused by its agent or arising from this agency authorization.

**Note:** Authorization is needed from each owner of the subject property. Therefore, one or more authorization forms must be submitted with the application if there are multiple owners.

William Ogle  
Property Owner(s) Signature  
William Ogle  
Printed Name of Owner(s)

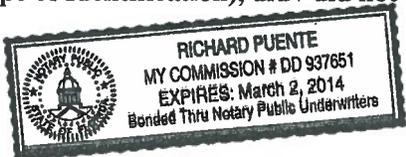
**NOTARY:**  
STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of November, 2012.

Mr. William E. Ogle is \_\_\_\_\_ personally known  produced identification

(FL DC LIC. 0240-925-46-459-A type of Identification), did / did not take an oath.

Richard Puente  
Notary



# County of Monroe Growth Management Division

Planning & Environmental Resources  
Department  
2798 Overseas Highway, Suite 410  
Marathon, FL 33050  
Voice: (305) 289-2500  
FAX: (305) 289-2536



Board of County Commissioners  
Mayor George Neugent, Dist. 2  
Mayor Pro Tem Sylvia J. Murphy, Dist. 5  
Kim Wigington, Dist. 1  
Heather Carruthers, Dist. 3  
Mario Di Gennaro, Dist. 4

*We strive to be caring, professional and fair*

June 15, 2009

Sarah Davis  
Trepanier & Associates  
402 Appelrouth Lane  
Key West, FL 33040

**SUBJECT: LETTER OF UNDERSTANDING CONCERNING BREEZY PINES  
ESTATES, LOCATED AT 29859 OVERSEAS HIGHWAY, BIG PINE  
KEY, MILE MARKER 30, HAVING REAL ESTATE NUMBERS  
00111882.00100 THROUGH 00111882.009800**

Ms. Davis,

Pursuant to §110-3 of the Monroe County Code (MCC), this document shall constitute a Letter of Understanding (LOU). On April 28, 2009, a Pre-Application Conference regarding the above-referenced property was held at the office of the Monroe County Planning & Environmental Resources Department in Marathon.

Attendees of the meeting included Sarah Davis and Owen Trepanier (hereafter referred to as "the Applicant") and Joseph Haberman, Principal Planner & Tim Richard, Planner (hereafter referred to as "Staff").

*Materials presented for review included:*

- (a) Pre-Application Conference Request Form;
- (b) Memorandum from Sarah Davis to Joseph Haberman, dated May 19, 2009;
- (c) Monroe County Property Record Cards; and
- (d) Monroe County Land Use District Map and Future Land Use Map

**I. APPLICANT PROPOSAL**

- 1. The Applicant is requesting that Staff establish what types of uses lawfully exist on the property and determine the number of recreational vehicle (RV) spaces and mobile homes

that may be reestablished and exempt from the Residential Rate of Growth Ordinance (ROGO). In addition, if there are nonconformities, the Applicant is requesting that Staff explain how these nonconforming uses and/or structures will be dealt with in the future.

As a note, following the conference, staff waited to prepare this letter of understanding in order to give the applicant an opportunity to have further discussions with their client and to submit additional information.



Subject Property (outlined in blue) (2006)

## II. SUBJECT PROPERTY DESCRIPTION

1. The property is located at 29859 Overseas Highway (US 1), Big Pine Key.
2. According to the Monroe County Property Appraiser's records, the property consists of 99 parcels of land. However, the Applicant asserts that the property consists of 102 parcels. Many of the parcels, established in 2007, have been sold into separate ownership. The remaining parcels are in the process of being sold by Breezy Pines LLC.
3. The parcels were not platted in accordance with the Land Development Code. Pursuant to MCC §110-96, plat approval shall be required for 1) the division of land into three or more parcels; 2) the division of land into two or more parcels where the land involved in the division was previously divided without plat approval within the prior two years; or 3) the division of land into two parcels where the disclosure statement required under MCC §110-96(f) is not attached to the conveyance.

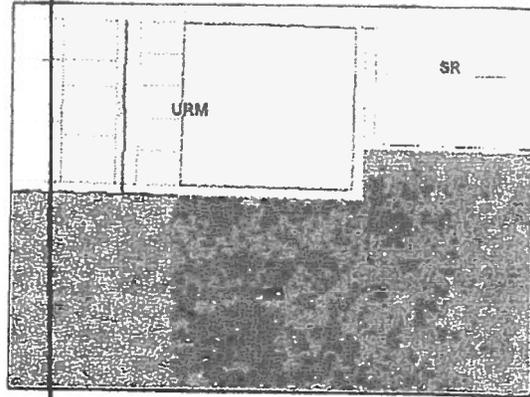
Therefore, although the lots were divided into more than three parcels (presumably by the property owner per only a condominium agreement not recognized by the Growth Management Division) and are being sold into separate ownership, Staff shall continue to recognize the subject property as a single parcel since the lots were not platted and the property is developed under a common plan and theme of development.

4. The parcels are legally described as parcels of land in Section 27, Township 66, Range 29, Big Pine Key, having real estate (RE) number 00111880.000020 (prior right-of-way abandonment) and parent real estate (RE) number 00111882 with split outs 000100 through 009800.
5. According to the county's GIS database, the property is approximately 4.4 acres. A boundary survey was not submitted. Therefore, all calculations included in this letter are based on the GIS data. A sealed boundary survey may be required at the time of application submittal for development approval. If the amount of upland area provided on a boundary survey differs, then calculations provided in this letter are subject to change.

### III. REVIEW OF REDEVELOPMENT PROPOSAL

The following land development regulations directly affect the proposal (however, it is important to note that there are other land development regulations not referred to or described in this letter which may govern future development as well):

1. The property is divided within two Land Use Districts, Urban Residential Mobile Home (URM) and Suburban Commercial (SC). Consistent with the boundary lines of the land use districts, the property is also divided within two Future Land Use Map (FLUM) categories, Residential High (RH) and Mixed Use / Commercial (MC). The entire property has a tier designation of Tier 3.
2. The existing use is classified as a combination of RV (a type of transient residential) and mobile home (a type of permanent residential).



As defined in the Land Development Code, a permanent residential unit is a dwelling unit that is designed for, and capable of, serving as a residence for a full housekeeping unit which includes a kitchen composed of at least a refrigerator and stove. A transient residential unit is a dwelling unit used for transient housing such as a hotel or motel room, or space for parking a RV or travel trailer.

3. In the application, it is asserted that 102 dwelling units are lawfully-established and thereby exempt from the ROGO permit allocation system. According to the Applicant, the site currently has 23 active mobile home lots, 75 RV lots and four (4) non-active lots. Specifically, the northern portion of the site (designated URM) has 15 mobile homes and 45 RV spaces. The southern portion of the site has eight (8) mobile homes and 30 RV spaces. As a note, Staff did not inspect the mobile homes to determine if in fact meet the definition of RV or to otherwise ensure that they would meet the definition of mobile home.

The ROGO shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established residential dwelling unit which does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement. Therefore, owners of land containing residential dwelling units shall be entitled to one unit for each such unit lawfully-established. Administrative Interpretation 03-108 provides the criteria to be used by Staff to determine whether or not a residential unit was lawfully-established:

- (a) A permit or other official approval from the Growth Management Division for the dwelling units:

Building permits establishing existing mobile homes and RV spaces were not located. However, the building permit history for the property supports the existence of a mobile home/RV park on the property.

- (b) If a permit or other official approval from the Growth Management Division is not available, the following information may be used to establish that a residential unit was lawfully-established:

*Aerial Photography:* Aerial photography from 1982 to 2008 confirms the continuous existence of a mobile home/RV park on the property. However, due to a lack of clarity in the aerial photography, the dense site layout of the park and the transient nature of RVs, Staff could not use the available photography to accurately determine the number of RVs, mobile homes in existence at any given time.

*Monroe County Property Record Card:* Of the 99 parcels, the Property Appraiser currently assesses 90 parcels under the property classification code of 00-Vacant Residential, eight (8) under 02-Mobile Home, and one (1) under 94-Right Of Way (All Roads). As a note, individually-owned parcels developed with mobile homes assessed separately from the parcel's tax roll or occupied by RVs are often classified as vacant residential by the Property Appraiser.

*Utility records:* Utility records were not submitted for review.

*Whether the residential use could have been permitted under the pre-1986 zoning:* Prior to 1986, the property was mainly within a RU-5P district (Mobile Home Park

Residential) with a small part within a BU-2 district (Medium Business). Mobile homes were permitted, but occupied RVs were not permitted. However, according to the records reviewed, the park may have been established at a time that would pre-date the adoption of the pre-1986 zoning ordinances.

*Occupational Licenses:* Occupational licenses were not submitted for review.

*Other Information:* In 1988, the Planning Department conducted a mobile home study for sites throughout the county. The 1988 mobile home study indicates that 101 total spaces were in existence at that time, 12 of which were mobile homes and 89 of which were RV spaces.

Based on a review of the records, the Planning & Environmental Resources Department has determined that 101 total lots are lawfully established on the subject property, 12 of which are for permanent mobile homes and 89 of which are for transient RV spaces. This determination is primarily based on the 1988 mobile home study in which the Planning Department carried out a comprehensive, lot-by-lot review of the development on the site at that time, only a few years prior to the adoption of the ROGO.

In the application, it is asserted that 102 are lawful and this number is in part based on the mobile home study. Staff found that the site plan incorporated into the study only shows 101 numbered lots (see Attachment 1).

4. The property is divided within two Land Use Districts, URM (the northern section) and SC (the southern section).

In the URM District, mobile homes and RVs as provided in Florida Statutes Chapter 513 are permitted as-of-right. RV spaces, not as provided in Florida Statutes Chapter 513, are not permitted.

In the SC District, campgrounds may be permitted with a major conditional use permit, provided that: a) the parcel proposed for development has an area of at least five acres; b) the operator of the campground is the holder of a valid Monroe County occupational license; c) if the use involves the sale of goods and services, other than the rental of camping sites or RV parking spaces, such use does not exceed 1,000 ft<sup>2</sup> and is designed to serve the needs of the campground; and d) the parcel proposed for development is separated from all adjacent parcels of land by at least a class "C" buffer-yard. Mobile homes are not permitted and RV spaces that are not part of a campground are also not permitted.

Mobile homes in the SC portion of the site and RV spaces in the URM portion of the site are not permitted under the current regulations of the Land Development Code. Therefore, such mobile homes and RVs are considered non-conforming uses.

In addition, any RV spaces located in the SC portion of the site shall also be considered non-conforming uses if the above-mentioned requirements for a campground are not met. If the requirements are met, the site will be deemed to have a major conditional use permit in accordance with MCC §101-4(c) since the RV spaces were in existence prior to 1986.

Nonconforming uses of land or structures may continue only in accordance with the provisions of MCC §102-56.

- According to the Applicant, there currently are 23 active mobile home lots, 75 RV lots and four (4) non-active lots in existence. The Applicant provided a site plan showing 98 lots, presumably created in 2009 (see Attachment 2).

The site plan provided by the Applicant does not entirely match the site plan contained within the 1988 mobile home study in terms of lot numbering, lot locations and mobile home/RV placement on lots. As a note, neither of the site plans is a professional document prepared by a registered architect or engineer.

Table 1 organizes the data available for the lot numbers by each of the studies.

Total Lots (per 1988 site plan)	Lot # (per 2009 site plan)	Lot # (per 1988 site plan)	Current RE # (Split out only)	2009 Use (per applicant)	1988 Use	Zoning	Conforming Use
1	Not shown	1 (south)	None provided	n/a	RV space	SC	n/a
2	2	2 (south)	000200	RV space	RV space	SC	Yes
3	3	3 (south)	000300	RV space	RV space	SC	Yes
4	4	4 (south)	000400	RV space	RV space	SC	Yes
5	5	5 (south)	000500	RV space	RV space	SC	Yes
6	6	6 (south)	000600	RV space	RV space	SC	Yes
7	7	7 (south)	000700	RV space	RV space	SC	Yes
8	8	8 (south)	000800	RV space	RV space	SC	Yes
9	9	9 (south)	000900	RV space	RV space	SC	Yes
10	10	10	001000	RV space	RV space	SC	Yes
11	11	11	001100	RV space	RV space	SC	Yes
12	12	12	001200	RV space	RV space	SC	Yes
13	13	13	001300	RV space	RV space	SC	Yes
14	14	14	001400	RV space	RV space	SC	Yes
15	15	15	001500	RV space	RV space	SC	Yes
16	16	16	001600	RV space	RV space	SC	Yes
17	17	17	001700	RV space	RV space	SC	Yes
18	18	18	001800	RV space	RV space	SC	Yes
19	19	19	001900	RV space	RV space	SC	Yes
20	20	20	002000	RV space	RV space	SC	Yes
21	21	21	002100	RV space	RV space	SC	Yes
22	Not shown	22	None provided	n/a	RV space	SC	n/a
23	23	23	002300	RV space	RV space	URM	No

24	24	24	002400	RV space	RV space	URM	No
25	25	25	002500	RV space	RV space	URM	No
26	26	26	002600	RV space	RV space	URM	No
27	27	27	002700	RV space	RV space	URM	No
28	28	28	002800	RV space	RV space	URM	No
29	29	29	002900	RV space	RV space	URM	No
30	30	30	003000	RV space	RV space	URM	No
31	31	31	003100	RV space	RV space	URM	No
32	32	32	003200	RV space	RV space	URM	No
33	33	33	003300	RV space	RV space	URM	No
34	34	34	003400	RV space	RV space	URM	No
35	35	35	003500	RV space	RV space	URM	No
36	36	36	003600	RV space	RV space	URM	No
37	37	37	003700	RV space	RV space	URM	No
38	38	38	003800	RV space	RV space	URM	No
39	39	39	003900	RV space	RV space	URM	No
40	40	40	004000	RV space	RV space	URM	No
41	41	41	004100	Mobile Home	RV space	URM	Yes*
42	42	42	004200	RV space	RV space	URM	No
43	43	43	004300	RV space	RV space	URM	No
44	44	44	004400	RV space	RV space	URM	No
45	45	45	004500	RV space	RV space	URM	No
46	46	46	004600	RV space	RV space	URM	No
47	47	47	004700	RV space	RV space	URM	No
48	48	48	004800	RV space	RV space	URM	No
49	49	49	004900	RV space	RV space	URM	No
50	50	50	005000	RV space	RV space	URM	No
51	51	51	005100	Mobile Home	RV space	URM	Yes*
52	52	52	005200	RV space	RV space	URM	No
53	53	53	005300	RV space	RV space	URM	No
54	Not shown	54	None provided	n/a	RV space	URM	n/a
55	59	1 (north)	005900	RV space	RV space	URM	No
56	58	2 (north)	005800	RV space	RV space	URM	No
57	57	3 (north)	005700	RV space	RV space	URM	No
58	56	4 (north)	005600	RV space	RV space	URM	No
59	55	5 (north)	005500	RV space	RV space	URM	No
60	54	6 (north)	005400	RV space	RV space	URM	No
61	A-19	07 (north)	007900	RV space	RV space	URM	No
62	1	08 (north)	000100	RV space	RV space	URM	No
63	22	09 (north)	002200	RV space	RV space	URM	No
64	A1	A1	006100	RV space	Mobile Home	URM	No
65	A2	A2	006200	Mobile Home	Mobile Home	URM	Yes
66	A3	A3	006300	Mobile Home	Mobile Home	URM	Yes
67	A4	A4	006400	Mobile Home	Mobile Home	URM	Yes
68	A5	A5	006500	Mobile Home	Mobile Home	URM	Yes
69	A6	A6	006600	Mobile Home	Mobile Home	URM	Yes
70	A7	A7	006700	Mobile Home	Mobile Home	URM	Yes
71	A8	A8	006800	Mobile Home	RV space	URM	Yes*
72	A9	A9	006900	Mobile Home	Mobile Home	URM	Yes
73	A10	A10	007000	Mobile Home	Mobile Home	URM	Yes
74	A11	A11	007100	RV space	RV space	URM	No
75	A12	A12	007200	Mobile Home	RV space	URM	Yes*

76	A13	A13	007300	RV space	RV space	URM	No
77	A14	A14	007400	RV space	RV space	URM	No
78	A15	A15	007500	Mobile Home	RV space	URM	Yes*
79	A16	A16	007600	RV space	RV space	URM	No
80	A17	A17	007700	RV space	RV space	URM	No
81	A18	A18	007800	Mobile Home	Mobile Home	URM	Yes
82	B1	B1	008100	Mobile Home	RV space	SC	No
83	B2	B2	008200	Mobile Home	RV space	SC	No
84	B3	B3	008300	RV space	Mobile Home	SC	Yes*
85	B4	B4	008400	Mobile Home	RV space	SC	No
86	B5	B5	008500	RV space	RV space	SC	Yes
87	B6	B6	008600	Mobile Home	RV space	SC	No
88	B7	B7	008700	RV space	RV space	SC	Yes
89	B8	B8	008800	Mobile Home	RV space	SC	No
90	B9	B9	008900	RV space	RV space	SC	Yes
91	B10	B10	009000	RV space	RV space	SC	Yes
92	B11	B11	009100	Mobile Home	RV space	SC	No
93	B12	B12	009200	RV space	RV space	SC	Yes
94	B13	B13	009300	RV space	RV space	SC	Yes
95	B14	B14	009400	Mobile Home	RV space	SC	No
96	B15	B15	009500	RV space	RV space	SC	Yes
97	B16	B16	009600	Mobile Home	RV space	SC	No
98	B17	B17	009700	RV space	RV space	SC	Yes
99	B18	B18	009800	RV space	RV space	SC	yes
100	Not shown	B19	None provided	n/a	RV space	SC	n/a
101	A-20	Manager Home	008000	Mobile Home	Mobile Home	URM	Yes
--	60	Not shown	006000	RV space	None provided	URM	No

\* Considered conforming use; however change of use was not permitted.

There are 101 parcels, including the manager's home site on the 1988 site plan. There are 98 parcels on the 2009 site plan and according to the Property Appraiser's records.

Concerning discrepancies:

- Lots 1 (in the southern section), 22 (in the southern section), 54 and B19 are shown on the 1988 site plan; however none are shown on the 2009 site plan or recognized with real estate numbers.
- Lot 60 (also identified as RE 00111882.006000) is shown on the 2009 site plan; however it is not shown on the 1988 site plan.
- Lots 41, 51, A8, A12, A15, B1, B2, B4, B6, B8, B11, B14 and B16 are developed with mobile homes on the 2009 site plan; however the 1988 site plan shows RV spaces on each of the lots. This represents 13 changes from RV space to mobile home without the benefit of permits. Lots 41, 51, A8, A12 and A15 are designated URM. Lots B1, B2, B4, B6, B8, B11, B14 and B16 are designated SC.
- Lots A1 and B3 are developed with RV spaces on the 2009 site plan; however the 1988 site plan shows mobile homes on each of the lots. This represents two changes

from mobile home to RV space without the benefit of permits. Lot A1 is designated URM. Lot B3 is designated SC.

6. Although not lawfully-established, Lot 60 (also identified as RE 00111882.006000) may take the place of Lot 54 (Lot 60 is in and Lot 54 was in the URM District and Lot 60 is developed with a RV space and Lot 54 was developed with a RV space).
7. The Applicant asserted that their party is interested in preserving four transient ROGO exemptions in order to transfer off-site (however, Staff has since concluded that only three transient ROGO exemptions would be available for such action). The development rights associated with the three remaining parcels, Lots 1, 22 and B19, all of which were transient RV spaces, are eligible to transfer off-site.
8. The Applicant asserted that in order to bring the site into compliance to the greatest extent practical, the property owner proposes the following: "As the existing permanent dwellings deteriorate and require substantial improvement, as defined in [The Land Development Code], the permanent dwelling identified to "Convert" under the "Proposed Action" column in the "Non-conformity Analysis Chart" [in the May 19, 2009 Memorandum from Sarah Davis] will be eliminated and the individual lot will thenceforth cease to be used for permanent residential dwellings. As a result of the proposed actions, the number of permanent dwellings will conform to the number defined in the [1988] Mobile Home Survey."

The information provided within the Applicant's "Non-conformity Analysis Chart" does not entirely correspond with Staff's findings as provided in Table 1. In any event, the Applicant proposes to convert the unlawful mobile homes on Lots A12, A15, 41, 51, B1, B2, B4, B6, B11, B14 and B16 back to their last approved use of RV space as the units are substantially damaged or otherwise removed. However, this should also be expanded to include Lots A8 and B8. It is unknown why the Applicant excluded these lots, since both were also unlawfully converted from transient to permanent, which is prohibited.

After considering the Applicant's request Staff has determined the following:

The conversions of RV spaces to mobile homes on Lots 41, 51, A8, A12, A15, B1, B2, B4, B6, B8, B11, B14 and B16 were carried out without the benefit of permits. In addition, the conversions of mobile homes to RV spaces on Lots A1 and B3 were carried out without the benefit of permits.

Staff prefers that the property owner take advantage of the current opportunity, as many of the lots have not been sold into separate ownership as of the date of this letter, to convert all of the parcels back to their last approved status as RV space or mobile home (in 1988) as outlined in Table 1. However, if this is not possible, Staff presents the property owner with the following options that would bring the site into compliance over time and limit hardship.

Concerning Lots A1 and B3:

The Applicant may remove the RV space on Lot A1 and replace it with a mobile home and remove the RV space on Lot B3 and replace with a permanent dwelling unit as permitted in the SC District; however not a mobile home (its removal constituted substantial improvement).

However as an alternative to the preceding option, the Applicant may submit a letter requesting to "switch" the mobile homes since replaced with RV spaces on Lots A1 and B3 with RV spaces replaced with one or two of the mobile homes on Lots 41, 51, A8, A12 or A15 (designated URM). The letter must be addressed to the Director of Planning & Environmental Resources and specifically state which lots shall be switched. The letter shall not be binding until responded to in writing from the Director in the form of an addendum to this letter of understanding. Lots B1, B2, B4, B6, B8, B11, B14 and B16 are not eligible for this relocation as they designated SC, where mobile homes are not permitted. This would reduce the number of unlawful conversions to those on Lots B1, B2, B4, B6, B8, B11, B14 and B16 and the non-converted parcels of Lots 41, 51, A8, A12 and/or A15.

Concerning Lots A12, A15, 41, 51, B1, B2, B4, B6, B11, B14 and B16:

The Applicant proposed to convert the unlawful mobile homes on Lots A12, A15, 41, 51, B1, B2, B4, B6, B11, B14 and B16 back to their last approved use of RV space as the units are substantially damaged or otherwise removed. Staff is not in a position to agree to this request. Pursuant to MCC §6-107, except for building permits that are limited exclusively to addressing imminent risks to property and public health and safety, no building permit shall be issued for any use or improvement involving all or any portion of a parcel of land as defined in the Land Development Code that contains an unlawful use or improvement until the parcel is brought into compliance with the provisions the Land Development Code. By way of illustration and not limitation, permits may be issued for repairs and replacement of roof and other building structural components to the extent necessary to address imminent risks of property damage and to public safety and health, such as for, but not limited to, the repair of leaking roofs and damaged roofs, walls, foundation; and, violations of building, mechanical and electrical codes. Any such permit shall contain a provision requiring compliance with Land Development Code by the date specified in the permit.

Therefore, the Planning & Environmental Resources Department may only approve building permit applications for the type of work referred to in MCC §6-107. Any other work may not be permitted and the unlawful mobile home must be removed prior to any building permit being issued for that particular parcel.

In order to alleviate hardship, Staff shall not require the property owner bring all of the unlawful mobile homes and unlawful RV spaces into compliance at this time. Furthermore, Staff shall only consider building permits on a RE by RE basis. For

example, if the unlawful mobile home on Lot B1 is in need of a building permit which cannot be approved and therefore the structure has to be removed, only Lot B1 shall be affected. Staff shall not require the unlawful mobile homes on the other parcels to be removed at that time.

9. The only lawfully established mobile home in SC portion of the site was on Lot B3. It has since been removed; however replaced with an unlawful RV space. No new mobile homes may be located on the SC portion of the site, including Lot B3. However, as previously stated, Lot B3 may be replaced with another type of permanent dwelling unit that is permitted in the SC District.
10. There are 49 RV spaces in the URM portion of the site. It is presumed that none of these RVs are in compliance with Florida Statutes Chapter 513. Therefore they are all non-permitted uses and thereby non-conforming. However, unlike a typical structure, a RV space is not a structure but only a type of use in space. Therefore, it cannot be substantially improved as defined in the Land Development Code. As a result, the lawfully-established but non-conforming RV spaces may continue in accordance with the current code, specifically the provisions concerning nonconforming uses.

#### IV. OTHER ISSUES

1. A website for the development (<http://www.breezypinesrv.com>) implies that all lots are RV lots and that RV spaces may be used as "affordable housing": Per the website: "Individuals have the opportunity to enjoy all the rights and benefits of RV lot ownership in what will become one of the finest RV Resorts in the Florida Keys. The concept of lot ownership, which is relatively new to the Florida Keys will serve as a means of providing ownership opportunities to folks who believed that the possibility of ownership has passed them by. We are dedicated to ensuring that Breezy Pines continue as a mode of affordable housing in the Keys and will try to facilitate financing".

It is important that the property owner and prospective buyers are aware of and understand the following:

Lawful permanent mobile homes may not be used transiently and may not be replaced with RV spaces. If rented, mobile homes must be leased for tenancies of more than 28 days duration or they are considered an unlawful tourist housing use. Mobile home means a structure transportable in one or more sections which structure is eight body feet or more in width and over 35 feet in length, which structure is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein, including expandable RVs, known as "park models" designed and built as a permanent residence, the structure for which is 35 feet or less in length and in excess of eight feet in width.

We trust that this information is of assistance. If you have any questions regarding the contents of this letter, or if we may further assist you with your project, please feel free to contact our Marathon office at (305)289-2500.

Sincerely yours,



Townsley Schwab,  
Senior Director Planning & Environmental Resources

Cc: Joe Paskalik, Building Official  
Ronda Norman, Senior Director of Code Enforcement  
Joseph Haberman, Principal Planner

This instrument prepared by:  
Owen Trepanier  
402 Appelrouth Ln.  
Key West, FL 33040

**TRANSFER OF DEVELOPMENT RIGHTS (ROGO ALLOCATION)  
IN MONROE COUNTY, FLORIDA**

THIS INDENTURE is made, executed and delivered this 31 day of July, 2009, by Breezy Pines, LLC, a Florida limited liability company (hereinafter called "Transferor") whose address is 1421 First Street, Key West, FL 33040, to and in favor of Owen Trepanier and Associates, Inc., a Florida corporation whose mailing address P.O. Box 2155, Key West, FL 33040 (hereinafter called "Transferee") as more particularly set forth herein.

**WITNESSETH:**

Transferor is the record owner of real property located at 29859 Overseas Highway, Monroe County, Florida more particularly described 27 66 29 BIG PINE KEY PT SE1/2 OF NE1/4 (ROADWAY IN CAHILL TRACT) (the Sender Site).

Transferor has obtained recognition for three (3) "non-active" transferable transient ROGO-exempt units as described in the Letter of Understanding Concerning Breezy Pines Estate, dated June 15, 2009 (attached hereto and hereinafter called "LOU").

That Transferor, for and in consideration of the sum of TEN (\$10.00) DOLLARS and other goods and valuable considerations to it in hand paid by transferee, the receipt of which is hereby acknowledged, does hereby grant, assign and transfer one (1) transient ROGO-exempt unit to the transferee for the benefit of the transferee.

Transferor fully warrants and represents that the development rights for the transient ROGO-exempt unit transferred herein have not been previously used, demised, encumbered, sold or transferred, and transferor is lawfully seized thereof, and that the same are in good standing and effect (as described in the LOU) and Transferor has the right and lawful authority to sell and transfer the transient ROGO-exempt unit, and will defend the same against the lawful claims of all persons claiming by or through the Transferor.

Transferee, by acceptance and recordation of this Indenture, expressly and specifically accepts and assumes full responsibility for all applicable zoning and building provisions applicable to the transferred transient ROGO-exempt unit as required by Monroe County.

Doc# 1769901 12/10/2009 9:53AM  
Filed & Recorded in Official Records of  
MONROE COUNTY DANNY L. KOLHAGE

Doc# 1769901  
BK# 2443 Pg# 2151

