

**DEVELOPMENT REVIEW COMMITTEE**

**Tuesday, August 27, 2013**

**MEETING MINUTES**

The Monroe County Development Review Committee conducted a meeting on **Tuesday, August 27, 2013**, beginning at 1:01 p.m. 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** by Gail Creech

**DRC MEMBERS**

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present

**STAFF**

Mayte Santamaria, Assistant Planning Director	Present
Mitch Harvey, Comprehensive Plan Manager	Present
Rey Ortiz, Planning & Biological Plans Examiner Supervisor	Present
Patricia Smith, Transportation Planning Manager	Present
Laurie McHargue, Sr. Biologist	Present
Emily Schemper, Sr. Planner	Present
Tim Finn, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

**CHANGES TO THE AGENDA**

There were no changes to the agenda.

**MINUTES FOR APPROVAL**

Mr. Schwab approved the minutes from the July 30, 2013 DRC meeting with three adjustments, which will be provided to Ms. Creech.

**MEETING**

**New Items:**

**1.Keys Ahead, Inc., Florida International University (FIU), 103355 Overseas Highway, Key Largo, Mile Marker 103.3:** A request for a minor conditional use permit to allow the redevelopment of an existing building for office and school uses. The subject property is legally described as Lots 14, 15, 16, Block 12, Largo Sound Park (PB3-111), Key Largo, Monroe County, Florida, having real estate number 00472790.000000. (File 2013-091)

Mr. Finn presented the staff report. Mr. Finn reported that this request is for redevelopment of an existing office building for research activities by FIU, as well as office uses by FIU and Keys Ahead, Inc. The school use is permitted under the code as a minor conditional use. The nonconforming office use is permitted and is consistent with the RM category within the comp plan. Over the past six months permits have been applied for with regard to maintenance. The floor area ratio is lawfully nonconforming to the land development regulations as well as the comp plan, and the proposal does not correct those nonconformities. The site plan does not indicate that the lawfully nonconforming setbacks would be brought closer into compliance. The landscape buffers and asphalt are overlaid on the site plan and need to be clarified on the site plan.

Mr. Finn suggested options to address the parking issues. The applicant could: Apply for a variance to the Planning Commission to reduce the parking; reduce the number of classroom occupants; present a report from a qualified engineer that the County traffic consultant will approve; procure a parking agreement between the applicant and any neighboring property owner within 300 feet; or redesign the site plan, which may include contiguous parcels under common ownership. Mr. Finn reported that the applicant is presently negotiating the purchase of the neighboring parcels to comply with parking.

Mr. Finn reported that another lawful nonconformity on the site plan is an 11-by-55 loading zone, which is blocking part of the US-1 access, as well as some of the parking spots. That does not need to be brought into compliance at this time. The access drives from US-1 are lawfully nonconforming and Mr. Finn spoke of the need to revise the site plan with regard to the buffer yards and asphalt. The traffic impact report needs to be revised to show a single classification that encapsulates the entire site or divides it up into a combination of classifications.

Mr. Roberts then made comments regarding the landscaping and stormwater. The existing stormwater is lawfully nonconforming. Mr. Roberts suggested adding a French drain or another drainage well. Mr. Roberts also asked for the site plan to be clarified regarding the landscape buffers and asphalt. Although the parking lot landscaping is lawfully nonconforming, Mr. Roberts stated any proposal to improve that situation would be appreciated.

Mr. Finn then pointed out details on the site plan that need to be revised to James Brush, P.E., present on behalf of the applicant.

Ed Handte, the adjacent property owner, asked for clarification of the buffer yards. Mr. Handte stated that this building has never had a posted permit on it. Mr. Schwab asked Mr. Handte to hold his comments for public comment.

Mr. Finn then paraphrased the conditions attached to this minor conditional use permit.

Mr. Schwab then asked for public comment.

Mr. Handte voiced concern about the lack of a buffer yard in the rear and side of the property. Mr. Haberman explained there is no buffer requirement because the zoning between the two properties is the same. Mr. Handte inquired as to where the parking would be. Mr. Haberman

responded that parking is an issue currently being worked through, but added parking in the easement or on a roadway is not allowed to be used for the parking requirement. Mr. Haberman suggested contacting Public Works to close the road off to parking if the neighbors are concerned about parking on the County right-of-way. Mr. Haberman pointed out that the applicant is looking at potentially purchasing an adjacent property for additional parking. Another option is for the applicant to provide a study showing what the parking would be for the property's new use.

Mr. Handte informed the Committee that the applicant has started clearing out a 15-foot utility easement he believes with no permit. Mr. Haberman will look into that. Mr. Haberman clarified that no parking would be approved on the back of the property. Mr. Handte then described how an adjacent property owner is parking in the rear of his building and on adjacent lots. Mr. Haberman reiterated that the parking issue is still in the process of being resolved and nothing has been approved yet. Mr. Handte again raised the issue of no building permit having been posted on this property. Mr. Haberman explained that building permits have been applied for to renovate the building, as is allowed. The building is legal. Application for building permits for the site work or the new use of the FIU-related facility would be Step 2 of the process. Mr. Haberman will look into whether there is a permit box or not, which is a Building Department concern. Mr. Handte stated he does not object to the school use on this property, but is concerned about the buffering and parking issues. Jonathan Bloodworth, son of another adjacent property owner, was present and voiced concern about a potential lack of parking. Mr. Handte then asked whether this nonconforming property is registered, as is required by code. Mr. Haberman explained that code was revised recently. Mr. Haberman confirmed that the subject property is on the registry now.

Mr. Schwab stated that he needs to review a more precise site plan after modifications and adjustments are made by the applicant. Mr. Schwab continued this agenda item to the next meeting.

A recess was held from 1:34 p.m. to 1:42 p.m.

**2.Square Grouper Bar & Grill, 22658 Overseas Highway, Cudjoe Key, Mile Marker 22.6:**

A request for an amendment to a minor conditional use permit to allow the expansion of commercial retail in the form of a restaurant into previously approved commercial retail space in the form of retail sales within an existing building. The subject property is legally described as Block 8, Lots 22 and 23, Cutthroat Harbor Estates (PB4-165), Cudjoe Key, Monroe County, Florida, having real estate numbers 00178500.000000 and 00178490.000000.  
(File 2013-078)

Mr. Finn presented the staff report. Mr. Finn reported that this proposal is for the applicant to expand into existing floor space on the second floor, as well as an additional 1,200 square feet, totaling 8,400 square feet of floor area. Right now the building is 7,200 square feet, with the first floor having 4,200 square feet and the vacant second floor having 3,000 square feet. There is some open space that they want to expand an additional 1,200 square feet into, which will need NROGO. Mr. Finn stated that there is a recycling enclosure on the proposed site plan within a 25-foot setback that would need to be removed or relocated out of the setback or stormwater

retention area. Mr. Finn then outlined some inconsistencies with the parking analysis that were on the submitted site plan. The parking analysis would need to be revised to show consistency with the overall 8,400 square feet and comply with the County traffic consultant's concerns. One additional ADA parking space needs to be added to the site plan. A billboard currently on the property was to be removed at the end of a contract with Viacom, which date has passed. The applicant needs to provide a current copy of this contract from Viacom and an explanation as to why this condition was not fulfilled. Mr. Finn then paraphrased the conditions attached to this minor conditional use.

Ms. Smith pointed out that on Page 12 of 13 of the staff report it should state "traffic consultant does not agree."

Owen Trepanier was present with the applicant, Lynn Bell. Mr. Trepanier asked how much of the square footage can be built under the new di minimus amount of NROGO. Ms. Santamaria responded that a thousand square feet is allowed if di minimus has not been used previously. Mr. Trepanier stated he will address the NROGO issues, and the recycling enclosure is currently being addressed. The applicant will revise the parking calculation and add the ADA space. A traffic analysis update has been prepared and will be submitted. Ms. Bell then addressed the billboard issue. Ms. Bell stated that she was unaware of the billboard issue and that the current lease is through CBS now, who bought Viacom out. Mr. Trepanier will confer with his client to figure out how to handle the billboard.

Mr. Trepanier stated that a stronger floor is required for the second floor use and inquired whether the applicant could begin construction during September when the business is closed, but not engage in any use of that space until everything is finished. Ms. Santamaria explained that it has to go through the NROGO process since that area is over 1,000 square feet, which means it has to go through the building permit process to be ready to go into NROGO, which is given out quarterly.

Mr. Harvey asked that Items 3 and 4 be read together since they are related to one another.

**3. CONSIDERATION OF AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING POLICY 101.2.6 OF THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN EXTENDING THE MORATORIUM ON TRANSIENT UNIT ALLOCATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR THE TRANSMITTAL TO THE FLORIDA STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2013-086)

**4. CONSIDERATION OF AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING SECTION 138-23 OF THE MONROE COUNTY CODE, EXTENDING THE MORATORIUM ON TRANSIENT UNIT ALLOCATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF

INCONSISTENT PROVISIONS; PROVIDING FOR THE TRANSMITTAL TO THE FLORIDA STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY CODE.

(File 2013-090)

Mr. Harvey presented the staff report. Mr. Harvey reported that ever since the comprehensive plan was adopted there has been a moratorium on new transient units. The moratorium is due to expire on May 1, 2014. Mr. Harvey explained the reason that date was chosen is because it coincided with the evaluation appraisal report (EAR) process at that time. The BOCC then directed staff not to make any changes to the transient use moratorium. When the process went through review by what was then DCA, now DEO, staff was given direction that a review of the moratorium should follow the EAR process. The EAR is due on May 1, 2014. The next EAR after that is seven years later. The DEO views new transient uses the same as new residential units, so that any new residential units would have to go through the ROGO process. At this point staff has decided to move forward and amend the transient use moratorium to the year 2022 because that is when the EAR-related amendments are due for the next EAR cycle. 2022 also follows with the Florida Administrative Commission's decision to allocate a ten-year supply of ROGO units in order to meet the hurricane evacuation requirement of 24 hours. This does not affect the ability of an existing transient use to expand through the transfer of ROGO exemptions. These two ordinances are changes to both the transient use moratorium in the comprehensive plan policy and the corresponding section of the Monroe County Code. Ms. Santamaria noted that another reason for these ordinances is also to maintain public safety.

**5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTIONS 114-1, STANDARDS, AND 114-2, ADEQUATE FACILITIES AND DEVELOPMENT REVIEW PROCEDURES, CLARIFYING AND AMENDING THE LEVEL OF SERVICE STANDARDS, ADDING A SANITARY SEWER LEVEL OF SERVICE; AND AMENDING THE SCHEDULE FOR THE PUBLIC FACILITIES ASSESSMENT REPORT; 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 2013-099)

Ms. Santamaria provided the staff report. Ms. Santamaria reported that this is a code amendment to address changes in Florida Statutes, as well as direction by the BOCC to amend the level of service standard for roads. Rather than having a level of service standard for each of the 24 segments of US-1, this will provide an overall level of service standard for the entire length of the roadway. The other revisions to the code are to make all the level of service standards consistent with the comprehensive plan for the various services provided, as well as to amend the schedule for the public facilities assessment report to be biannually.

Ms. Smith suggested that Page 5 of 16, under Roads, A, should read "as necessary to determine proposed development impacts." Ms. Smith then questioned, under D-1, whether County Road

905, being a hurricane evacuation route, impacts the level of service. Ms. Santamaria explained those are two different models and two different measures because the level of service is for development in terms of the day-to-day trips and the speed on the segment, but the hurricane evacuation is that immediate impact of people getting on the road to evacuate. Ms. Smith then asked whether, under 4 on that same page, could potentially conflict with the County's four-lane restriction. Ms. Santamaria responded that would not be able to be approved if it was in conflict with the comp plan unless amendments were proposed to the comp plan as well. The addition of a turn lane or creation of or even removal of an access way is something that could be done through a development agreement or other agreement.

**6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTION 122-2(B)3 GENERAL PROVISIONS, BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD MAPS, SPECIES ASSESSMENT GUIDES (SAGS); PROVIDING A NEW DATE FOR REVISED SPECIES ASSESSMENT GUIDES (SAGS) FOR PERMIT REFERRAL PROCESS DETERMINATIONS; 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 2013-102)

Ms. McHargue presented the staff report. Ms. McHargue reported that this text amendment to the code provides a new date for the most recently revised SAGs that are used in the permit referral process for determining the impact of development on endangered species or federally threatened species. The original SAGs were approved on May 20, 2012, and since that time it has come to the attention of Fish & Wildlife and County staff that there were some problems with consistency and semantics. In April of this year Fish & Wildlife and Growth Management staff began working on the revisions. On July 29 of this year Fish & Wildlife Service provided the final approved versions of the SAGs to FEMA and the amendment is to reflect that change in date of the approved latest revisions to the SAGs that would be used in the determinations. That date is July 29, 2013.

**7. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** TO CREATE GOAL 106, OBJECTIVE 106.1, POLICY 106.1.1, AND POLICY 106.1.2 RELATING TO THE TIER SYSTEM, AS REQUIRED BY ADMINISTRATION COMMISSION RULE 28-20.140, FLORIDA ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.  
(File 2013-107)

Mr. Harvey presented the staff report. Mr. Harvey reported that Rule 28-20.140 is a state rule that requires the implementation of a work program for the area of state critical concern, and every year the County provides a 30-day report, which is an evaluation assessment of how the

County is achieving that work program. The BOCC has provided direction for the County to request the Florida Administrative Commission to amend that work program to remove certain sections of the work program that were related to adopting the tier map overlay into the comprehensive plan. There are over 8,000 parcels that have a tier designation. There are aspects of the work program related to Goal 106 that the County does support, so the proposed creation of Goal 106 and related objectives and policies will ensure that the County's habitat map will be maintained and periodically updated so the tier maps are as current as possible. Ms. Santamaria clarified there are approximately 44,000 parcels in the County that have a tier designation and these policies would be to continually update and review them with the EAR schedule.

**8. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTION 130-83, IMPROVED SUBDIVISION DISTRICT (IS), SECTION 130-98, URBAN RESIDENTIAL, SECTION 130-99, URBAN RESIDENTIAL-MOBILE HOME DISTRICT (URM), SECTION 130-100, URBAN RESIDENTIAL MOBILE HOME-LIMITED DISTRICT (URM-L), AND SECTION 130-164, MAXIMUM NONRESIDENTIAL LAND USE INTENSITIES AND DISTRICT OPEN SPACE; PROVIDING CONSISTENCY BETWEEN LAND DEVELOPMENT REGULATIONS IN THE LAND DEVELOPMENT CODE AND POLICIES IN THE 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 29106)

Mr. Haberman presented the staff report. Mr. Haberman reported that the purpose of this amendment is to simply make the Land Development Code and the comp plan consistent regarding future land use categories. Currently there are a variety of nonresidential uses permitted in the IS, UR, URM and URM-L districts that are not permitted in the residential medium and residential high future land use categories. This amendment is eliminating commercial marina nonresidential uses that are not permitted in the residential medium and residential high FLUM and cleaning up and improving the language about how certain legal nonconforming structures can remain and be substantially improved within certain parameters.

Ms. Schemper explained and discussed other ways that the code and the comp plan could possibly become more consistent. Mr. Haberman suggested tabling this item to discuss this further in an effort to get it as consistent as possible. Ms. Santamaria noted that the BOCC directed staff to protect existing structures, but this amendment is not intended to protect new development. Ms. Schemper pointed out that public buildings and public facilities are two separate FLUM overlays and those need to be split out. Mr. Haberman agreed. Ms. Schemper questioned why under Parks and Community Parks some districts require a minor conditional use and some require a major conditional use. Mr. Haberman stated wastewater always requires a major conditional use because of the uncertainty of where a wastewater treatment facility might need to be built. Ms. Schemper pointed out inconsistencies in the language with respect to institutional and institutional residential. Mr. Haberman will double-check that language. Ms. Schemper suggested deleting "or was permitted on the date before the comp plan" from the

paragraph about lawfully established nonresidential uses. Mr. Haberman and Ms. Schemper will meet to further discuss the best way to make the code and comp plan language consistent.

**ADJOURNMENT**

The Development Review Committee meeting was adjourned at 2:36 p.m.