

## Agenda

PLANNING COMMISSION  
MONROE COUNTY  
March 24, 2010

MARATHON GOV'T CENTER  
2798 OVERSEAS HIGHWAY  
MARATHON, FL  
MONROE COUNTY, FL

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### COMMISSION:

Randy Wall, Chairman  
Jim Cameron, Vice Chairman  
Denise Werling  
Jeb Hale  
Elizabeth Lustberg

### STAFF:

Townsley Schwab, Senior Director of Planning and Environmental Resources  
Susan Grimsley, Ass't County Attorney  
John Wolfe, Planning Commission Counsel  
Mitch Harvey, Comprehensive Plan Manager  
Kathy Grasser, Comprehensive Planner  
Joe Haberman, Principal Planner  
Debby Tedesco, Planning Commission Coordinator

### COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

### SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

### SWEARING OF COUNTY STAFF

### CHANGES TO THE AGENDA

-  
-

### **New Items:**

#### 1. 4W Cooks Island Limited Partnership Property, Part Government Lot 2, New Found Harbor Keys, aka Cooks Island.

**Mile Marker 29:** An appeal to the Planning Commission concerning an administrative decision of the Senior Director of Planning & Environmental Resources dated July 20, 2009 denying a request for an exemption from the Rate of Growth Ordinance (ROGO) permit allocation system. The subject property is legally described as part Government Lot 2, New Found Harbor Keys, aka Lot 4W Cooks Island (0.34 acre), Monroe County, Florida, having real estate number 00107930.002900.

[29081 FILE.pdf](#)

[29081 COMBINED Plans.pdf](#)

[29081 SR PC 3.24.10.PDF](#)

2. An Ordinance of the Board of County Commissioners of Monroe County, Florida, creating Section 130-131 of the Monroe County Land Development Code, creating the Lower Sugarloaf Key Community Center Overlay District for Real Estate Number 00118470.000000 and for portions of parcels having Real Estate numbers 00118420.000000 and 00117930.000000

described as a portion of Government Lot 3 and portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17.

[2010-015 SR 3.24.10.PDF](#)

**3. An Ordinance of the Board of County Commissioners of Monroe County, Florida, amending the Land Use District Map** designation from Destination Resort (DR), Native Area (NA) and Suburban Commercial (SC) to Mixed Use (MU) for Real Estate Number 00118470.000000 and for portions of parcels having Real Estate numbers 00118420.000000 and 00117930.000000 described as a portion of Government Lot 3 and Portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17.

[M28098 SR 3.24.10.PDF](#)

**BOARD DISCUSSION**

- **GROWTH MANAGEMENT COMMENTS**

- **RESOLUTIONS FOR SIGNATURE**

**ADJOURNMENT**



File #: 29081

Owner's Name: 4W Cooks Island L.P./David Wood

Applicant: 4W Cooks Island L.P./David Wood

Agent: N/A

Type of Application: Admin Appeal to PC

Key: Cooks Island

RE #: 00107930-002900

**Additional Information added to File 29081**

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 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*

Date: 8/21/09

Dear Applicant:

This is to acknowledge submittal of your application for Admin Appeal to PC  
Type of application

4W Cooks Is L.P. /

David Wood  
Project / Name

to the Monroe County Planning Department.

Thank you.

Shil Creech

Planning Staff

**End of Additional File 29081**

# Gulfside

**Health Care, Inc.**  
Community Mental Health Center

RECEIVED

AUG 21 2009

BY: \_\_\_\_\_

Dear Tom,

I am submitting the application today. 8/20/2009  
There are 2 items pending.

1. Witness affidavit from a former resident on Coche, IS. He mailed it yesterday.
2. Pictures of cabins - I will forward to you next week.

Thank you

Dr. S Wood

239-470-6810

APPLICATION  
MONROE COUNTY  
PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT



Administrative Appeal to the Monroe County Planning Commission

Monroe County Code § 102-185

Appeals of administrative actions must be filed with the County Administrator and with the Planning & Environmental Resources Department within thirty (30) days of the date of the decision

Administrative Appeal Application Fee: \$1,500.00

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: 8 / 20 / 2009  
Month Day Year

Decision being appealed: When Dwelling was established on Cooks Is.

Date of decision being appealed: 7 / 20 / 2009  
Month Day Year

Appellant:

4 W COOKS IS L.P. / DAVID WOOD  
Name

15228 Knots Landing  
Mailing Address (Street, City, State, Zip Code)

239-470-6810  
Daytime Phone

goolio@comcast.net  
Email Address

Agent (if applicable):

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
Daytime Phone

\_\_\_\_\_  
Email Address

Property Owner:

4 W COOKS IS. L.P. / DAVID WOOD  
Name

15228 Knots Landing  
Mailing Address (Street, City, State, Zip Code)

Fort Myers, FL 33908  
Daytime Phone

239-470-6810

APPLICATION

Legal Description of Property:

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

Part GOVERNMENT Lot 2, NEW FOUND HARBOR Key, AKA Lot 4W Cooks Island

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Block Lot Subdivision Key

00109930, 002900 8764553

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Real Estate (RE) Number Alternate Key Number

none 22

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Street Address Approximate Mile Marker

Land Use District Designation(s): 05

Present Land Use of the Property: Dwelling

Are there any pending codes violations on the property? Yes:  No:

If yes, please provide case number: 06070145

A COPY OF THE BASIS FOR THE APPEAL IN THE NATURE OF AN INITIAL BRIEF AND ANY EVIDENCE INCLUDING TESTIMONY, AFFIDAVITS AND THE CURRICULUM VITAE OF ANY EXPERT WITNESS THAT WILL BE CALLED MUST BE ATTACHED TO THIS APPLICATION. The brief must at a minimum state all grounds for the appeal, including but not limited to, the law being appealed and any facts necessary for interpretation of those laws. (Attach additional sheets of paper)

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 administrative appeal application (unaltered and unbound); *Exhibit 3a + 6 on pending*
- Correct fee (check or money order to Monroe County Planning & Environmental Resources);
- Proof of ownership (i.e. Warranty Deed);
- Current Property Record Card(s) from the Monroe County Property Appraiser;
- A copy of the document(s), which comprise the administrative decision being appealed;
- Any evidence and record which forms the basis for the appeal must be submitted with this application;
- Names and addresses of all expert witnesses that you propose to call at the hearing;
- Photograph(s) of site from adjacent roadway(s);

*pending*

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 subject property)
- Boundary Survey – ten (10) sets (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.

APPLICATION

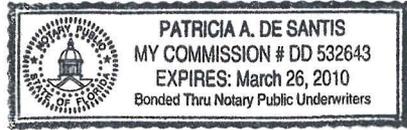
If new evidence, or the basis for appeal, is submitted at the Planning Commission hearing, Staff shall request that the hearing be continued to the next Planning Commission meeting nearest to the property (approximately six weeks) so that Staff has the opportunity to prepare a response to the new evidence.

If the applicant does not submit the basis for the appeal with the application, Staff will recommend denial of the appeal.

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: DJE Wood Date: 8/20/2009

Sworn before me this 20<sup>th</sup> day of August, 2009



Patricia A. De Santis  
Notary Public  
My Commission Expires MARCH 26, 2010

Please send the complete application package to:

Planning Commissioner Coordinator  
Monroe County Planning & Environmental Resources Department  
2798 Overseas Highway, Suite 400, Marathon, FL 33050

-AND-

Monroe County Administrator  
The Gato Building  
1100 Simonton Street, Key West, FL 33040

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, NOTICE IS GIVEN THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING OR MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE THAT PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. SUCH RECORD TO BE AT THE COST OF THE APPELLANT. ALSO, MONROE COUNTY RESOLUTION #131-1992 REQUIRES THAT "IF A PERSON DECIDES TO APPEAL ANY DECISION OF THE PLANNING COMMISSION, HE SHALL PROVIDE A TRANSCRIPT OF THE HEARING BEFORE THE PLANNING COMMISSION, PREPARED BY A COURT REPORTER AT THE APPLICANT'S EXPENSE, WHICH TRANSCRIPT SHALL BE FILED AS PART OF THE RECORD ON APPEAL WITHIN THE TIME PROVIDED IN SECTION 9.5-521(f), MONROE COUNTY CODE.

Please Note: A transcript made from recordings or other secondary means does not provide a sufficiently accurate record of all the speakers. Therefore, such "secondary" transcripts may not be accepted as a valid verbatim transcript.

Return to: Mary Vlasak Snell, Esquire  
Name: Pavese Law Firm  
Address: P.O. Drawer 1507, Fort Myers, FL 33902-1507

This instrument was prepared by: Mary Vlasak Snell, Esquire

Name                    PAVESE, HAVERFIELD, DALTON,  
Address                HARRISON & JENSEN  
                             1833 Hendry Street  
                             Post Office Drawer 1507  
                             FORT MYERS, FLORIDA 33902-1507

Property Appraiser's Parcel I.D.  
#00107930-002900

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## SPECIAL WARRANTY DEED (STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture, made this 28<sup>th</sup> day of August, 2000, Between **CAROL JEAN KAMOSA, formerly known as CAROL JEAN WOOD**, whose post office address is 15074 Iona Lakes Drive, Building 32, Fort Myers, FL 33908, Grantor\*, and **4W COOKS ISLAND LIMITED PARTNERSHIP, a Nevada Limited Partnership**, whose post office address is c/o David Wood, Post Office Box 08178, Fort Myers, Florida 33908, Grantee\*.

Whereas, Grantor desires to convey her one-half interest in the property described in this instrument.

Now, Therefore, Grantor, in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)**, and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, hereby grants and conveys to the said Grantee, and Grantee's heirs and assigns forever, her entire one-half interest in that real property located in Monroe County, Florida, and more particularly described as follows:

Lot 4W, A tract of land on Cook's Island, being a part of Section 10, T.67S,R29E, Monroe County, Florida and being more particularly described by metes and bounds as follows: Commencing at a point on the mean high water line of Cook's Island that is bearing North 33 degrees and 30 minutes West from Marker "G" in Hawks Channel, bear North 40 degrees and 42 minutes, 150 feet; thence bear South 49 degrees and 18 minutes West, 12.72 feet; thence bear South 77 degrees, 51 minutes and 31 seconds West, 88.17 feet; thence bear North 80 degrees and 55 minutes West 177.42 feet; thence bear South 81 degrees and 28 minutes West, 8.90 feet to the POINT OF BEGINNING of the tract of land hereinafter described; thence bear South 14 degrees, 56 minutes and 08 seconds East, 161.27 feet; thence bear North 80 degrees and 55 minutes West, 33.92 feet; thence bear South 81 degrees and 28 minutes West, 66.08 feet; thence bear North 15 degrees, 58 minutes and 05 seconds West, 151.27 feet; thence bear North 81 degrees and 28 minutes East, 100 feet, back to the POINT OF BEGINNING.

THIS IS NOT THE HOMESTEAD PROPERTY OF THE GRANTOR HEREIN, NOR IS IT CONTIGUOUS WITH OR ADJACENT TO THE HOMESTEAD PROPERTY OF THE GRANTOR.

Grantor covenants as follows:

1. That the premises are free from encumbrances made by Grantor; and
2. That Grantor will warrant and defend the property hereby conveyed against the lawful claims and demands of all persons claiming by, through or under her, but against none other.

\*"Grantor" and "Grantee" are used for singular or plural, as context requires.

**In Witness Whereof**, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Lee Maes  
Witness #1

Lee Maes  
Printed name of Witness #1

Carol Jean Kamosa (Seal)  
CAROL JEAN KAMOSA, formerly known as  
CAROL JEAN WOOD

Carol Smith  
Witness #2

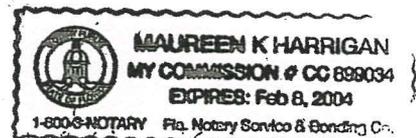
Carol Smith  
Printed name of Witness #2

STATE OF Florida  
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of August, 2000,  
by CAROL JEAN KAMOSA, formerly known as CAROL JEAN WOOD, who is personally known to me or who  
produced \_\_\_\_\_ as identification and who did not take an oath.

Maureen Harrigan  
Notary Public

Printed name of Notary Public  
My Commission Expires:  
My Commission No. is:



**Monroe County Property Record Card (133)**

Alternate Key: 8764553 Roll Year 2009  
 Effective Date: 5/11/2009 12:22:00 PM Run: 05/11/2009 12:23 PM

4W COOKS ISLAND LIMITED PARTNERSHIP  
 P O BOX 3540  
 SILVER SPRINGS NV 89429

Parcel 00107930-002900-10-67-29 Nbhhd 529  
 Alt Key 8764553 Mill Group 5000  
 Affordable Housing No PC 9900  
 FEMA Injunction ALL  
 Inspect Date Next Review  
 Business Name  
 Physical Addr VACANT LAND, COOKS ISLAND

Associated Names  
 Name DBA Role  
 4W COOKS ISLAND LIMITED PARTNERSHIP, Owner

Legal Description  
 10 67 29 NEW FOUND HARBOR KEYS PT GOVT LOT 2 (AKA LOT 4W COOKS ISLAND) (.34 AC) OR115-994 OR1248-2162/64(JMH) OR1581-1524(JMH) OR1611-691/92 OR1651-1782/83(JMH)

Land Data 1.

Line ID	Use	Front	Depth	Notes	# Units	Type	SOH %	Rate	Depth	Loc	Shp	Phys	Class	ROGO	Class Value	Just Value
99875	M10W	0	0	No	1.00	LT	0.00		1.00	1.00	1.00	1.00		N		
Total Just Value																

Appraiser Notes  
 2005 TRIM; FOUND THIS AND OTHERS AT 000X; CHANGE TO M10W FOR 06 ROLL

August 19, 2009

#### Brief for Cooks Island 4W

I, David Wood and my family have owned a place on Cooks Island since 1978 (31 years). The property is now in a Family Limited Partnership called 4W Cooks Island L.P.

Cooks Island is part of a string of islands known as the Newfound Harbor Keys. It is a beautiful little island located on the Atlantic side south of Big Pine and Little Torch Key. The island contains no street addresses or streets. Also no utilities are provided on the island.

I applied for a ROGO exemption and was denied.

The following contains the basis for my appeal:

We have had dwellings on the property since 1978, in one form or another. We first built two platform beach huts with a small bathroom toward the back of property.

Supporting evidence:

Exhibit 1: survey showing structures.

Exhibit 2: an old seller agreement dated 1984, containing a description of the property showing we had beach huts.

Exhibit 3(a): a witness affidavit from a long time resident on Cooks Island supporting the evidence that we have had dwelling(s) and still have a dwelling on Cook's Island.

Exhibit 3(b): a witness affidavit from Charles Swartz, a retired police officer of Pasco County, Florida. He and his family have stayed at our place over the years.

Exhibit 4: A yard order dated 4/6/86 from Loggerhead Lumber, Big Pine Key, Florida. It is now out of business but the invoice shows I bought lumber there for further construction early in 1986.

Exhibit 5: A letter dated July 1988 from Charles Patterson, former Executive Director, of the Monroe County Land Authority stating there were 13 homes on Cooks Island. In the letter he stated only 4 were listed on the 1986 tax roll or Cooks Island. Two of those were ours.

Exhibit 6: Pictures of the existing dwelling. Due to effects of time and adverse weather we now have just one dwelling supported by some of the same post, and materials from one of the old beach huts. It contains beds, refrigerator, stove, generator, a separate toilet area, etc. This is not a shed as stated in the denial letter dated July 20, 2009. According to the definition in MCC 9.5-4 (D-11) it is a dwelling unit.

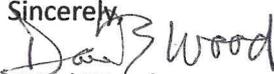
According to MCC 138-22/Administrative 03-108 (b) if a permit or other official approval is not available the following criteria may be used to support that a dwelling unit was established. A site visit is one of the criteria that can be used. Bill Harbert, planner, says in the denial letter that based on his inspection he considered it a shed. It is not a shed. According to MCC 9.5-4 (D-11) it is a dwelling. I have already submitted information to support this. Further criteria that can be used. MCC 9.5-120.4(d), states (whether the residential use could have been permitted use under the pre-1986 zoning of the property.) Prior to 1986, the property was within the GU General Use District. Single family homes were permitted. Again I have included evidence in this brief to support that there were two beach huts. Refer to Exhibits (1-6).

I now want to further include proof of other steps I took to improve our land prior to the September 15, 1986 deadline. Back in 1986 when I found out new zoning changes would be taking place I spent thousands of dollars having house plans drawn up.(Exhibit 7), engineering plans done by Rosenblatt and Sons (Exhibit 8), a survey and perk test by J.B. Case (Exhibit 9), I hired Mother Earth Enterprises, Summerland Keys to handle the permitting process (Exhibit 10). I did all of this in good faith and in order to comply so I could build a more substantial dwelling before the new zoning changes went into effect. We attempted to submit the application before the closing date but were turned away at the Health Department. They said they were too inundated to accept the application. I just could not believe it. Others who went ahead and built illegally without permits after 1986 (and there have been many) have been rewarded for breaking the law by being allowed exemptions or after the fact permits. I tried to do it legally and was denied. This is just not right. I have nothing against those people who built without permits although I find it strange that a few have made it difficult for us to enjoy our place. They have even gone so far as to recently remove post that were concreted in the ground back in 1978. I have reported this to the Sheriff's office and have taken pictures of the empty wholes to showing the old concrete. (Exhibit 13)

In the fall of 1986 I hired an attorney, I believe named Herzog to help me with my problem. I paid him a lot of money but he didn't do much. I hired Sandy Barrett, Environmental Consultant, (Exhibit 11), but no luck. I hired Donald Craig and Associates. (Exhibit 12) I thought he had it all worked out but it fell through. The only reason I include these things is to show how hard I tried to do the right thing and the incredible amount of time, effort, money and frustration I have put into this.

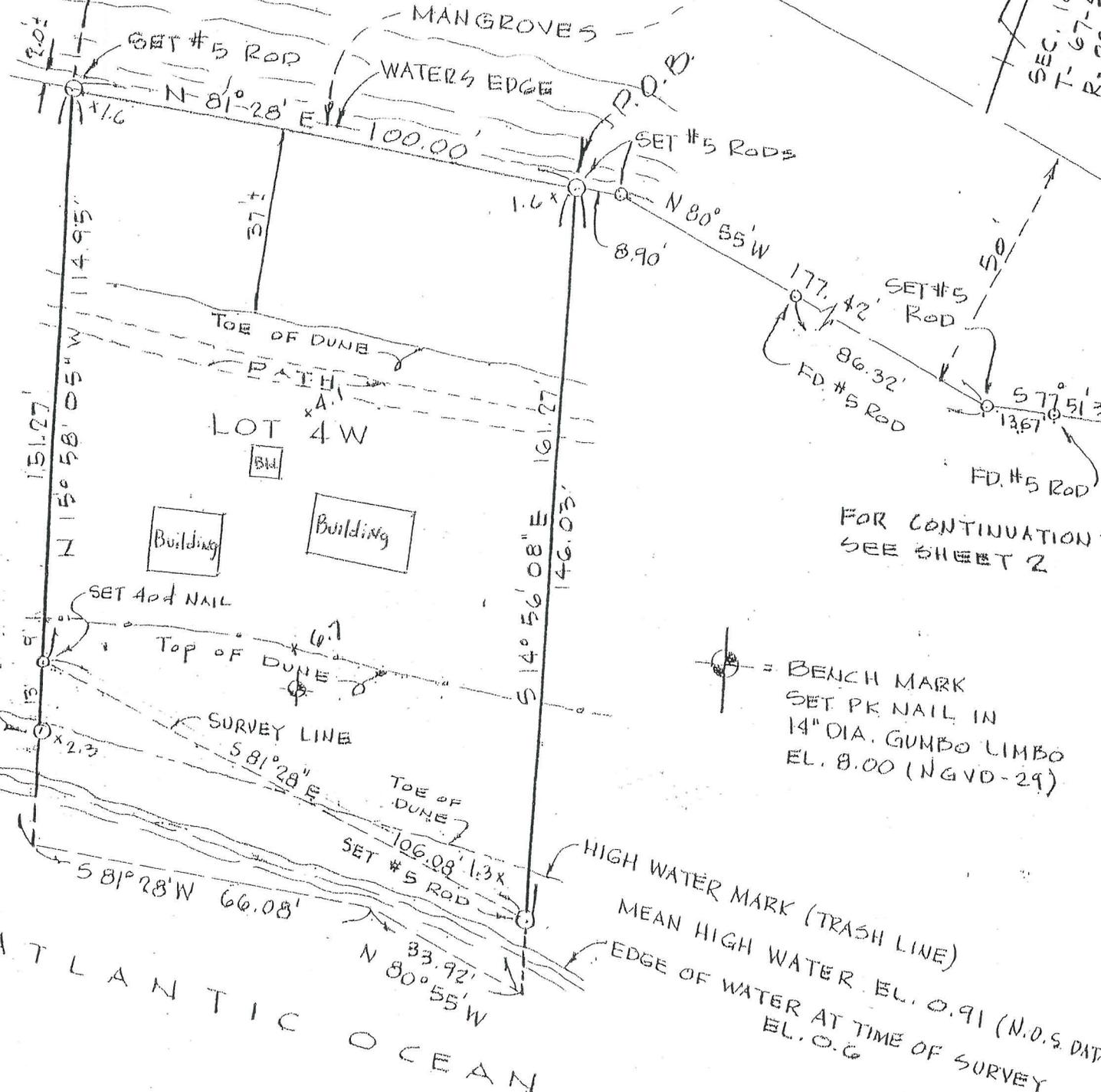
In Summary, I have had a dwelling(s) on Cooks Island for over 31 years. I have submitted information to support this. Nine out of the 13 homes were not on the 1986 tax roll and built without permits on Cooks Island per a letter by Charles Patterson (exhibit 5). All have been given ROGO Exemptions, except me. Also, since 1986 others have built new dwellings, added on, made major renovations, etc. without permits and have since been given some type of exemption or after the fact permit. I would greatly and respectfully appreciate the same. I am adamant and fully committed to seeing this through. All I expect is fair and equal treatment.

I have been coming to the Florida Keys for over 38 years. I love this place. God willing I am counting on spending a lot more time down here in the near future. I do have a serious health problem and would like to get this taken care of now for the future benefit of my children. I thank you for your consideration.

Sincerely,  
  
David Wood

BAY

SEC. 10  
T. 67-S  
R. 20-W



FOR CONTINUATION  
SEE SHEET 2

= BENCH MARK  
 SET PK NAIL IN  
 14" DIA. GUMBO LIMBO  
 EL. 8.00 (NGVD-29)

HIGH WATER MARK (TRASH LINE)  
 MEAN HIGH WATER EL. 0.91 (N.O.S. DAT.)  
 EDGE OF WATER AT TIME OF SURVEY  
 EL. 0.00

I HEREBY ATTEST that to the best of my knowledge and belief the survey represented hereon complies with the minimum technical standards, as set forth by the Florida Board of Land Surveyors, pursuant to Section 472.027, Florida Statutes.  
 The date of survey was 17 JUNE 1986

PROFESSIONAL LAND SURVEYOR, FLORIDA CERTIFICATE NO. 2198  
 To be valid, copies must have original of Surveyor's signature and embossed seal imprint.

*James B. Case*  
 (Surveyor's Signature)  
18 JUNE 86  
 (Signature Date)

SURVEY FOR:

David Wood

This survey prepared for David Wood and is not assignable.  
 This survey subject to a title search.

REV.
FIELD: JBC-P.O.C.
DR. BY: J.B.C.
CXED BY: JBC



P. O. BOX 283

BOUNDARY SURVEY  
 J. B. CASE  
 LAND SURVEYOR

SHEET 1 OF 2

SCALE 1" = 30'
DATE 17 JUNE 86
P. A. NO. 360
DWG. NO. A-557

SUNNERLAND KEY, FLA

BETTY M. REIN 1/a BETTY M. BROTHERS REAL ESTATE, INC.

# SELLING CONTRACT

*Encl 2*

This Contract is by and between Betty M. Brothers Real Estate, Inc. and the Property Owner (or agent). Betty M. Brothers Real Estate, Inc. Licensed and Registered by the State of Florida, is hereafter known as the Party of the First Part. The Property Owner is known as the Party of the Second Part.

NAME OF PROPERTY OWNER David Wood

ADDRESS 1500 Middle Gulf Dr, Sanibel Island STATE Fl

TELEPHONE 813 472 6772 ZIP 33957

LEGAL DESCRIPTION 4W Cooks Island

## Further Description

Beautiful ocean front property with two (2) beach huts enclosed with bahamas shutters. Seperate bathroom/shower building. Lots of vegetation including numerous Gumbo Limbo and Palm trees. Located 2 miles offshore from Little Torch Key. Property 100x161

The Party of the Second Part hereby pledges that he is the rightful owner, and is able to give a good and marketable title to the property being sold.

He will cooperate in every way to consummate a sale, and hereby grants EXCLUSIVE RIGHT OF SALE to Party of the First Part for ~~eight (8)~~ 5 1/2 months, in which to find a buyer ready, willing and able to purchase. *SW & DW*

NOTE: If Party of Second Part wishes to withhold certain persons previously talked to, these names should be noted, and made exceptions to the Contract. (Use other side of Contract form.)

Party of the Second Part will sell the described property for a total price of \$ 150,000.00  
The down payment must be 25% with terms as follows: 5 Years @ 12%

or by further negotiation Open

At signing of this Contract, Broker promises to put forth an honest effort to present this property to prospective buyers. Broker agrees to furnish cards, signs, brochures, and transportation. Broker will advertise in newspapers or other printed media at his expense. Broker will try for fastest sale possible, and will present every offer to Party of the Second Part.

When a Buyer is found, whether by Party of First Part, or Party of Second Part, or by any other person, a commission of 6 % shall be due and payable to Party of the First Part, at date of closing. ~~If it should happen that the property is not sold within the time limits of this Contract, it will automatically extend for 120 days, allowing time for previous advertising efforts to further materialize.~~ *DW*

BETTY M. REIN 1/a  
BETTY M. BROTHERS REAL ESTATE, INC.

Accepted by: *[Signature]*

David E. Wood  
Property Owner

Accepted by:

Terry Casey

Date: 8/9/84

Betty M. Brothers Real Estate, Inc.  
Office on U. S. 1, Little Torch Key, Florida  
Mailing Address: P. O. Box 456, Big Pine Key, Florida 33043  
Telephone: (305) 872-2261 & 872-2318

Ewert 36

# Affidavit

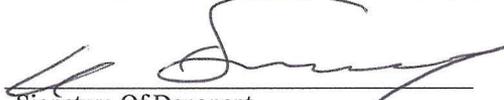
**Comment [Note1]:** General form of Affidavit to be used when one person wishes to make a sworn statement in the presence of a Notary Public. Statement by Notary Public.

**NB: The Notary Public must witness the signature and sign and seal the document.**

I, Charles Swartz of 595 31 St.NW, Naples Florida, being of legal age, do hereby depose and say under oath as follows:

1. Over the years of 1985-2009 my family and I have stayed several times on Cooks Island at David Wood's beach hut.
- 2.
- 3.

Witness my hand under the penalties of perjury August 19<sup>th</sup>, 2009

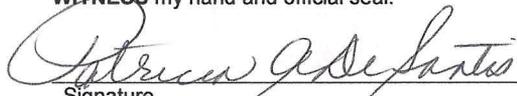


Signature Of Deponent

STATE OF FLORIDA  
COUNTY OF ~~GOLLIER~~ LEE

On August 20<sup>th</sup>, 2009 before me, *PATRICIA A. DE SANTIS*, personally appeared Chuck Swartz, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person executed the instrument. *F.D.L. exp. 07/16/2014*

**WITNESS** my hand and official seal.



Signature

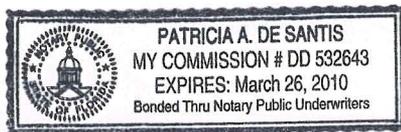




Exhibit 5

MONROE COUNTY LAND AUTHORITY

M E M O R A N D U M

TO: Chairman Eugene R. Lytton, Sr.,  
Chairman

FROM: Charles Pattison, CP  
Executive Director

RE: Cook's Island

DATE: July 28, 1988

-----  
I agreed to provide you with the information I could find on this island off of the ocean side of Big Pine Key.

Although it is now Offshore Island (OS) under the land use plan, there are 13 houses on it, and 39 lots as an unrecorded subdivision. It is my impression that most of these houses have existed for some time. I have attached the 1986 tax roll which interestingly enough only shows four houses, which means no one is making assessments for most of this.

I have checked the old zoning records and found the area was GU except for one small RU-1 area. With the new OS designation, someone now needs 10 acres to build. I have received several phone calls from property owners asking if the Land Authority would consider buying these properties, and it will be considered on the next list. It is also my understanding that one or more of the property owners are considering legal action since they are unable to build now on a given lot.

You may recall that this was a map change request on the first round, but it was not approved by the County Commission. I have attached the original packet for your information.

Please let me know if I can provide you with any additional information.

# 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*

July 20, 2009

4W Cooks Island Limited Partnership  
ATTN: David Wood  
15228 Knots Landing  
Fort Myers, FL 33908

RE: ROGO Exemption Request for Cooks Island, Part Government Lot 2, New Found Harbor Keys, AKA Lot 4W Cooks Island (.34 AC), Real Estate Number 00107930.002900

Mr. Wood,

You requested a determination as to whether one (1) residential dwelling unit is exempt from the Residential Rate of Growth Ordinance (ROGO) on the above-described premises.

Pursuant to §138-22 of the Monroe County Code, the ROGO shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established residential dwelling unit that does not increase the number of dwelling units that existed on the site. Therefore, owners of land shall be entitled to one (1) dwelling unit allocation, exempt from the ROGO permit allocation system, for each dwelling unit lawfully-established on a given property. Administrative Interpretation 03-108 provides the criteria to be used by staff to determine whether or not a dwelling unit was lawfully-established:

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

No Monroe County building permits have been issued for development of the property. The applicant submitted evidence that building plans for a single-family dwelling unit were drawn and planned for submittal to the Building Department in 1986. However, these plans are not in the Building Department's records.

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

\* *Site Visit:* A site visit was conducted by Bill Harbert, Planner, on June 22, 2009. Only a storage shed was present on the property.

*Land Use District:* The property is located in an Offshore Island (OS) District, in which a detached single-family detached dwelling is a permitted use on a parcel of 10 or more acres.

*Aerial Photography:* Aerial photography from 1982 to 2008 cannot confirm the existence of a structure on the property due to the altitude from which the photographs were taken. Therefore aerial photography cannot be used as evidence for or against the existence of a structure on the property from 1982 to 2008.

*Monroe County Property Record Card:* The Property Appraiser currently assesses the property under a property classification code of 99-Non aggregated acreage 5 acres or more. Their records indicate that the lot has been on the tax roll from 1990 to 2008, and has been listed as vacant each year.

*Utility records:* No utility records were submitted for review.

\* *Whether the residential use could have been permitted under the pre-1986 zoning:* Prior to 1986, the property was within the GU General Use District. Single-family homes were permitted uses.

*Other Information:* A boundary survey, dated June 17, 1986, was submitted by the applicant for review. The survey showed three (3) small structures on the property, however their specific use was not indicated on the boundary survey.

Based on a review of the records, the Planning & Environmental Resources Department found that no residential dwelling units were lawfully-established and thereby no replacements shall be exempt from the ROGO system, for the following reasons:

other non-permitted structures were given after the first permits was I should be notified also

1. Pursuant to Monroe County Code § 138-22 and Administrative Interpretation 03-108, in order to be exempt from the Rate of Growth Ordinance (ROGO), one (1) lawful dwelling unit must have been in existence on the effective date of the county's land development regulations (September 15, 1986) or, if constructed after the effective date, must have been permitted in accordance with the land development regulations and the ROGO permit allocation system. No such record for a dwelling unit was found.
2. Currently, the property is located within an OS District. A single-family residence constructed after 1986 would have required ten (10) acres of buildable land to meet the Monroe County residential density requirements. According to the Monroe County Property Appraiser's records, the property has .34 acres of buildable land acres and staff was unable to locate any building permits for this parcel.
3. Staff was unable to locate a building permit approving a single-family dwelling unit or any other development on the property.

4. Staff reviewed Monroe County Property Appraisers' records, and found that the property has been on the tax roll since 1990, and has been assessed as vacant each year. Furthermore, the lack of a building listed on the Property Record Card indicates that there was no residential structure on the property at the time of the adoption of ROGO.
5. The Monroe County Planning & Environmental Resources Department issued a memorandum, dated January 22, 2009. The purpose of the letter was to determine the number lawfully established dwelling units on Cooks Island. This memorandum was provided to all property owners on Cooks Island. The subject property was not awarded an exemption at that time.
6. The Boundary Survey, dated June 18, 1986, submitted with the application indicates the existence of three (3) structures on the property at that time, however it does not confirm the use of the structures, nor does it confirm their continued existence.

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, please feel free to contact our Marathon office at (305) 289-2500.

You may appeal this decision. If you choose to do so, please contact the Planning Commission Coordinator, Ms. Debby Tedesco, at (305) 289-2500 for the necessary forms and information. The appeal must be filed with the County Administrator, 1100 Simonton Street, Gato Building, Key West, FL 33040, within thirty (30) calendar days from the date of this letter. In addition, please submit a copy of your application to Ms. Tedesco, Planning Commission Coordinator, Monroe County Planning Department, 2798 Overseas Hwy, Suite 410, Marathon, FL 33050-2227.

Sincerely,



Townsley Schwab

Senior Director of Planning and Environmental Resources

ROSENBLATT - NADERI ASSOCIATES, P.A.

P.O. BOX 643 • BIG PINE KEY, FLORIDA 33043

PHONE (305) 872-4166

Exhibit 8

CERTIFICATE OF COMPLIANCE

THIS IS TO CERTIFY THAT I AM A DULY QUALIFIED ENGINEER, LICENSED TO PRACTICE IN THE STATE OF FLORIDA. IT IS FURTHER CERTIFIED THAT I HAVE REVIEWED THE DESIGN, SPECIFICATIONS, AND PLANS FOR THE RESIDENTIAL STRUCTURE PROPOSED FOR CONSTRUCTION SEE ATTACHED FOR LEGAL DESCRIPTION AT: COOK'S ISLAND, MONROE COUNTY, FLORIDA

FOR: David Wood, AND THEY ARE IN COMPLIANCE WITH THE ORDINANCE ADOPTED BY MONROE COUNTY REGARDING CONSTRUCTION REQUIREMENTS IN THE "A" ZONE, IN THAT E1,12,0 THE STRUCTURE IS DESIGNED ON ADEQUATELY ANCHORED PILINGS OR COLUMNS, AND IS SECURELY ANCHORED TO SAME TO WITHSTAND VELOCITY WATERS AND HURRICANE WAVE WASH.

July 13, 1986  
DATE

Joel H. Rosenblatt, P.E.  
JOEL H. ROSENBLATT, P.E.  
FLA. REG. NO. 29173

SEAL



P.O. Box 283  
Immersion Key, Fl. 33042  
Phone: 745-2473

Perc. Tests  
Elevation  
Certificates

Exhibit 9

Mr. David Wood

Villa 121, 1250 Lighthouse Rd.

Sanibel, Fl. 33957

DB # 360

Date 6/18/86

6/17/86 Survey, Lot 4 W	
Cook's Island	\$615.00
Perc. Test on same lot	<u>210.00</u>
Total	\$825.00

Thank you!



LINDA B. PIERCE  
Biologist

Exhibit 10

**MOTHER NATURE'S ENTERPRISES**

U.S. 1 & Mile Marker 24.5  
P.O. Box 106  
Summerland Key, Florida 33042

Office: 745-3191

Evenings: 872-3943

Mr. David Wood

---

1250 Lighthouse Villa

---

Sanibel, FL 33957

---

DATE	DESCRIPTION	AMOUNT
8-6-86	Preparation of required permit application forms to Monroe County. (Building, Septic, Land Clearing, Fill Permit, and FCAA letter).	\$ 50.00
	Submittal & "Tracking" of all required permits above	\$ 100.00
	Vegetation Survey for obtaining a land clearing permit from Monroe County	\$ 125.00
	TOTAL	\$ 275.00
		(Make payable to Mother Nature's Enterprises).
	Fee to Monroe County for Septic Permit Application	\$ 90.00
		(make payable to Monroe County)
	Survey & Permitting by Linda B. Pierce, Biologist	

Vegetation Surveys • Permitting for Docks, Seawalls, Fill



**SANDRA KAY BARRETT, M.A.**

ENVIRONMENTAL PLANNING CONSULTANT

Route 4, Box 1062

Summerland Key, FL 33042

(305) 872-4076

Exhibit 11

November 21, 1986

Mr. David Wood  
1250 Lighthouse Road, Villa 121  
Sanibel, FL 33957

Dear Mr. Wood:

This letter is to serve as an agreement between us regarding business arrangements that will apply to work for you on the following project:

Preparation, submittal and facilitation of applications to Monroe County for permits necessary for construction of a single-family residence at your property on Cook's Island, Monroe County, FL

1. Our base professional fee is \$50.00 per hour, and is applied to all time spent on a particular project, including that necessary for travel. This rate includes all direct and indirect costs except reimbursables, and is subject to change with 30 days notice.
2. Reimbursable expenses include fees of Professional Associates (whose expertise is required to complete a project) and out-of-pocket expenses, the cost of which will be charged at actual cost plus an administrative charge of 10 percent, and will be summarized and included on the invoice. Typical out-of-pocket expenses include, but are not limited to, job-related mileage at 25 cents per mile, other travel expenses such as food and lodging when necessary, long distance telephone calls, printing and reproduction costs, and materials and supplies necessary to complete an assignment.
3. Any specific conditions and/or limitations regarding a project are to be provided in writing by the client prior to our incurring charges; if this has not occurred before we are requested to initiate work, then we will proceed at our professional discretion.
4. An advance in the amount of the equivalent of 10 hours of our professional services, or \$500.00, will be remitted by the client before the commencement of work. Time and reimbursable expenses will be charged against this advance. A biweekly report will be provided to the client outlining project progress to date, future actions to be taken, and specifying additions to the advance if necessary to continue work.

**SANDRA KAY BARRETT, M.A.**

ENVIRONMENTAL PLANNING CONSULTANT

Route 4, Box 1062

Summerland Key, FL 33042

(305) 872-4076

OWNERSHIP AND AGENT FORM

To Whom It May Concern:

I, David Wood (signature), authorize Sandra Kay Barrett,

Stanley I. Becker, and/or their designated Professional Associate(s),  
to be my agents to submit permit applications or consulting work.

I, David Wood (type name), verify that the following

property is legally owned by me     , or I am in the process of  
purchasing same  (check correct classification).

Key Cook's Island Lot 4 W Blk     

Subdivision     

Street     

Please provide:

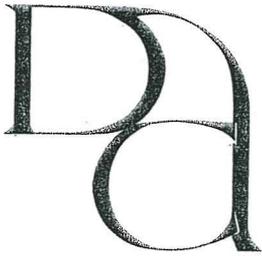
1. Deed, if possible
2. Engineering survey
3. Percolation test, soil profile, etc., as applicable

David Wood  
Notarization of signature

11-27-86  
Sanibel, Fla 33957

Date of notarization:

Date commission expires:



Donald  
Craig  
associates

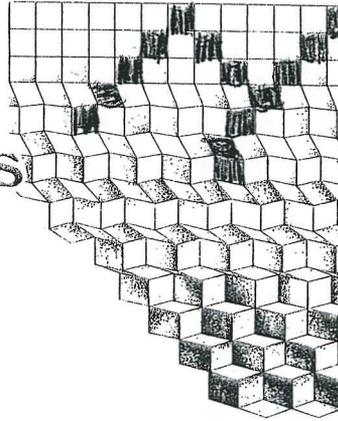


Exhibit 12

Comprehensive Planning  
Environmental Planning  
Project Feasibility

9 November 1990

Mr. Dave Wood  
409 Tree Circle  
Sanibel, Florida 33957

Subject: Beneficial Use for Cook Island

Dear Dave:

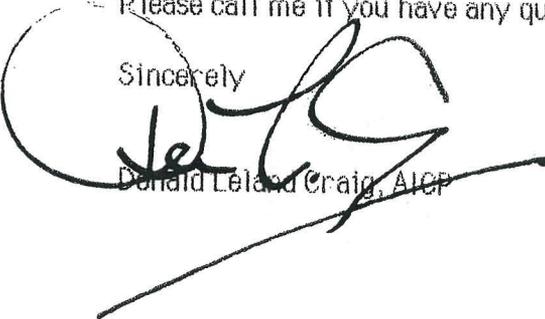
I apologize for not getting hold of you last week when I was in Fort Myers, but when we finished with the client, we had to turn around and come right back here to Key West. I also apologize for taking so long to return an estimate for the completion of a beneficial use application.

Since we last talked at length about this project, several interesting events have occurred in regard to Cook Island. First, the expected County Code Enforcement crackdown has not occurred. There is no official explanation as to why, but one can imagine it is because of the furor raised with the Palmer building code violation case. Palmer's local attorney and I appeared at the Code Enforcement Board and presented two defenses that will probably make code enforcement staff look very carefully at any concerted action on the island. In addition I was hoping that the case involving Gonzalez vs. Monroe County would have been decided by now so we could use that as precedent. It now appears that this case may be forever in the making, so I suggest that we go ahead with the beneficial use application in the next few months. I believe it is our only alternative.

I have enclosed a proposed contract for your consideration. I estimate that from the time you sign the contract and we begin, the entire process, including the hearing before the county appointed hearing officer and the the Board of County Commissioners will take approximately four to six months.

Please call me if you have any questions.

Sincerely

  
Donald Leland Craig, AICP

**Article 2.** Compensation to Donald Craig Associates

You will compensate Donald Craig Associates for services provided in Article 1 as follows:

Principal	\$85.00 per hour
Associates	\$45.00 per hour

It is estimated that the fee to Donald Craig Associates for the scope of work described above will fall within a range of \$3000 - \$6000. Donald Craig Associates will notify you if anticipated billing is expected to exceed \$1500 for Donald Craig Associates in any one month.

Additional services that are authorized by you will be billed at the above stated rates. Examples of additional services that you may desire are, advice and consultation on other County development approvals you have received, analysis of the effects of the proposed new Comprehensive Plan on the Coastal Barrier Resource System, on your property, or other planning services described in written or oral work assignment.

A retainer in the amount of <sup>5000 DC 1-8-91</sup>~~\$1000~~ shall be paid to Donald Craig Associates prior to the initiation of any work. Twenty five percent (25%) of this retainer shall be credited toward each of the first four (4) months regular billing.

Reimbursable expenses are in addition to the hourly compensation and include expenditures made by Donald Craig Associates in the interest of the project. Examples are automobile mileage at 27 cents per mile, messenger service at standard rates, reproduction, and graphic materials connected with the execution of the work, and cost of facsimile transmission. Reimbursable expenses incurred in performance of the project shall be invoiced along with hourly services. Billing will be on a monthly basis for work accomplished during the preceding month. Invoices submitted by the 20th of the month will be due the first day of the next month.

Interest for late payment will be charged and applied to subsequent billings at regular rate of 1.50 percent per month on the outstanding total. Failure to pay within 45 days from the receipt of statement shall grant Donald Craig Associates the right to refuse to render further services and such acts shall not be deemed a breach of this agreement.

**Article 3.** Quality of Work

The services described in Article 1 shall be performed by Donald Craig Associates to your reasonable satisfaction and all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount of the parties, shall be settled by recourse to litigation under Florida law.

**Article 4.** Subconsultants

When Donald Craig Associates finds it necessary to utilize the services of subconsultants, Donald Craig Associates shall first obtain your approval and then select a subconsultant acceptable to you, signified by your written authorization. Donald Craig Associates shall require each subconsultant to adhere to appropriate provisions of this agreement.

**Article 5. Force Majeure**

Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of its obligations hereunder to the extent that performance of such obligations or any of them is delayed or prevented by Force Majeure. Force Majeure shall include but not be limited to hostility, revolution, civil commotion, strike, epidemic, accident, fire, flood, wind, earthquake, lack of/or failure of transportation facilities, any law, proclamation, regulation or ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future, provided that the cause whether or not existing or future, provided that the cause whether or not encountered in this article, is beyond the control and without the fault or negligence of the party seeking relief under this article. Prompt notice should be given to either party, stating the cause and length of the delay.

**Article 6. General Provisions**

You or your designated representative will review and approve all work by Donald Craig Associates and notify Donald Craig Associates in writing, within seven (7) working days of performance of services if work is not acceptable.

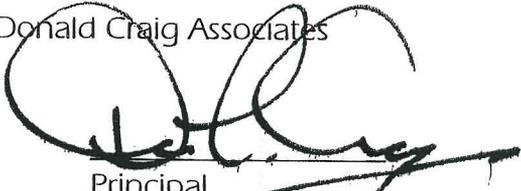
This agreement is renegotiable within one year of execution.

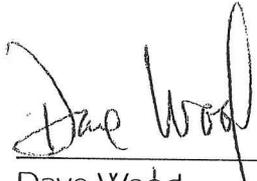
This agreement may be terminated by either party upon seven calendar days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. In the event of termination, Donald Craig Associates will be paid compensation for services performed and reimbursables incurred to the termination date.

This agreement shall be governed by the laws of the State of Florida.

We truly appreciate the opportunity to work with you and believe the results of our joint effort will satisfy your needs in a successful and creative manner.

Please sign both copies of this Agreement and return one copy to Donald Craig Associates.

Donald Craig Associates  
  
Principal  
11.27.80.  
Date

  
Dave Wood  
1/8/91  
Date

1



2



3



4



13



14



1 **II. Residential Dwelling Units**

2  
3 The island is currently developed with several single-family dwelling units.

4  
5 As defined in MCC §9.5-4 (D-31), a *dwelling unit* is one (1) or more rooms physically arranged  
6 to create a housekeeping establishment for occupancy by one (1) family with separate toilet  
7 facilities. Furthermore, as defined in MCC §9.5-4 (P-4), a *permanent residential unit* is a  
8 dwelling unit that is designed for, and capable of, serving as a residence for a full housekeeping  
9 unit which includes a kitchen composed of at least a refrigerator and stove.

10  
11 Pursuant to MCC §9.5-120.4(a), the ROGO shall not apply to the redevelopment, rehabilitation  
12 or replacement of any lawfully-established residential dwelling unit which does not increase the  
13 number of residential dwelling units above that which existed on the site prior to the  
14 redevelopment, rehabilitation or replacement. Therefore, owners of land containing residential  
15 dwelling units shall be entitled to one unit for each such unit lawfully-established.  
16 Administrative Interpretation 03-108 provides the criteria to be used by Staff to determine  
17 whether or not a residential unit was lawfully-established:

- 18  
19 (a) A permit or other official approval from the Division of Growth Management for the  
20 dwelling units:

21  
22 Building permits for single-family dwelling units were found for only two (2) existing  
23 dwelling units, located on real estate number (RE) 00107930.002200 (Building Permit  
24 971-0138) and RE 00107930.001000 (Building Permit 031-0482). No building permits  
25 for any of the other existing dwelling units were located for review. To view all of the  
26 building permits found for the island, with corresponding descriptions and dates of  
27 issuance, please refer to Attachment A.

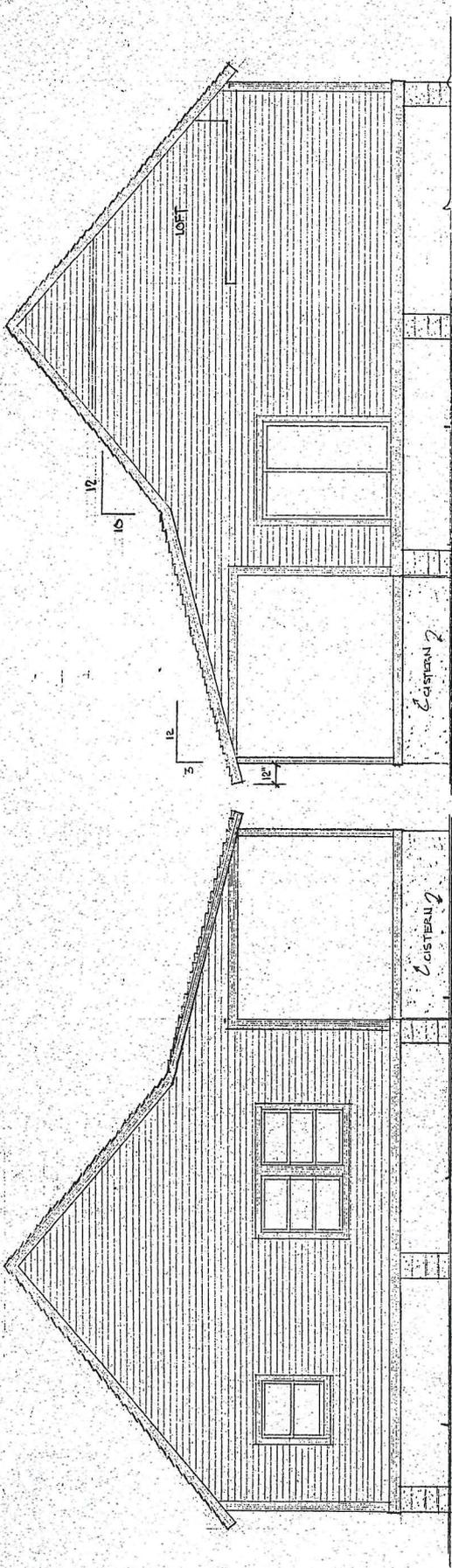
28  
29 ROGO exemptions from the Planning Department were found that documented the  
30 lawful establishment of four (4) existing dwelling units, which are located on RE  
31 00107930.000700, RE 00107930.000900, RE 00107930.002800 and RE  
32 00107930.003000.

33  
34 Three (3) letters of understanding from the Planning Department, dated June 7, 2004,  
35 August 31, 2004 and October 29, 2004 respectively, were found documenting the lawful  
36 establishment of six (6) existing dwelling units, one (1) dwelling unit located on RE  
37 00107930.001100, two (2) dwelling units on RE 00107930.001300, two (2) dwelling  
38 units on RE 00107930.002500 and one (1) dwelling unit on RE 00107930.002701.

39  
40 \* The previous staff report reflected the existence of two (2) letters of understanding. The letter of understanding for RE  
41 00107930.001100 indicated one (1) unit was lawfully established and the letter of understanding for RE 00107930.002500 indicated  
42 two (2) dwelling units were lawfully established.

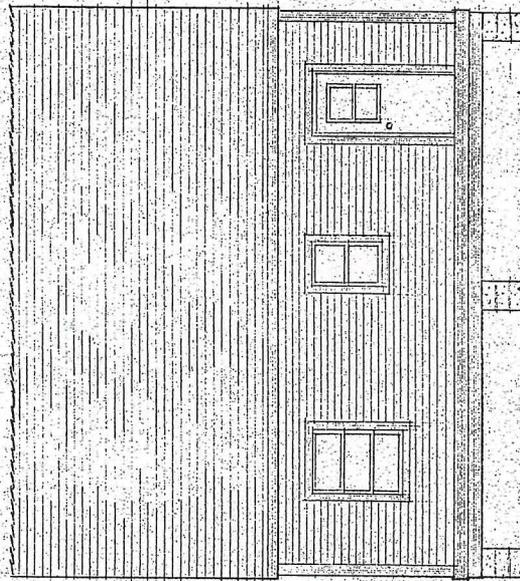
- 43  
44 (b) If a permit or other official approval from the Division of Growth Management is not  
45 available, the following information may be used to establish that a residential unit was  
46 lawfully-established:



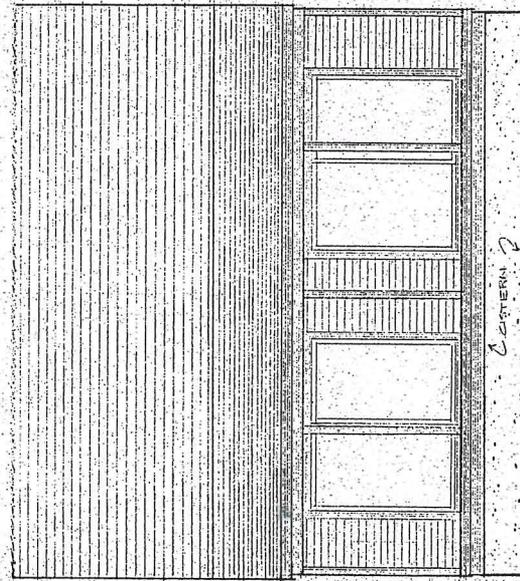


LEFT ELEVATION

RIGHT ELEVATION



FRONT ELEVATION



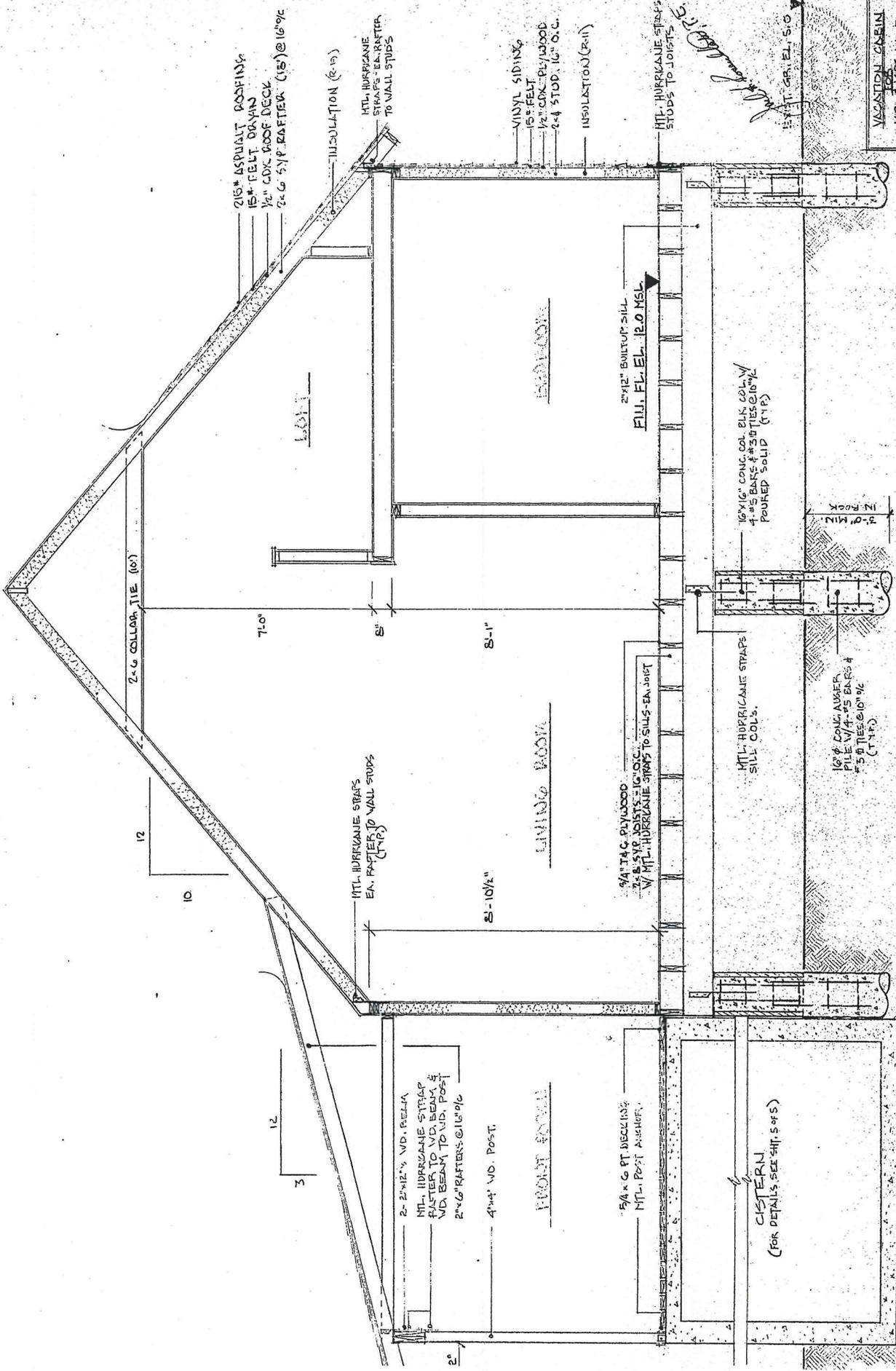
REAR ELEVATION

*32' 0" 10' 10' 10' 10'*

**ELEVATIONS**

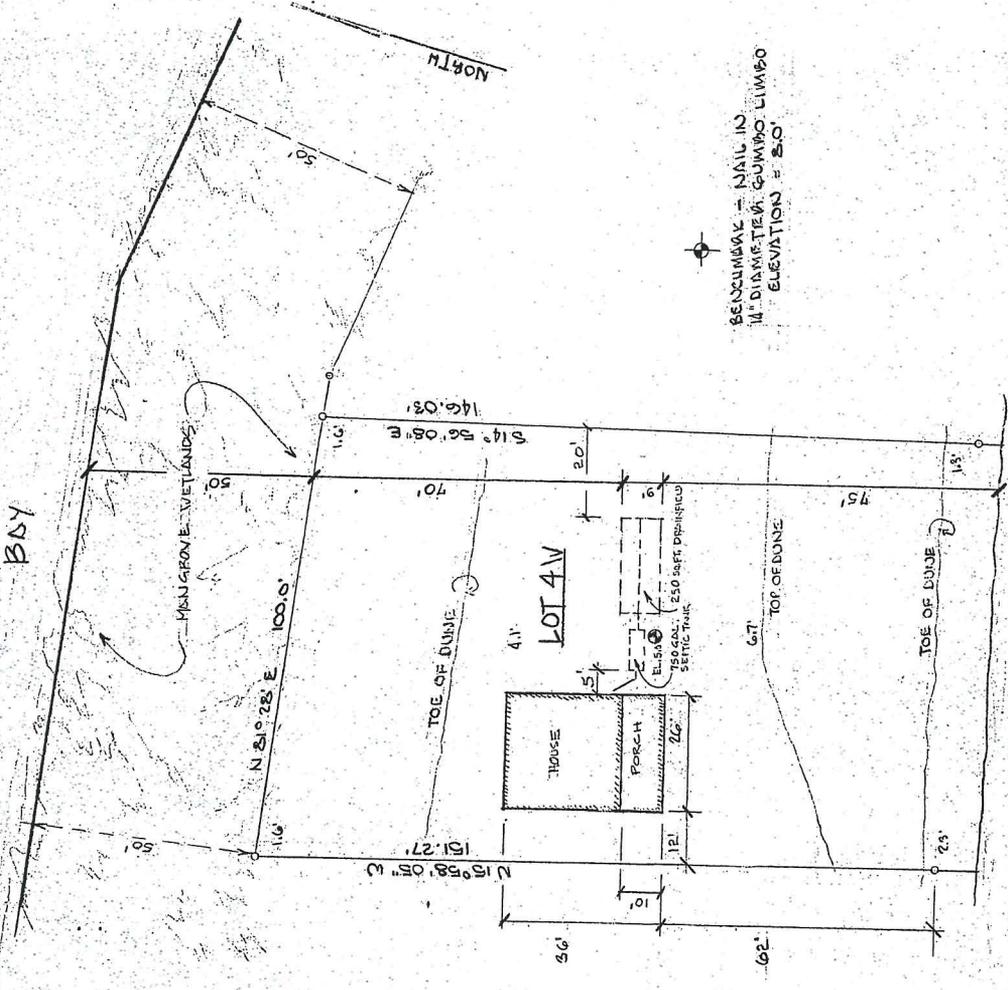
SCALE = 1/4" = 1'-0"

VACATION CABIN  
 FOR  
 MR. & MRS. WOOD  
 1650 LIGHTHOUSE RD  
 SANIBEL, FLORIDA, 33957  
 8/4/86 2 OF 5



VACATION GREEN  
 MR. & MRS. WOOD  
 1250 LIGHTHOUSE RD.  
 SANJIBEL, FLORIDA 33957  
 8/14/83 3 of 5

CROSS SECTION  
 SCALE: 1/2" = 1'-0"



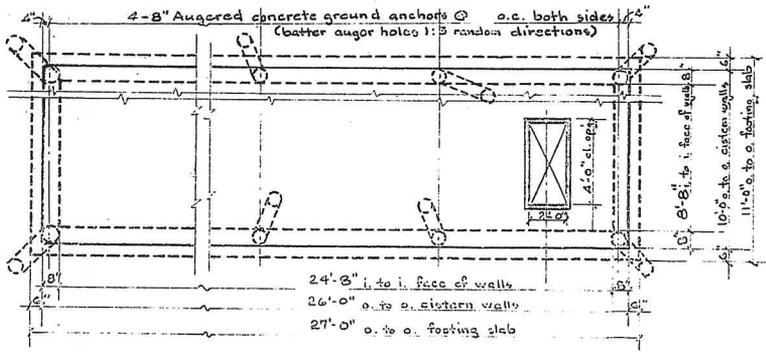
BENCHMARK - NAIL IN  
 1 1/2" DIAMETER GUMBO LIMBO  
 ELEVATION = 2.0'

ATLANTIC OCEAN

*John M. Wood*  
 REGISTERED PROFESSIONAL ENGINEER  
 No. 12345

VACATION CASIN  
 FOR  
 MR. & MRS. WOOD  
 1236 LIGHTHOUSE RD.  
 SANIBEL ISLAND, FLORIDA 33957  
 8/14/86 4 OF 5

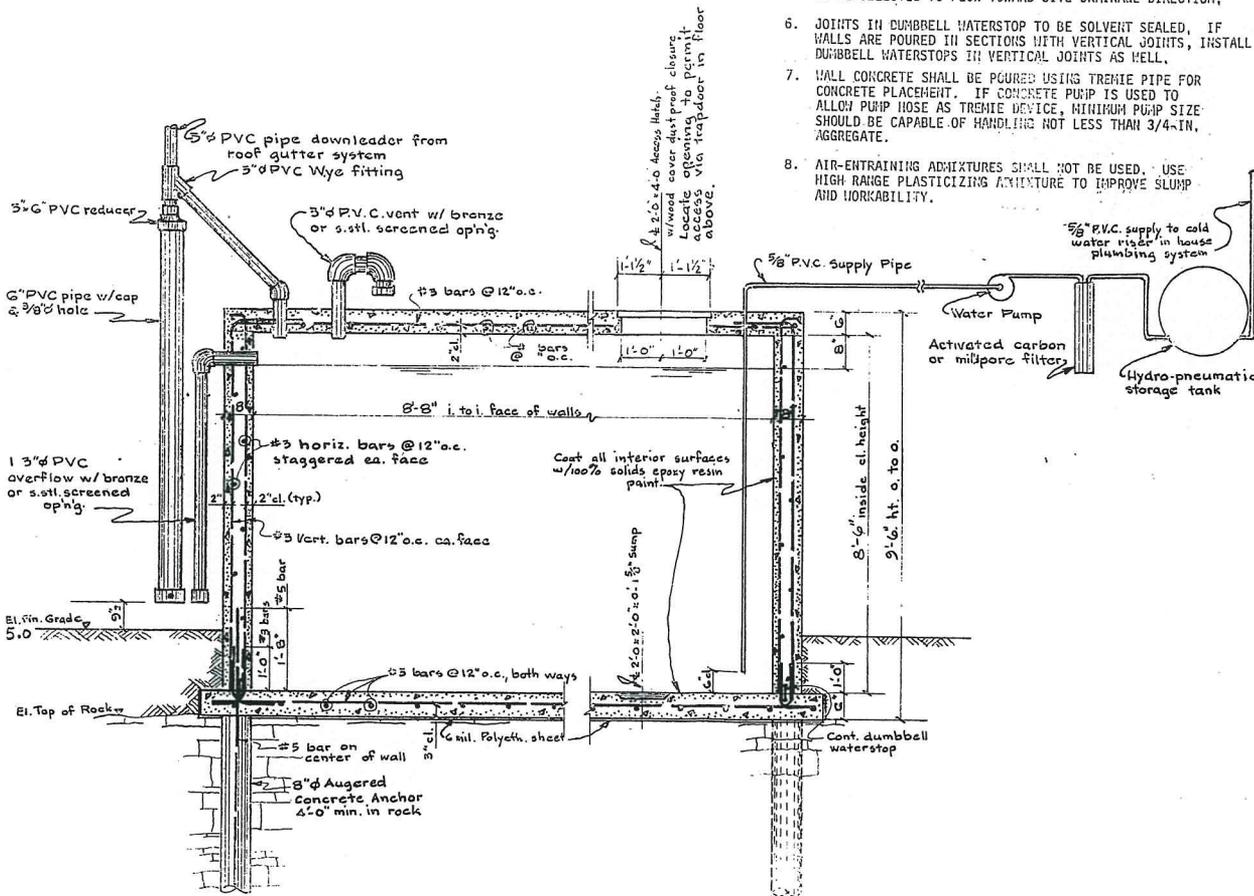
SITE PLAN  
 SCALE 1" = 20'



**CISTERN PLAN**  
1/2" = 1'-0"

**CISTERN NOTES:**

1. ALL CONCRETE TO BE  $F'_c = 4,000$  PSI.
2. ALL REINFORCING STEEL TO BE GRADE A-60, EPOXY COATED.
3. PLAN LOCATION OF VENT, AND ACCESS DOOR MAY BE SELECTED TO MINIMIZE USE OF CISTERN ROOF DECK FOR OTHER PURPOSES.
4. LOCATION OF SUPPLY PIPE TO BE SELECTED FOR PROXIMITY TO ROOF GUTTER SYSTEM SUPPLY SOURCE.
5. LOCATION OF OVERFLOW AND INITIAL RUNOFF DISCHARGE PIPES TO BE SELECTED TO FLOW TOWARD SITE DRAINAGE DIRECTION.
6. JOINTS IN DUMBBELL WATERSTOP TO BE SOLVENT SEALED, IF WALLS ARE POURED IN SECTIONS WITH VERTICAL JOINTS, INSTALL DUMBBELL WATERSTOPS IN VERTICAL JOINTS AS WELL.
7. WALL CONCRETE SHALL BE POURED USING TREMIE PIPE FOR CONCRETE PLACEMENT. IF CONCRETE PUMP IS USED TO ALLOW PUMP HOSE AS TREMIE DEVICE, MINIMUM PUMP SIZE SHOULD BE CAPABLE OF HANDLING NOT LESS THAN 3/4-IN. AGGREGATE.
8. AIR-ENTRAINING ADMIXTURES SHALL NOT BE USED. USE HIGH RANGE PLASTICIZING ADMIXTURE TO IMPROVE SLUMP AND WORKABILITY.



**SECTION A-A**  
1/2" = 1'-0"

**ROSENBLATT**  
**NARDER**  
**ASSOCIATES**  
305 - 872 - 4166  
Big Pine Key Florida 33043  
Drawn by: \_\_\_\_\_ Checked by: \_\_\_\_\_

*2/15/86*

DATE	REVISIONS	LOCATION	BY

**OWNER**  
MR. & MRS. D. WOOD  
1250 LIGHTHOUSE RD.  
SANIBEL, FLORIDA  
33957

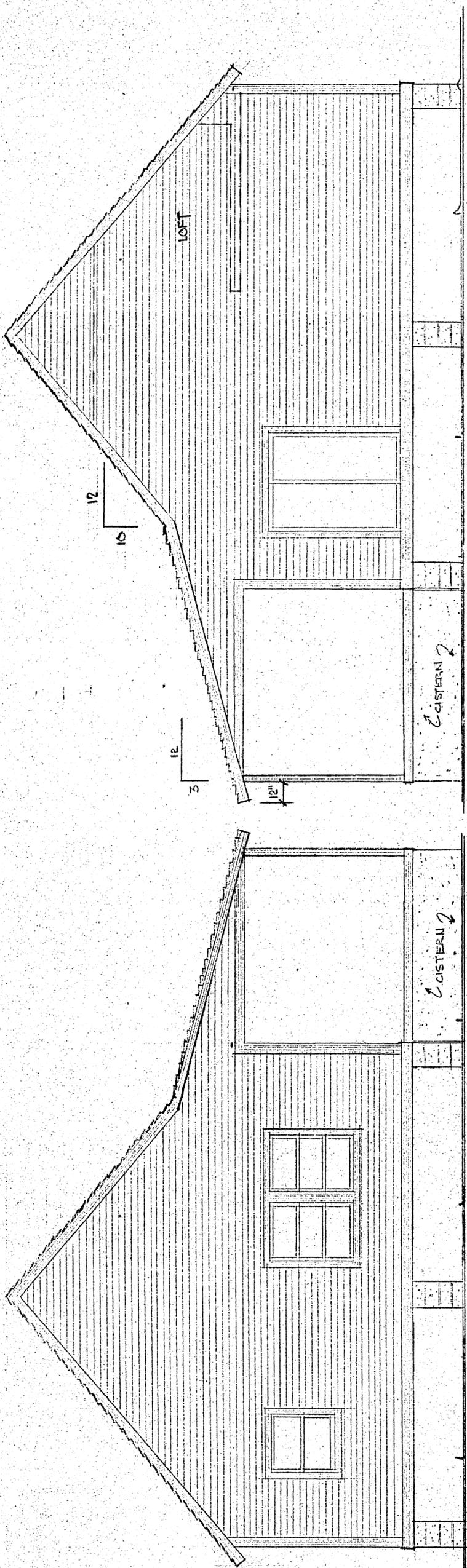
**PROJECT**  
VACATION CABIN  
FOR  
MR. & MRS. D. WOOD

**TITLE**  
CISTERN DETAILS

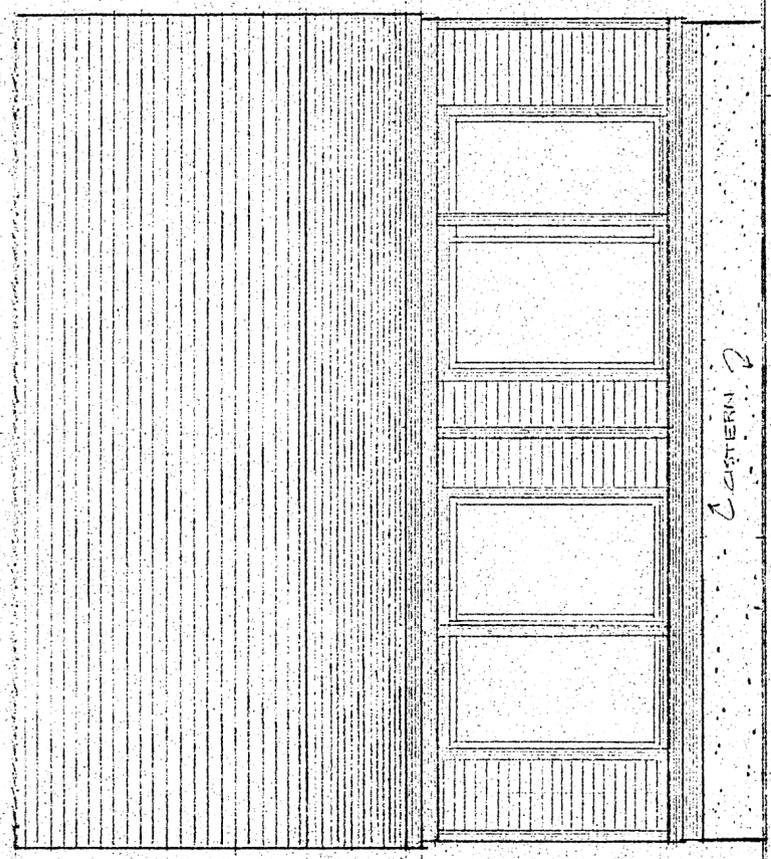
**APPROVED DATE**  
Contract No. \_\_\_\_\_  
Date MAY 3, 86

**DRAWING NO.**  
5 OF 5

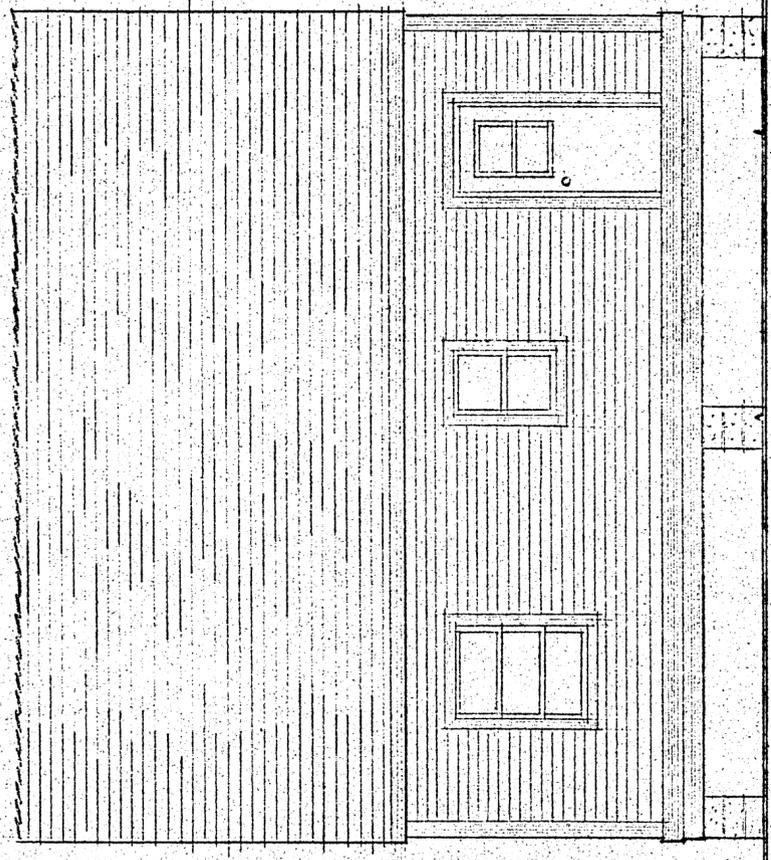




RIGHT ELEVATION



LEFT ELEVATION



EL. FIN. FL. 12.0' MSL

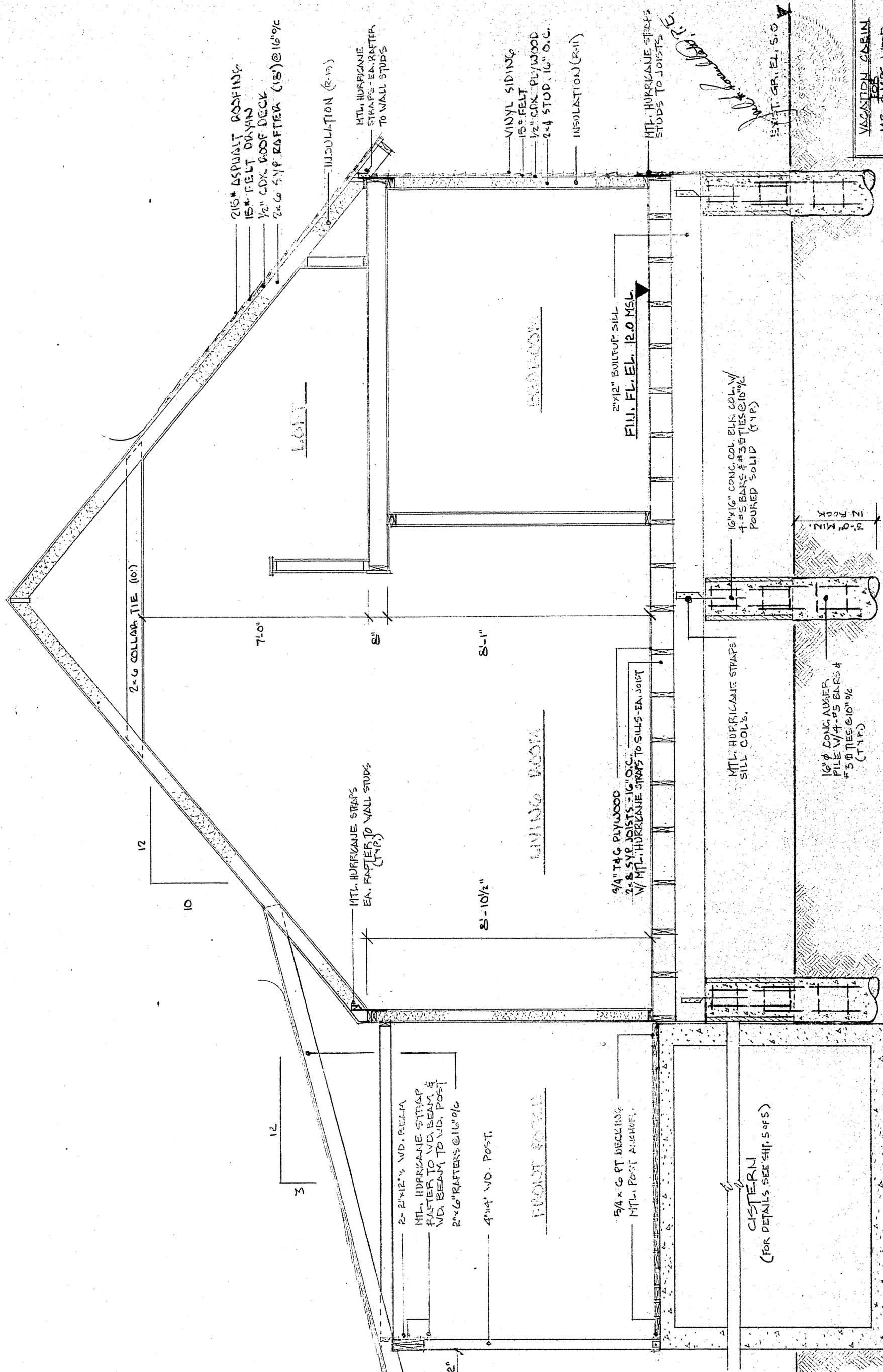
*3/14/86*

**ELEVATIONS**  
SCALE = 1/4" = 1'-0"

VACATION CASIN  
FOR  
MR. & MRS. WOOD  
1250 LIGHTHOUSE RD  
SANIBEL, FLORIDA, 33957  
3/14/86 P. 2 OF 5

FRONT ELEVATION

REAR ELEVATION

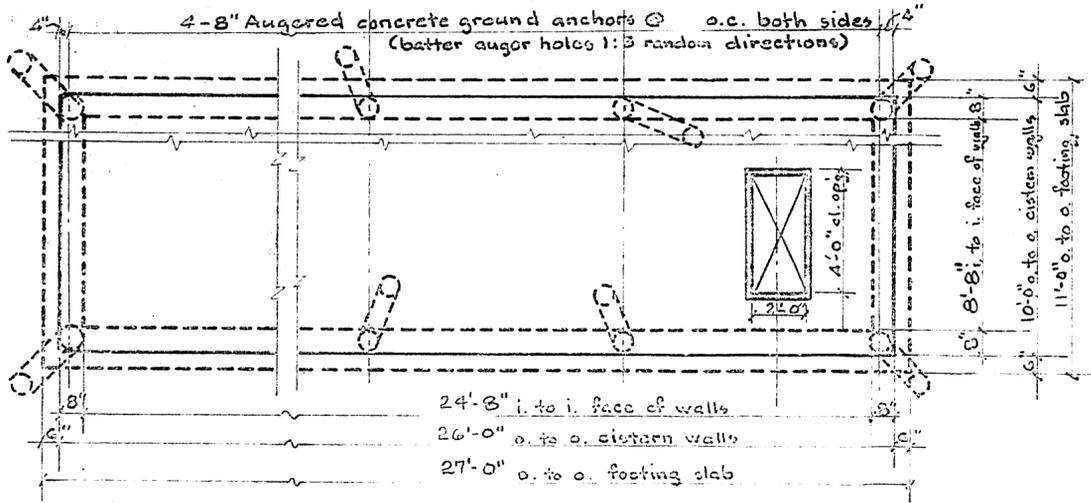


VACATION CABIN  
 MR. & MRS. WOOD  
 1250 LIGHTHOUSE RD.  
 SANibel, FLORIDA, 33957  
 8/14/83 3 OF 5

CROSS SECTION  
 SCALE: 1/2" = 1'-0"

CISTERN  
 (FOR DETAILS SEE SHEET 5 OF 5)



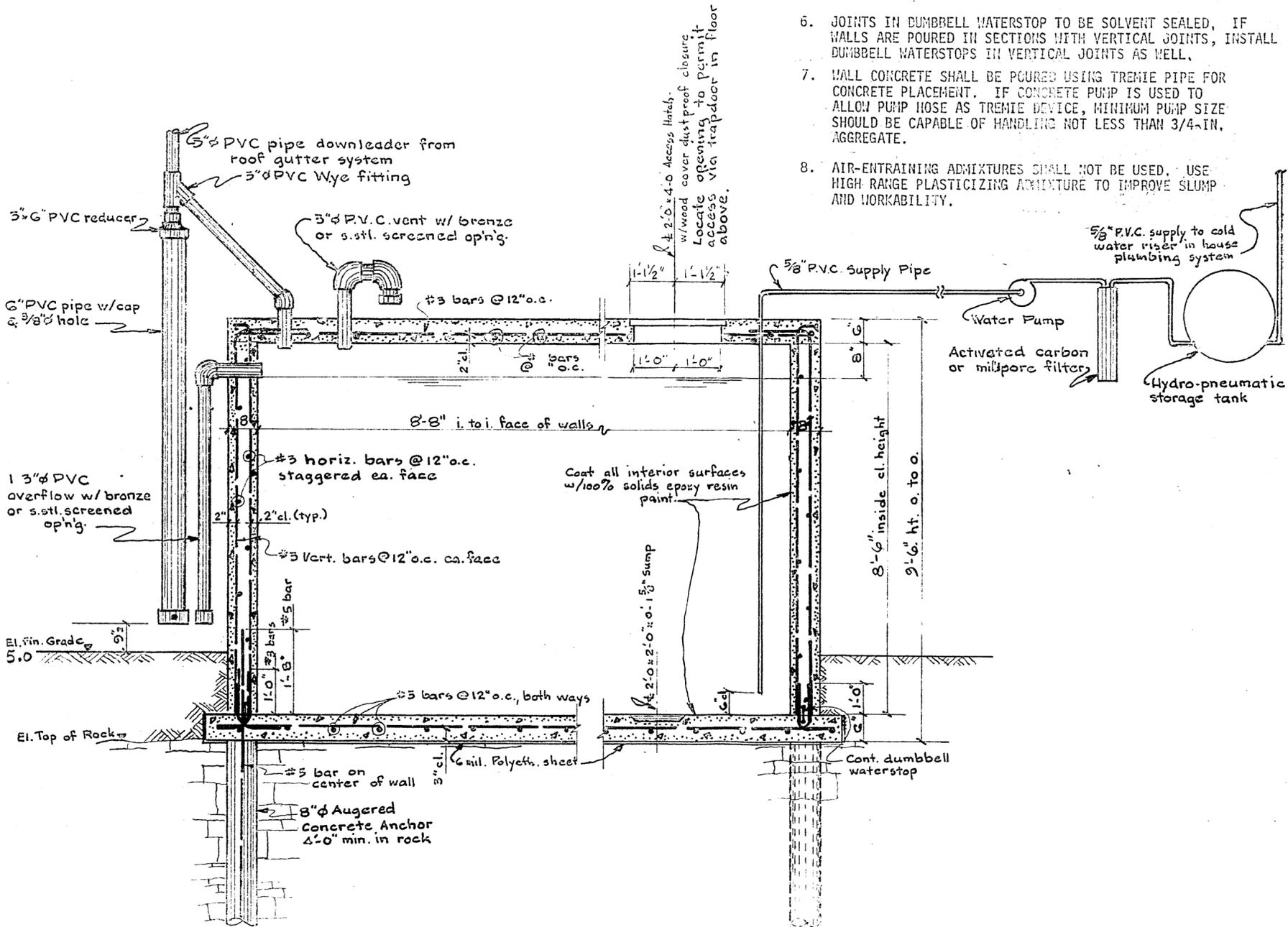


**CISTERN PLAN**

1/4" = 1'-0"

**CISTERN NOTES:**

1. ALL CONCRETE TO BE  $F'_c = 4,000$  PSI.
2. ALL REINFORCING STEEL TO BE GRADE A-60, EPOXY COATED.
3. PLAN LOCATION OF VENT, AND ACCESS DOOR MAY BE SELECTED TO MINIMIZE USE OF CYSTERN ROOF DECK FOR OTHER PURPOSES.
4. LOCATION OF SUPPLY PIPE TO BE SELECTED FOR PROXIMITY TO ROOF GUTTER SYSTEM SUPPLY SOURCE.
5. LOCATION OF OVERFLOW AND INITIAL RUNOFF DISCHARGE PIPES TO BE SELECTED TO FLOW TOWARD SITE DRAINAGE DIRECTION.
6. JOINTS IN DUMBELL WATERSTOP TO BE SOLVENT SEALED, IF WALLS ARE POURED IN SECTIONS WITH VERTICAL JOINTS, INSTALL DUMBELL WATERSTOPS IN VERTICAL JOINTS AS WELL.
7. WALL CONCRETE SHALL BE POURED USING TREMIE PIPE FOR CONCRETE PLACEMENT. IF CONCRETE PUMP IS USED TO ALLOW PUMP HOSE AS TREMIE DEVICE, MINIMUM PUMP SIZE SHOULD BE CAPABLE OF HANDLING NOT LESS THAN 3/4-IN. AGGREGATE.
8. AIR-ENTRAINING ADMIXTURES SHALL NOT BE USED. USE HIGH RANGE PLASTICIZING ADMIXTURE TO IMPROVE SLUMP AND WORKABILITY.



**SECTION A-A**

1/2" = 1'-0"

**ROSENBLATT-NADEBERI ASSOCIATES**  
 305 - 872 - 4166  
 Big Pine Key Florida 33043  
 Drawn by: Checked by:

*John J. Rosenblatt*

REVISIONS	DATE	LOCATION	BY

**OWNER**  
 MR. & MRS. D. WOOD  
 1250 LIGHTHOUSE RD.  
 SANIBEL, FLORIDA  
 33957

**PROJECT**  
 VACATION CABIN  
 FOR  
 MR. & MRS. D. WOOD

**TITLE**  
 CISTERN DETAILS

Scale: as noted Date MAY 3, 86

Contract No. Approved Date

DRAWING NO.  
 5 OF 5



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Planning Commission  
From: Joseph Haberman, AICP, Principal Planner *L.*  
Through: Townsley Schwab, Senior Director of Planning & Environmental Resources  
Date: March 16, 2010  
Subject: *Administrative Appeal by David Wood, on behalf of 4W Cooks Island Limited Partnership, concerning property located on Cooks Island, having Real Estate No. 00107930.002900*

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**Meeting: March 24, 2010 (initially advertised for March 10, 2010)**

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1 I DECISION BEING APPEALED:

2  
3 The appellant is appealing a decision by Townsley Schwab, Senior Director of Planning &  
4 Environmental Resources, which was set forth in a letter to the appellant, David Wood, on  
5 July 20, 2009.

6  
7 The precise decision being appealed is a determination that the existing structure on the  
8 subject property is not a lawfully-established dwelling unit and thereby its replacement shall  
9 not be exempt from the Residential Rate of Growth Ordinance (ROGO) permit allocation  
10 system. This decision was made in accordance with §138-22(1) of the Monroe County Code  
11 and Administrative Interpretation 03-108.

12  
13 Location:

14 Address: Cooks Island, approximate mile marker 29 (oceanside)

15  
16 Legal Description: Part Government Lot 2, Newfound Harbor Keys, aka Lot 4W Cooks  
17 Island (0.34 acre)

18  
19 Real Estate Number: 00107930.002900

20  
21  
22 Appellant: David Wood, on behalf of 4W Cooks Island Limited Partnership

23  
24 II RELEVANT PRIOR COUNTY ACTIONS:

25  
26 On July 18, 2006, the Code Enforcement Department opened case #CE06070145. The cited  
27 violation pertains to a permanent canopy erected on the subject property without the benefit  
28 of a building permit. As of the date of this report, the case remains open as the structure has  
29 not been removed nor permitted.

30

1 On January 22, 2009, the Planning & Environmental Resources Department issued a  
2 memorandum in response to several open code enforcement cases on Newfound Harbour  
3 Key, commonly known as Cooks Island. At that time, a determination as to which of the  
4 existing dwelling units were lawfully-established and thereby exempt from the ROGO was  
5 necessary in order for the property owners to resolve their respective cases. Based on the  
6 available information and documentation in the county's records, staff determined that the  
7 existing structure on the subject property was not lawfully-established and thereby was an  
8 unlawful improvement. The memorandum and an attached letter from the Director of  
9 Planning & Environmental Resources, Building Official and Director of Code Enforcement  
10 was sent to all Cooks Island property owners, including the property owner of the subject  
11 property, 4W Cooks Island Limited Partnership.  
12

13 On May 18, 2009, David Wood applied to the Planning & Environmental Resources  
14 Department for an exemption from the ROGO permit allocation system. Despite the fact that  
15 an appeal was not filed pertaining to the determination in the January 22, 2009 memorandum,  
16 staff permitted Mr. Wood to submit for a new determination if he was able to provide  
17 additional documentation and information not utilized by staff in the previous determination.  
18 Mr. Wood provided additional documentation as part of the application.  
19

20 The Planning & Environmental Resources Department reviewed the additional  
21 documentation and on July 20, 2009, the Director of Planning & Environmental Resources,  
22 Townsley Schwab, issued a letter to David Wood again denying the ROGO exemption  
23 request.  
24

25 David Wood filed an appeal of the decision in the timeframe provided. This appeal was  
26 initially scheduled for the March 10, 2009 public hearing; however the property was not  
27 posted in accordance with the Land Development Code. It was determined that the appeal  
28 should be re-advertised and properly posted for a later public hearing.  
29

### 30 III BACKGROUND INFORMATION:

- 31
- 32 A. Total Size of Site: 0.34 acres
- 33 B. Land Use District: Offshore Island (OS)
- 34 C. Future Land Use Map (FLUM) Designation: Residential Low (RL)
- 35 D. Tier Designation: Tier 1
- 36 E. Existing Vegetation / Habitat: Partially scarified; with areas of ridge hammock and  
37 mangroves
- 38 F. Community Character of Immediate Vicinity: Single-family residential  
39

### 40 IV REVIEW OF APPLICATION:

41

42 The decision being appealed is a determination that the existing structure on the subject  
43 property is not a lawfully-established dwelling unit and thereby any replacement shall not be  
44 exempt from the ROGO permit allocation system. This decision was set forth in the July 20,  
45 2009 letter (Attachment A) and made in accordance with MCC §138-22(1) (Attachment B)  
46 and Administrative Interpretation 03-108 (Attachment C).

1  
2 As defined in MCC §101-1, a *dwelling unit* is one (1) or more rooms physically arranged to  
3 create a housekeeping establishment for occupancy by one (1) family with separate toilet  
4 facilities. Furthermore, as defined in MCC §101-1, a *permanent residential unit* is a  
5 dwelling unit that is designed for, and capable of, serving as a residence for a full  
6 housekeeping unit which includes a kitchen composed of at least a refrigerator and stove. As  
7 defined in MCC §138-19, *lawfully established for ROGO/NROGO exemption* means a unit or  
8 floor area that has received a permit or other official approval from the division of growth  
9 management for the units and/or floor area.

10  
11 Pursuant to MCC §138-22(1), the ROGO shall not apply to the redevelopment, rehabilitation  
12 or replacement of any lawfully-established residential dwelling unit which does not increase  
13 the number of residential dwelling units above that which existed on the site prior to the  
14 redevelopment, rehabilitation or replacement. Pursuant to MCC §138-21, the ROGO shall  
15 apply to all residential dwelling units for which a building permit is required by [the Land  
16 Development Code] and for which building permits have not been issued prior to July 13,  
17 1992, except as otherwise provided.

18  
19 Therefore, owners of land containing residential dwelling units shall be entitled to one (1)  
20 unit for each such unit lawfully-established. Administrative Interpretation 03-108 provides  
21 the criteria to be used by staff to determine whether or not a residential unit was lawfully-  
22 established.

23  
24 Pursuant to Administrative Interpretation 03-108, a property owner may receive an  
25 exemption from the ROGO permit allocation system if the unit is found to have been:

- 26  
27 • *Lawfully-established* – There is a permit or other official approval from the Division  
28 of Growth Management for the dwelling unit.  
29 -or-  
30 • *Counted in ROGO and the Year 2010 Comprehensive Plan* – If a permit or other  
31 official approval from the Division of Growth Management is not available, the  
32 following information may be used to establish that a residential unit was lawfully-  
33 established: aerial photos showing the structure in existence prior to 1986; Monroe  
34 County property record card showing the existence of the unit prior to 1986; utility  
35 records that show the residential use being served prior to 1986; whether the  
36 residential use could have been a permitted use under the pre-1986 zoning of the  
37 property; occupational licenses showing the residential use being served prior to  
38 1986; and other supporting information.

39  
40 In the July 20, 2009 letter, based on the above criteria, the Director determined that the  
41 existing structure was not a lawfully-established dwelling unit for the following reasons  
42 (provided in *italic*):

- 43  
44 1. *Pursuant to Monroe County Code §138-22 and Administrative Interpretation 03-108, in*  
45 *order to be exempt from the ROGO, one (1) lawful dwelling unit must have been in*  
46 *existence on the effective date of the county's land development regulations (September*

1 15, 1986) or, if constructed after the effective date, must have been permitted in  
2 accordance with the land development regulations and the ROGO permit allocation  
3 system. No such record for a dwelling unit was found.  
4

5 Staff did not locate any building permits on file for real estate number 00107930.002900.  
6 Furthermore, staff did not locate any other approval from the Growth Management  
7 Division permitting the establishment of a dwelling unit on the subject property or  
8 otherwise recognizing the existence of a dwelling unit.  
9

10 As part of the ROGO exemption application, the appellant submitted information  
11 indicating that he planned to construct a new single-family dwelling unit in 1986.  
12 Documentation from engineers, surveyors and contractors was included. However, staff  
13 was unable to locate any application on file in the Building Department's records for the  
14 development. In the administrative appeal application, the appellant states that the Health  
15 Department would not accept his application meaning that he could not get an application  
16 to the Building Department before new zoning changes went into effect (presumably the  
17 residential density requirements cited in the next section).  
18

- 19 2. *Currently, the property is located within an OS District. A single-family residence*  
20 *constructed after 1986 would have required ten (10) acres of buildable land to meet the*  
21 *Monroe County density requirements. According to the Monroe County Property*  
22 *Appraiser's records, the property has 0.34 acres of buildable land acres and staff was*  
23 *unable to locate any building permits for this parcel.*  
24

25 Since 1986, the property has been within an OS District. Pursuant to MCC §130-90, a  
26 detached dwelling unit may be permitted as-of-right in the OS District; however the  
27 residential density requirements of MCC §130-157 would have prohibited the approval of  
28 a new dwelling unit on the property since September 15, 1986. The property is  
29 approximately 0.34 acres. In the OS District, there is an allocated density of 0.1 dwelling  
30 units per acre and there is no maximum net density. Based on the density regulations, a  
31 parcel designated as OS requires at least 10 acres in order to receive approval for a  
32 dwelling unit. Therefore, the Growth Management Division could not have approved a  
33 new dwelling unit on the property from September 15, 1986 to present.  
34

35 Prior to 1986, the property was within GU (General Use) district. Pursuant to pre-1986  
36 MCC §19-180, single-family dwellings may have been permitted in the GU district.  
37 However, the residential density requirements of pre-1986 MCC §19-180 would also  
38 prohibited the approval of a dwelling unit on the property. In the GU district, the  
39 minimum lot area was one (1) acre. Lot area was defined as the horizontal land area  
40 computed in square feet or acres excluding public rights-of-way, easements or water  
41 surface area.  
42

43 As a note, MCC §130-90 states that camping, for the personal use of the owner of the  
44 property on a temporary basis, is permitted as-of-right in the OS District. A residential  
45 density is not provided for campsites of this personal nature; however a campsite cannot

1 have permanent structures as it is intended to be primitive. Therefore, camping on the  
2 property by the owner is permitted and has been permitted since 1986.

- 3  
4 3. *Staff was unable to locate a building permit approving a single-family dwelling unit or*  
5 *any other development on the property.*  
6

7 Staff did not locate any building permits on file for real estate number 00107930.002900.  
8 Therefore, there is no building permit or any other approval from the Growth  
9 Management Division permitting the establishment of a dwelling unit on the property, the  
10 construction of the existing structure or any other improvements to the property.  
11

12 Aerial photography was also reviewed. The existing structure is visible in intermittent  
13 aerial photography since 2002. Prior to 2002, staff could not determine the existence of  
14 any structure. No evidence was found that the structure had been in existence since 1992.  
15 It should also be noted that although a structure of the same approximate size and  
16 location is visible in aerial photography in 2002, 2004, 2006 and 2009, the existence of a  
17 structure does not constitute the existence of a dwelling unit.  
18

19 Site visits were also carried out by Planning & Environmental Resources Department  
20 staff on April 5, 2007, February 1, 2008 and June 22, 2009 and Building Department and  
21 Code Enforcement Department staff on June 19, 2006 and August 19, 2009. In 2006 and  
22 2007, staff observed a non-enclosed canopy constructed of metal rods, with a blue tarp  
23 roof. In 2009, staff observed a shed-type structure constructed primarily of plywood and  
24 metal rods, with a blue camouflage-pattern tarp roof. A discarded blue tarp was observed  
25 as well. Recent improvements appeared to have been made in terms of new materials  
26 being added (i.e. plywood walls). No evidence was found that the structure had been in  
27 existence since 1992 or had been built to any building codes as well as planning and  
28 floodplain management regulations.  
29

30 As a note, in the ROGO exemption application, the appellant states that the building is  
31 constructed of “plywood floors and walls, an asphalt corrugated roof, extruded aluminum  
32 floor joist, door, windows, etc.” However, photographs also submitted in the ROGO  
33 exemption application, presumably taken by the appellant, dated June 19, 2006, show that  
34 the structure was supported by metal rods, had a tarp for a roof and was not entirely  
35 enclosed. This is presumably why the code enforcement case opened in 2006 referred to  
36 the structure as a canopy. No photographs of the interior were provided.  
37

38 Aerial photographs and ground photographs of the structure from the site visits are  
39 provided in Attachment D.  
40

- 41 4. *Staff reviewed Monroe County Property Appraiser’s records and found that the property*  
42 *had been on the tax roll since 1990 and has been assessed vacant each year.*  
43 *Furthermore, the lack of a building listed on the Property Record Card indicates that*  
44 *there was no residential structure on the property at the time of the adoption of ROGO.*  
45

1 The Property Appraiser has assessed the property identified as real estate number  
2 00107930.002900 under a PC code of PC 99 (NON AG ACREAGE 5 AC OR MORE)  
3 from 2008 to present. From 1990 to 2007, the property was assessed as PC 00 (Vacant  
4 Residential). A property on which a single-family residence is located should be assessed  
5 as PC 01 (Single-Family Residential). There is no record of the property ever having an  
6 assessment of PC 01 or any other assessment that would have been assigned to a property  
7 on which a dwelling unit was located.

8  
9 Furthermore, the 2009 Monroe County property record card for real estate number  
10 00107930.002900 does not show any building value or miscellaneous improvement value  
11 on the parcel since the real estate number's establishment in 1990. In addition, the  
12 appraised value of the property (total land value) from 1990 to 2005 was \$34, a figure  
13 that indicates that there was not any permanent development on the property as  
14 permanent development, especially a dwelling unit, would carry a value of greater than  
15 \$34. The total land value escalated to \$37,400 from 2006-2007 and decreased to \$15,000  
16 from 2008-2009; however continued to show no building values during those times.

17  
18 Temporary structures or unlawful structures not reported to the Monroe County Property  
19 Appraiser would not be included in building value on the property record card.

- 20  
21 5. *The Monroe County Planning & Environmental Resources Department issued a*  
22 *memorandum, dated January 22, 2009. The purpose of the letter was to determine the*  
23 *number of lawfully established dwelling units on Cooks Island. This memorandum was*  
24 *provided to all property owners on Cooks Island. The subject property was not awarded*  
25 *an exemption at that time.*

26  
27 In early 2009, the Planning & Environmental Resources Department carried out an  
28 island-wide study of the 41 parcels on Cooks Island in order to determine which of the  
29 existing structures were a) lawful dwelling units, b) lawful dwelling units with  
30 unpermitted improvements that required after-the-fact building permits or c) unlawful  
31 structures or dwelling units that should be removed. At that time, it was determined that  
32 the subject property did not have a lawful dwelling unit and that the existing structure  
33 should be removed.

34  
35 All of the properties which were determined to have a lawful dwelling unit, and thereby  
36 be ROGO exempt, had a Growth Management Division approval of the structure (i.e. a  
37 building permit) and/or Property Appraiser documentation that the structure was in  
38 existence as a residential structure prior to 1990. The subject property had neither.

- 39  
40 6. *The Boundary Survey, dated June 18, 1986, submitted with the application indicates the*  
41 *existence of three (3) structures on the property at that time, however it does not confirm*  
42 *the use of structures, nor does it confirms their continued existence.*

43  
44 The appellant provided a boundary survey by J.B. Case, conducted June 17 1986 and  
45 signed June 18, 1986. The survey is a copy and is not originally signed or sealed by the  
46 surveyor.

1  
2 The survey shows three hand drawn structures labeled only as buildings; however none  
3 of the structures' exact locations are cited or their dimensions provided. Therefore, their  
4 scales, sizes and precise locations cannot be determined from the survey. Furthermore,  
5 none of the structures are indicated to be a residential dwelling unit or residential in use.  
6

7 After reviewing the aerial photography and site visit information showing the size and  
8 location of the existing structure, staff has determined that there is no evidence  
9 supporting that the any of the buildings shown on the survey are the existing structure.  
10 Furthermore, in the administrative appeal application, the appellant states that there is  
11 now "one dwelling supported by some of the same post, and materials from one of the  
12 old beach huts" which indicates the existing structure was not one of the three buildings  
13 shown on the survey.  
14

15 It should be also considered that the survey is an unsealed copy and it includes hand  
16 drawn determinations, meaning its depictions are subject to some scrutiny.  
17

18 Other Information:  
19

20 As part of the administrative appeal application, the appellant submitted a Sellers  
21 Agreement dated August 9, 1984. Under "Further Description" the agreement states  
22 "Beautiful ocean front property with two (2) beach huts enclosed with bahamas shutters.  
23 Separate bathroom/shower building...". This information corresponds with the 1986  
24 boundary survey; however it should be noted that a shower building and beach hut do not  
25 necessarily constitute a dwelling unit. Furthermore, being referred to in a sellers  
26 agreement does not mean the structures were really in existence, lawfully in existence or  
27 in existence beyond the date referred to in the document, June 18, 1986. In addition, this  
28 document is not found in any Growth Management Division records and therefore the  
29 information contained in the description was never approved by any staff.  
30

31 As part of the administrative appeal application, the appellant submitted a notarized  
32 witness affidavit stating that a "beach hut" was in existence from 1985 to 2009.  
33 Although there is evidence that there have been structures located on the subject property  
34 periodically since the 1980s, staff found no evidence supporting that any structure  
35 continuously existed on the property from 1985 to present.  
36

37 As part of the administrative appeal application, the appellant submitted documentation  
38 from Donald Craig Associates from 1990 indicating that Mr. Craig was retained to assist  
39 the property owner in a beneficial use determination. It should be noted that this  
40 information does not support the existence of a dwelling unit nor references an existing  
41 dwelling unit. The fact that in the documentation Mr. Craig states that he believes a  
42 beneficial use application is the "only alternative" could be interpreted to dispute the  
43 issue that there was a dwelling unit on the property at that time.  
44

45 As part of the administrative appeal application, the appellant submitted plans for a  
46 vacation cabin; however these plans are copies and do not match the orientation and size

1 of structure in existence. Furthermore, staff was not permitted to enter the structure and  
2 the appellant provided not interior photographs.  
3

4 V RECOMMENDATION:  
5

6 In conclusion, the Director of Planning & Environmental Resources' decision to deny the  
7 ROGO exemption request was based on several findings of fact, as provided in this staff  
8 report.  
9

10 There is no information definitively supporting that any structure, nonetheless a dwelling  
11 unit, was in existence from 1986 until 2002. Furthermore, it appears that the existing  
12 structure, as well as the beach huts and the other structure in existence in 1984 and 1986,  
13 were unlawful improvements, constructed without the benefit of permits. Pursuant to  
14 Administrative Interpretation 03-108, an exemption cannot be granted to replace an unlawful  
15 dwelling unit.  
16

17 The ROGO shall apply to all residential dwelling units for which a building permit is  
18 required by the Land Development Code and for which building permits have not been  
19 issued prior to July 13, 1992, except as otherwise provided. Although the existing structure  
20 has been in existence for several years as seen in the aerial photography since 2002, there is  
21 no information available, other than the property owner's statements, supporting that the  
22 existing structure was in existence prior to 2002, nonetheless 1992. Furthermore, its  
23 existence for the past eight or so years does not constitute legality. Due to the isolation of the  
24 property, an unlawful improvement can exist for some time before discovered and cited by  
25 the Code Enforcement Department (the property was cited in 2006). Again, pursuant to  
26 Administrative Interpretation 03-108, an exemption cannot be granted to an unlawful  
27 dwelling unit.  
28

29 In addition, there is no evidence the existing structure even constitutes a lawful dwelling unit  
30 as defined in the Monroe County Code. A dwelling unit is one (1) or more rooms physically  
31 arranged to create a housekeeping establishment for occupancy by one (1) family with  
32 separate toilet facilities. Based on separate site visits carried out by Planning &  
33 Environmental Resources Department, Building Department and Code Enforcement  
34 Department staff, the existing structure would not meet this definition. Although staff was  
35 not permitted to enter structure to verify if there was a bathroom and kitchen area, the  
36 appellant provided no documentation other than a cabin floor plan showing that bath/kitchen  
37 (which staff determined did not match the size and proportions of the existing structure).  
38

39 Therefore, based on a review of all of the available information, staff has found there was not  
40 a lawful permanent structure, and thereby a dwelling unit, on the property as of 1992. There  
41 are no building permits on file for any structure and the Monroe County Property Appraiser's  
42 office never assessed the property as anything other than vacant since 1990.  
43

44 The ROGO shall not apply to the redevelopment, rehabilitation or replacement of any  
45 lawfully-established residential dwelling unit which does not increase the number of  
46 residential dwelling units above that which existed on the site prior to the redevelopment,

1 rehabilitation or replacement. Using the records and criteria set forth in Administrative  
2 Interpretation 03-108, staff has found that the existing structure was not lawfully-established  
3 and that there was no dwelling unit in existence in 1992 and thereby requests that the  
4 Planning Commission uphold the decision of the Senior Director of Planning &  
5 Environmental Resources.

1  
2  
3

Attachment A:  
Letter to David Wood from Townsley Schwab, Senior Director of Planning &  
Environmental Resources, dated July 20, 2009

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*

July 20, 2009

4W Cooks Island Limited Partnership  
ATTN: David Wood  
15228 Knots Landing  
Fort Myers, FL 33908

RE: ROGO Exemption Request for Cooks Island, Part Government Lot 2, New Found Harbor  
Keys, AKA Lot 4W Cooks Island (.34 AC), Real Estate Number 00107930.002900

Mr. Wood,

You requested a determination as to whether one (1) residential dwelling unit is exempt from the Residential Rate of Growth Ordinance (ROGO) on the above-described premises.

Pursuant to §138-22 of the Monroe County Code, the ROGO shall not apply to the redevelopment, rehabilitation or replacement of any lawfully-established residential dwelling unit that does not increase the number of dwelling units that existed on the site. Therefore, owners of land shall be entitled to one (1) dwelling unit allocation, exempt from the ROGO permit allocation system, for each dwelling unit lawfully-established on a given property. Administrative Interpretation 03-108 provides the criteria to be used by staff to determine whether or not a dwelling unit was lawfully-established:

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

No Monroe County building permits have been issued for development of the property. The applicant submitted evidence that building plans for a single-family dwelling unit were drawn and planned for submittal to the Building Department in 1986. However, these plans are not in the Building Department's records.

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

*Site Visit:* A site visit was conducted by Bill Harbert, Planner, on June 22, 2009. Only a storage shed was present on the property.

*Land Use District:* The property is located in an Offshore Island (OS) District, in which a detached single-family detached dwelling is a permitted use on a parcel of 10 or more acres.

*Aerial Photography:* Aerial photography from 1982 to 2008 cannot confirm the existence of a structure on the property due to the altitude from which the photographs were taken. Therefore aerial photography cannot be used as evidence for or against the existence of a structure on the property from 1982 to 2008.

*Monroe County Property Record Card:* The Property Appraiser currently assesses the property under a property classification code of 99-Non aggregated acreage 5 acres or more. Their records indicate that the lot has been on the tax roll from 1990 to 2008, and has been listed as vacant each year.

*Utility records:* No utility records were submitted for review.

*Whether the residential use could have been permitted under the pre-1986 zoning:* Prior to 1986, the property was within the GU General Use District. Single-family homes were permitted uses.

*Other Information:* A boundary survey, dated June 17, 1986, was submitted by the applicant for review. The survey showed three (3) small structures on the property, however their specific use was not indicated on the boundary survey.

Based on a review of the records, the Planning & Environmental Resources Department found that no residential dwelling units were lawfully-established and thereby no replacements shall be exempt from the ROGO system, for the following reasons:

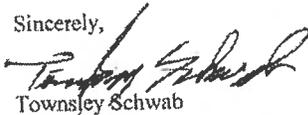
1. Pursuant to Monroe County Code § 138-22 and Administrative Interpretation 03-108, in order to be exempt from the Rate of Growth Ordinance (ROGO), one (1) lawful dwelling unit must have been in existence on the effective date of the county's land development regulations (September 15, 1986) or, if constructed after the effective date, must have been permitted in accordance with the land development regulations and the ROGO permit allocation system. No such record for a dwelling unit was found.
2. Currently, the property is located within an OS District. A single-family residence constructed after 1986 would have required ten (10) acres of buildable land to meet the Monroe County residential density requirements. According to the Monroe County Property Appraiser's records, the property has .34 acres of buildable land acres and staff was unable to locate any building permits for this parcel.
3. Staff was unable to locate a building permit approving a single-family dwelling unit or any other development on the property.

4. Staff reviewed Monroe County Property Appraisers' records, and found that the property has been on the tax roll since 1990, and has been assessed as vacant each year. Furthermore, the lack of a building listed on the Property Record Card indicates that there was no residential structure on the property at the time of the adoption of ROGO.
5. The Monroe County Planning & Environmental Resources Department issued a memorandum, dated January 22, 2009. The purpose of the letter was to determine the number lawfully established dwelling units on Cooks Island. This memorandum was provided to all property owners on Cooks Island. The subject property was not awarded an exemption at that time.
6. The Boundary Survey, dated June 18, 1986, submitted with the application indicates the existence of three (3) structures on the property at that time, however it does not confirm the use of the structures, nor does it confirm their continued existence.

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, please feel free to contact our Marathon office at (305) 289-2500.

You may appeal this decision. If you choose to do so, please contact the Planning Commission Coordinator, Ms. Debby Tedesco, at (305) 289-2500 for the necessary forms and information. The appeal must be filed with the County Administrator, 1100 Simonton Street, Gato Building, Key West, FL 33040, within thirty (30) calendar days from the date of this letter. In addition, please submit a copy of your application to Ms. Tedesco, Planning Commission Coordinator, Monroe County Planning Department, 2798 Overseas Hwy, Suite 410, Marathon, FL 33050-2227.

Sincerely,



Townsley Schwab  
Senior Director of Planning and Environmental Resources

Attachment B:  
§138-22(1) of the Monroe County Code

**Sec. 138-22. Type of development not affected.**

The residential ROGO shall not apply to the development described below:

- (1) Redevelopment on-site. Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space that does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement shall be exempt from the residential ROGO system.

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Attachment C:  
Administrative Interpretation 03-108

Monroe County Department of Planning and Environmental Resources  
Administrative Interpretation

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October 22, 2003

TO: **Growth Management Staff**

FROM: **Aref Joulani, Director of Planning  
& Environmental Resources**

**ADMINISTRATIVE INTERPRETATION NO: 03-108**

**RE: Lawfully Established Units and/or Floor Area**

**Issue:**

The County regulations are designed to control the amount and location of both residential and non-residential development. With the difficulty, limitations, and time involved in obtaining ROGO and NROGO allocations, and the moratorium on new transient units more and more property owners are trying to find ways to define and maximize the "as-of-right" redevelopment potential of their properties.

A major problem is the difficulty in finding old records and permits issued before 1986. The record is spotty and complete files may be found for one property and nothing for another, although there may be reasons to believe both properties received some permits.

A consistent method needs to be followed to determine *lawful establishment for the following situations:*

- Is a property entitled to one or more ROGO exemptions for transient or residential units that may be use on site or transferred (TRE)?
- How much floor area on a site is NROGO exempt and may be replaced on site or transferred to another appropriate site?

**Interpretation:**

Sections 9.5-120.4 and 9.5-124.3 states that for development to not be affected by the requirements of obtaining a ROGO or NROGO allocation the residential unit, space or floor area must be *lawfully established*.

A landowner will receive an exemption from the ROGO or NROGO allocation system if his property meets the following test:

- *Lawfully-established* - A permit or other official approval from the Division of Growth Management for the units and/or floor area; and
- *Counted in ROGO and 2010 Comprehensive Plan* - Proof that the residential units(s) or amount of floor area was in existence and included in the April 1990 census. The census was used to determine the number of existing residential units that is the basis for ROGO and NROGO.

Administrative Interpretation No: 03-108

If a permit or other Growth Management approval is not available the following may be used to establish that the property was *lawfully-established*:

- Aerial photographs showing existence of the dwelling unit/non-residential structure prior to 1986 – the date the LDRs and Land Use District maps were adopted. The map designation pre-1986 of many properties is different from today’s designation and the uses permitted in the district are different. This answers the question of , “If the unit or floor area could have been permitted? ”; *and*
- County property record card showing the existence of the unit or floor area prior to 1986. After 1986 the permit records are considered complete and a permit is required to demonstrate that the unit was lawfully established, the existence of the unit or floor area prior to 1986 is an indication of what the use of the structure was at that time; and
- Utility records for the period 1986-1991 that show the use was being served. ROGO is based on the 1990 census count of dwelling units; to be counted in the census someone had to be living in the unit. All of the years are not required if 1990 is available; and
- The use could have been a permitted use under the pre-1986 zoning of the property. This not only refers to the type of use but also the construction. For example: a residential unit could not have been permitted below flood level after January 1, 1975, therefore a structure built in 1980, below flood level, could not have been lawfully established as a residential unit.
- To help establish non-residential use of a property Occupational Licenses (1986-1991), if available, should also be submitted. The amount of nonresidential floor area that may be allocated is based on the floor area existing in 1990 (239 square feet for each residential unit counted in the census).

Additional information will be required to help establish the number of units for mobile home and/or recreational vehicles (RVs) in parks:

- The number of units in the mobile home surveys taken in the late 1980s and early 1990s may be used as an indication, but it should be recognized that the number on site, at any one point in time, may have varied from the actual number.
- The number of recreation vehicles included on the Health Department Licenses as provided for in F.S., chapter 513 for the year 1996 are the maximum number of RVs that may be on the site. Both mobile homes and RVs require a residential ROGO and prior to adoption of the 2010 Comprehensive Plan could be interchanged. Policy 101.2.6 prohibits new transient residential units, including RV spaces, until December 2006. In a district that allows mobile homes and RV spaces (URM), a mobile home may be permitted without a ROGO allocation if a RV space is removed.
- Demolition permits if mobile homes have been removed.
- Occupational Licenses if available for the years 1990 through 1996.

Note: Living in an abandoned shed does not make it a residential unit and an old mobile home used for storage does not become floor area. If the use could/would not have been permitted, it may not be used as an exemption from ROGO.

There will be cases where the applicant and staff are unable to provide all the information required to determine if the structure is lawfully established and in use in 1990. Other information and “proof” of use may be provided to the Planning Director for consideration.

\*This Administrative Interpretation was prepared with the Planning Commission to provide criteria for determining “lawfully established” and consistency in determination of and awarding of ROGO and NROGO exemptions and approval of TRE and the transfer of non-residential floor area.

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Attachment D:  
Site Photographs



Aerial Photograph of Cooks Island (2009)



Aerial Photograph of Subject Property (2009)



Photograph of "Canopy" by Code Enforcement Dept. Staff (June 2006)



Photograph of "Canopy" by Code Enforcement Dept. Staff (June 2006)



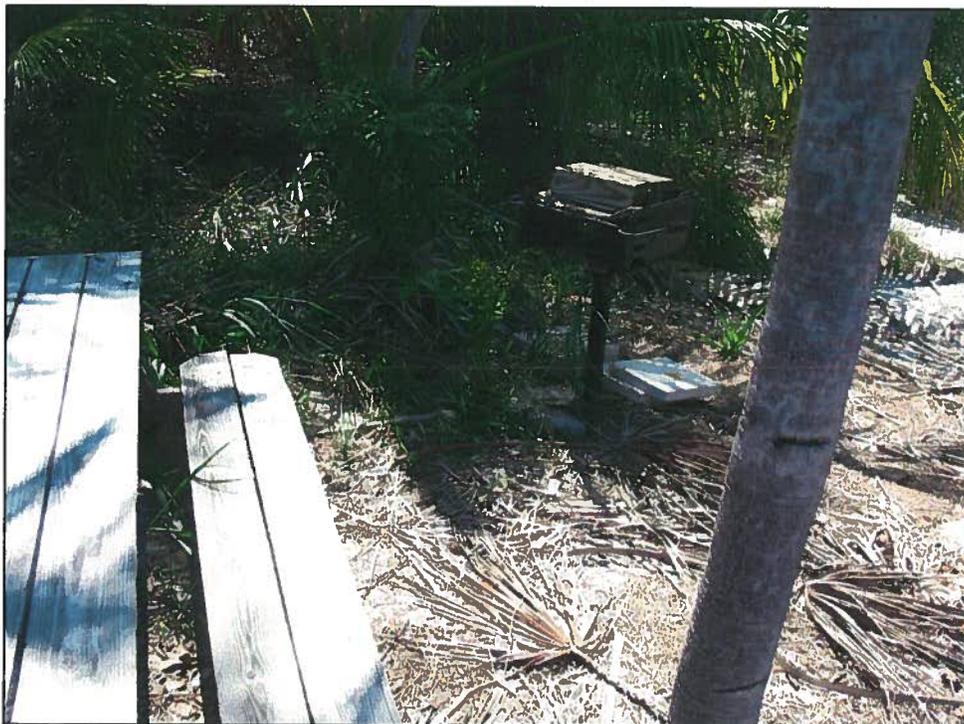
Photograph of "Canopy" by Planning Dept. Staff (April 2007)



Photograph of "Canopy" by Planning Dept. Staff (February 2008)



Photograph of Existing Structure by Planning Dept. Staff (June 2009)



Photograph of Existing Grill by Planning Dept. Staff (June 2009)



Photograph of Existing Structure by Planning Dept. Staff (June 2009)



Photograph of Existing Structure by Planning Dept. Staff (June 2009)



Photograph of Existing Structure by Planning Dept. Staff (June 2009)



Photograph of Existing Structure by Code Enforcement Dept. Staff (August 2009)



Photograph of Site by Code Enforcement Dept. Staff (August 2009)



Photograph of Existing Structure by Code Enforcement Dept. Staff (August 2009)



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

**To:** Planning Commission

**Through:** Townsley Schwab, Senior Director of Environmental & Planning Resources  
Mitch Harvey, AICP, Comprehensive Plan Manager *TS*

**From:** Kathy Grasser, Comprehensive Planner *KG*

**Date:** March 18, 2010

**Subject:** Request for an Amendment to the Land Use Regulations creating Section 130-131, creating the Lower Sugarloaf Key Community Center Overlay District

**Meeting:** March 24, 2010

**I REQUEST**

A request by Planning and Environmental Resources Department staff to amend the Land Use Code (LDR) by creating new Section 130-131, the Lower Sugarloaf Key Community Center Overlay District



Address: 17001 – 17075 Overseas Highway, Lower Sugarloaf Key  
Florida, Mile Marker 16 – 17

Real Estate Numbers: All of RE 00117930.000000  
A portion of RE 00118420.000000  
A portion of RE 00118470.000000

Descriptions: A portion of Government Lot 3 and portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida at 17001 Overseas Highway, Lower Sugarloaf Key, at approximately Mile Marker 17

## **II PROCESS**

Amendments may be proposed by the Board of County Commissioners (BOCC), the Planning Commission, the Director of Planning, or the owner or other person having a contractual interest in property to be affected by a proposed amendment. The Director of Planning shall review and process text amendment applications as they are received and pass them onto the Development Review Committee and the Planning Commission for recommendation and final approval by the BOCC.

The Planning Commission and the BOCC shall each hold at least one public hearing on a proposed amendment. The Planning Commission shall review the application, the reports and recommendations of the Department of Planning & Environmental Resources and the Development Review Committee and the testimony given at the public hearing. The Planning Commission shall submit its recommendations and findings to the BOCC. The BOCC considers the staff report and recommendation of and the testimony given at the public hearing and may either deny or adopt. The amendment is transmitted to the Florida Department of Community Affairs (DCA).

## **III OVERLAY DISTRICT INFORMATION**

The neighborhood community has voiced their objection with a proposed land use district designation amendment on this property from Destination Resort (DR), Native Area, and Suburban Commercial (SC) land use districts to the Mixed Use (MU) land use district. They feel the density and intensity of the Mixed Use (MU) land use district designation (LUDD), when calculated, is very high. If and when this area gets developed, the high density and intensity would change the character of Sugarloaf Key. The overlay district would allow development to occur and keep the historic character of Sugarloaf Key.

The purpose of the Lower Sugarloaf Key Community Center Overlay District is to implement the policies of the comprehensive plan, to protect the natural and man-made historic resources of the community and to encourage development that maintains the small scale and low intensity of Lower Sugarloaf Key. The goal is to protect and maintain the historic character of the densities and intensities within the Lower Sugarloaf Key Community Center Overlay District.

The overlay district applies to the boundaries of which are described on the map, attached as Exhibit A. The Sugarloaf Key Overlay District, when adopted, will become an overlay to the Land Use District Map.

Policy 105.2.15 of the Monroe County Year 2010 Comprehensive Plan characterizes Community Centers as a defined geographic area with a mix of retail, personal service, office and tourist and residential uses. The lawfully established structures in this boundary offer the residents as well as tourists use of motel, marina, restaurant, apartments and single family residences, offices, auto body shop and a real estate office.

The tier for Real Estate number 00118420.000000 has been undesignated pursuant to Final Order Number DC07-GM-166. The parcel will be evaluated by the Tier Designation Committee and recommendations made to the BOCC.

### **Overlay District Boundaries**

The Lower Sugarloaf Overlay District boundary is as follows:

#### **Parcel A:**

A portion of Government Lot 3 and Portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and being more particularly described as follows (All references to Government Lot Lines are per Bailey's Survey of Sugarloaf Properties, December 22, 1972):

BEGIN at the intersection of the Northwesterly Line of U.S. Highway No. 1 (State Road No. 5) and the West line of Government Lot 3 of said Section 3, thence N 0 degrees 16' 32" E along the said Government Lot line for 60.28 feet; thence N 56' 19' 10" East along the said Northwesterly right of way line of U.S. Highway No. 1 for 644.56 feet; thence North 33 degrees 41' W for 147.88 feet, more or less to the Mean High Tide Line of Upper Sugarloaf Sound; thence meander said Mean High Tide Line with the following metes and bounds; thence S 52 degrees 19' 26" W for 139.22 feet; thence S 81 degrees 00' 25" W for 28.6 feet; thence N 49 degrees 28' 21" W for 36.77 feet; thence N 44 degrees 25' 27" W for 56.18 feet; thence N 83 degrees 14' 35" W for 35.52 feet; thence S 73 degrees 27' 37" W for 55.44 feet; thence N 42 degrees 13' 57" W and across a marina for 179.20 feet; thence continue meandering the Mean High Tide Line and a concrete seawall with the following metes and bounds: thence N 80 degrees 53' 10" W for 10.77 feet; thence S 70 degrees 37' 47" W for 107.27 feet; thence S 75 degrees 11' 6" W for 110.85 feet; thence North 31 degrees 25' 52" W for 7.55 feet; thence S 45 degrees 41' W for 20.0 Feet; thence S 12 degrees 56' 49" E for 17.13 feet; thence S 23 degrees 15' 23" E for 148.59 feet; thence S 22 degrees 11' 53" E for 87.98 feet; thence S 55 degrees 00' 14" W and across an open deep water pool for 96.97 feet; thence continue meandering said seawall and the Mean High Tide Line of Upper Sugarloaf Sound with the following metes and bounds; thence S 58 degrees 44' 30" W for 27.82 feet; thence South 71 degrees 47' 47" W for 29.56 feet; thence S 66 degrees 18' 30" W for 129.11 feet; thence S 77 degrees 18' 41" W for 49.7 feet; thence N 89 degrees 13' 39" W for 18.11 feet; thence S 80 degrees 45' 45" W for 75.01 feet; thence N 76 degrees 26' 39" W for 10.79 feet; thence S 86 degrees 24' 08" W for 12.48 feet; thence N 73 degrees 28' 09" W and across a canal for 136.57 feet; thence

continue meandering the said Mean High Tide Line for the following metes and bounds; thence N 59 degrees 53' 45" W for 5.95 feet; thence S.75°02'38"W., a distance of 175.86 feet; thence S.14°57'22"E., a distance of 356.02 feet; thence S.59°39'59"W., a distance of 77.48 feet; thence S.30° 16'10"E., a distance of 269.50 feet to the said Northwesterly right of way line of U.S. Highway No. 1, thence N 56°19'10" E along the said Northwesterly right of way line of U.S. Highway No. 1 for 792.73 feet to the Point of Beginning. Parcel contains 557,839 square feet or 12.81 acres, more or less.

AND

**Parcel C**

A portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and being more particularly described as follows (All references to Government Lot Lines are per Bailey's Survey of Sugarloaf Properties, December 22, 1972):

COMMENCE at the intersection of the Northwesterly Line of U.S. Highway No. 1 (State Road No. 5) and the West line of Government Lot 3, Section 3, Township 67 South, Range 27 East, thence N 0° 16' 32" E along the said Government Lot line for 60.28 feet; thence N 56° 19' East along the said Northwesterly right of way line of U.S. Highway No. 1 for 644.56 feet; thence North 33° 41' W for 110.00 feet to the Point of Beginning; thence continue N 33° 41' W for a distance of approximately 37.88 feet to the point of intersection with the Mean High Tide Line of Upper Sugarloaf Sound; thence meander said Mean High Tide Line Northeasterly to a point, said point bears N 63°40'43" E from the first point of intersection with the said Mean High Tide Line at a distance of 125.84 feet from said point of intersection with the Mean High Tide Line; thence S 89°59'13" W for a distance of 39.25 feet; thence S 56°19'10" W for a distance of 157.47 feet back to the Point of Beginning. Parcel contains 4,077 square feet or 0.09 acres, more or less.

**IV CONSISTENCY**

The proposed amendment is consistent with the Monroe County Year 2010 Comprehensive Plan. Specifically, the amendment furthers:

1. Goal 101 of the Monroe County Year 2010 Comprehensive Plan considers the health and safety of people and protection of natural resources.
2. Goal 105 of the Monroe County Year 2010 Comprehensive Plan recognizes the finite capacity for land development while balancing development with the natural environment.
3. Goal 105 of the Monroe County Year 2010 Comprehensive Plan provides a framework for future development and land acquisition for the next 20 years.
4. Policy 105.1 of the Monroe County Year 2010 Comprehensive Plan implements smart growth initiatives with the CommuniKeys Master Plans and Land Acquisition Programs.

5. Policy 105.1.5 of the Monroe County Year 2010 Comprehensive Plan directs Monroe County to direct future residential development to Tier III lands in accordance with Policy 105.2.2.
6. Goal 105.2.1 of the Monroe County Year 2010 Comprehensive Plan defines Tier I as environmentally sensitive, development severely restricted and the retirement of privately owned vacant lands should be used for resource conservation and passive recreation purposes.
7. Policy 105.2.15 of the Monroe County Year 2010 Comprehensive Plan designates Community Centers within areas designated as Tier III (Infill Area). A Community Center is characterized as a defined geographic area with a mix of retail, personal service, office and tourist and residential uses (generally of greater than 8 units per acre).

The proposed amendment is consistent with the Florida Administration Code (F.A.C.), Chapter 9J-5. Specifically, the amendment furthers:

1. 9J-5.006(3)(b)4 F.A.C. ensures the protection of natural resources and historic resources.
2. 9J-5.0012(3)(b)1 F.A.C. protects, conserve, or enhance remaining coastal wetlands, living marine resources, coastal barriers, and wildlife habitat.
3. 9J-5.0013(2)(c)3 F.A.C. protects native vegetative communities from destruction by development activities.
4. 9J-5.0013(2)(c)5 F.A.C. restricts activities known to adversely affect the survival of endangered and threatened wildlife.
5. 9J-5.0013(2)(c)6 F.A.C. protects conservation of the natural functions of existing soils, fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including estuarine marshes, freshwater beaches and shores, and marine habitats.
6. 9J-5.0013(3)(b) F.A.C. directs development away from wetlands by using land use factors such as type, intensity or density, extent, distribution and location of allowable land uses and the types, values, functions, sizes, conditions and locations of wetlands.

*D. Consistency with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern pursuant to F.S. Chapter 380.0552(7)*

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). To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.

- (b). To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c). To protect 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). To ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e). To limit the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f). To enhance natural scenic resources, promote the aesthetic benefits of the natural environment, and ensure that development is compatible with the unique historic character of the Florida Keys.
- (g). To protect the historical heritage of the Florida Keys.
- (h). To protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
  - 1. The Florida Keys Aqueduct and water supply facilities;
  - 2. Sewage collection and disposal facilities;
  - 3. Solid waste collection and disposal facilities;
  - 4. Key West Naval Air Station and other military facilities;
  - 5. Transportation facilities;
  - 6. Federal parks, wildlife refuges, and marine sanctuaries;
  - 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
  - 8. City electric service and the Florida Keys Electric Co-op; and
  - 9. Other utilities, as appropriate.
- (i). To limit the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (j). To make available adequate affordable housing for all sectors of the population of the Florida Keys.
- (k). To provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post disaster reconstruction plan.
- (l). To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

Pursuant to Chapter 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.

## V PROPOSED LAND DEVELOPMENT REGULATION TEXT

(Deletions are ~~stricken through~~ and additions are underlined.)

**Section 1.** Chapter 130, Article VII Division 2 shall be amended as follows:

### Section 130-131. Lower Sugarloaf Key Community Center Overlay District

(a) The purpose of the Lower Sugarloaf Key Community Center Overlay District is to implement the policies of the comprehensive plan, to protect the natural and man-made historic resources of the community and to encourage development that maintains the small scale and low intensity of Lower Sugarloaf Key. The goal is to protect and maintain the historic character of the densities and intensities within the Lower Sugarloaf Key Community Center Overlay District.

(b) The Lower Sugarloaf Key Community Center Overlay District, shown on attached Map Exhibit A, and is comprised of the following property legally described as:

#### **Parcel A:**

A portion of Government Lot 3 and Portion of Government Lot 4, Section 3, Township 67 South, Range 27 East and a portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and being more particularly described as follows (All references to Government Lot Lines are per Bailey's Survey of Sugarloaf Properties, December 22, 1972):

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75.01 feet; thence N 76 degrees 26' 39" W for 10.79 feet; thence S 86 degrees 24' 08" W for 12.48 feet; thence N 73 degrees 28' 09" W and across a canal for 136.57 feet; thence continue meandering the said Mean High Tide Line for the following metes and bounds; thence N 59 degrees 53' 45" W for 5.95 feet; thence S.75°02'38"W., a distance of 175.86 feet; thence S.14°57'22"E., a distance of 356.02 feet; thence S.59°39'59"W., a distance of 77.48 feet; thence S.30° 16'10"E., a distance of 269.50 feet to the said Northwesterly right of way line of U.S. Highway No. 1, thence N 56°19'10" E along the said Northwesterly right of way line of U.S. Highway No. 1 for 792.73 feet to the Point of Beginning. Parcel contains 557,839 square feet or 12.81 acres, more or less.

AND

**Parcel C**

A portion of Government Lot 3, Section 34, Township 66 South, Range 27 East, Sugarloaf Key, Monroe County, Florida and being more particularly described as follows (All references to Government Lot Lines are per Bailey's Survey of Sugarloaf Properties, December 22, 1972):

COMMENCE at the intersection of the Northwesterly Line of U.S. Highway No. 1 (State Road No. 5) and the West line of Government Lot 3, Section 3, Township 67 South, Range 27 East, thence N 0° 16' 32" E along the said Government Lot line for 60.28 feet; thence N 56° 19' East along the said Northwesterly right of way line of U.S. Highway No. 1 for 644.56 feet; thence North 33° 41' W for 110.00 feet to the Point of Beginning; thence continue N 33° 41' W for a distance of approximately 37.88 feet to the point of intersection with the Mean High Tide Line of Upper Sugarloaf Sound; thence meander said Mean High Tide Line Northeasterly to a point, said point bears N 63°40'43" E from the first point of intersection with the said Mean High Tide Line at a distance of 125.84 feet from said point of intersection with the Mean High Tide Line; thence S 89°59'13" W for a distance of 39.25 feet; thence S 56°19'10" W for a distance of 157.47 feet back to the Point of Beginning. Parcel contains 4,077 square feet or 0.09 acres, more or less.

(c) The uses within the overlay district shall be subject to all land development regulations (i.e setbacks, heights, etc.) including minor conditional and major conditional use regulations of the Monroe County Code.

(d) The Lower Sugarloaf Key Community Center Overlay District densities shall be enforced, in lieu of Section 130-157 Maximum Residential Density and District Open Space and Section 130-162 Maximum Hotel-Motel, RVs and Institutional Residential Densities, and the intensities shall be enforced, in lieu of Section 130-164 Maximum Nonresidential Land Use Intensities and Open Space Ratios and only within the boundaries of the district.

The uses within the overlay district shall be developed with the following density and intensity regulations:

(1) Density and Intensity:

TABLE INSET:

<b>Maximum Residential Densities</b>				
<u>Permitted Land Uses</u>	<u>Allocated Density</u>	<u>Size of Site</u>	<u>Total Units</u>	<u>Max Allowed</u>
<u>Permanent Residential (market-rate commercial apartments)</u>	<u>0.25 – 0.5 units/acre</u>	<u>10.86 acres</u>	<u>2.7 – 5.445 units</u>	<u>2-5 units</u>
<u>Permanent Residential (affordable / employee)</u>	<u>1 units/acre</u>	<u>10.86 acres</u>	<u>10.86 units</u>	<u>10 units</u>
<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities</b>				
<u>Permitted Land Uses</u>	<u>Allocated Density</u>	<u>Size of Site</u>	<u>Total Units</u>	<u>Max Allowed</u>
<u>Institutional Residential</u>	<u>1 units/acre</u>	<u>10.86 acres</u>	<u>10.89 units</u>	<u>10 units</u>
<u>Hotel</u>	<u>10 units/acre</u>	<u>10.86 acres</u>	<u>108.9 units</u>	<u>108 units</u>
<u>Recreational Rental</u>	<u>3.5 spaces/acre</u>	<u>10.86 acres</u>	<u>38.12 spaces</u>	<u>38 spaces</u>

<b>Maximum nonresidential land use intensities</b>			
<u>Permitted Land Uses</u>	<u>FAR</u>	<u>Size of Site</u>	<u>Max Allowed</u>
<u>Commercial Retail (Low)</u>	<u>0.08</u>	<u>378,450ft<sup>2</sup></u>	<u>30,276 ft<sup>2</sup></u>
<u>Commercial Retail (Medium)</u>	<u>0.08</u>	<u>378,450ft<sup>2</sup></u>	<u>30,276 ft<sup>2</sup></u>
<u>Office</u>	<u>0.08</u>	<u>378,450 ft<sup>2</sup></u>	<u>30,276 ft<sup>2</sup></u>
<u>Commercial Recreational</u>	<u>0.06</u>	<u>378,450 ft<sup>2</sup></u>	<u>22,707 ft<sup>2</sup></u>
<u>Institutional</u>	<u>0.06</u>	<u>378,450 ft<sup>2</sup></u>	<u>22,707 ft<sup>2</sup></u>
<u>Outdoor Recreational</u>	<u>0.06</u>	<u>378,450 ft<sup>2</sup></u>	<u>22,707 ft<sup>2</sup></u>

\*Maximum square footage of any one building or structure shall not exceed 6,000 square feet. However, cumulative square footage is governed by floor area ratio maximums. The intent of this limitation is to prevent large scale, out of character retail or commercial development.

(2) No Open Space Ratios are modified by this Section 130-131.

## **VI STAFF RECOMMENDATION**

Approval



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Planning Commission

Through: Townsley Schwab, Senior Director of Environmental. & Planning Resources  
Mitch Harvey, AICP, Comprehensive Plan Manager TH

From: Kathy Grasser, Comprehensive Planner KG

Date: March 18, 2010

Subject: Request for Amendment to the Land Use District Map by Mr. Lloyd A. Good, Jr., 17001 & 17075 Overseas Highway, Sugarloaf Key, Florida 33042, Mile Marker 17, Real Estate Number 00118420.000000, 00118470-00000 & 00117930-000000

Meeting: March 24, 2010

I. REQUEST

A request by Lloyd A. Good, Jr., to amend the current Land Use District (LUD) designation from Destination Resort (DR), Sub Urban Commercial (SC) and Native Area (NA) to Mixed Use (MU) for the entire real estate number 00118470.00000 and portions of real estate numbers 00118420.000000 and 00117930.000000.



Part of Real Estate # 00118420.000000  
Destination Resort and Native Area to Mixed Use

Part of Real Estate # 00117930.000000  
Destination Resort and Suburban Commercial to Mixed Use

Real Estate # 00118470.000000  
Destination Resort and Suburban Commercial to Mixed Use

1 Address: 17001 – 17075 Overseas Highway, Lower Sugarloaf Key  
2 Florida, Mile Marker 16 – 17  
3

4 Real Estate Numbers: All of RE 00117930.000000  
5 A portion of RE 00118420.000000  
6 A portion of RE 00118470.000000  
7

8 Applicant/Property Owner: Lloyd A. Good, Jr.  
9

10 Descriptions: A portion of Government Lot 3 and portion of Government Lot 4,  
11 Section 3, Township 67 South, Range 27 East and a portion of  
12 Government Lot 3, Section 34, Township 66 South, Range 27 East,  
13 Sugarloaf Key, Monroe County, Florida and a portion of  
14 Government Lot 3, Section 34, Township 66 South, Range 27 East,  
15 Sugarloaf Key, Monroe County, Florida at 17001 Overseas  
16 Highway, Lower Sugarloaf Key, at approximately Mile Marker 17  
17

18 Legal Description:

19 **Parcel A:**

20 A portion of Government Lot 3 and Portion of Government Lot 4,  
21 Section 3, Township 67 South, Range 27 East and a portion of  
22 Government Lot 3, Section 34, Township 66 South, Range 27 East,  
23 Sugarloaf Key, Monroe County, Florida and being more  
24 particularly described as follows (All references to Government  
25 Lot Lines are per Bailey's Survey of Sugarloaf Properties,  
26 December 22, 1972):  
27

28 BEGIN at the intersection of the Northwesterly Line of U.S.  
29 Highway No. 1 (State Road No. 5) and the West line of  
30 Government Lot 3 of said Section 3, thence N 0 degrees 16' 32" E  
31 along the said Government Lot line for 60.28 feet; thence N  
32 56'19'10" East along the said Northwesterly right of way line of  
33 U.S. Highway No. 1 for 644.56 feet; thence North 33 degrees 41'  
34 W for 147.88 feet, more or less to the Mean High Tide Line of  
35 Upper Sugarloaf Sound; thence meander said Mean High Tide  
36 Line with the following metes and bounds; thence S 52 degrees 19'  
37 26" W for 139.22 feet; thence S 81 degrees 00' 25" W for 28.6  
38 feet; thence N 49 degrees 28' 21" W for 36.77 feet; thence N 44  
39 degrees 25' 27" W for 56.18 feet; thence N 83 degrees 14' 35" W  
40 for 35.52 feet; thence S 73 degrees 27' 37" W for 55.44 feet;  
41 thence N 42 degrees 13' 57" W and across a marina for 179.20  
42 feet; thence continue meandering the Mean High Tide Line and a  
43 concrete seawall with the following metes and bounds: thence N  
44 80 degrees 53' 10" W for 10.77 feet; thence S 70 degrees 37' 47"  
45 W for 107.27 feet; thence S 75 degrees 11' 6" W for 110.85 feet;

1                   thence North 31 degrees 25' 52" W for 7.55 feet; thence S 45  
2                   degrees 41' W for 20.0 Feet; thence S 12 degrees 56' 49" E for  
3                   17.13 feet; thence S 23 degrees 15' 23" E for 148.59 feet; thence S  
4                   22 degrees 11' 53" E for 87.98 feet; thence S 55 degrees 00' 14" W  
5                   and across an open deep water pool for 96.97 feet; thence continue  
6                   meandering said seawall and the Mean High Tide Line of Upper  
7                   Sugarloaf Sound with the following metes and bounds; thence S 58  
8                   degrees 44' 30" W for 27.82 feet; thence South 71 degrees 47' 47"  
9                   W for 29.56 feet; thence S 66 degrees 18' 30" W for 129.11 feet;  
10                  thence S 77 degrees 18' 41" W for 49.7 feet; thence N 89 degrees  
11                  13' 39" W for 18.11 feet; thence S 80 degrees 45' 45" W for 75.01  
12                  feet; thence N 76 degrees 26' 39" W for 10.79 feet; thence S 86  
13                  degrees 24' 08" W for 12.48 feet; thence N 73 degrees 28' 09" W  
14                  and across a canal for 136.57 feet; thence continue meandering the  
15                  said Mean High Tide Line for the following metes and bounds;  
16                  thence N 59 degrees 53' 45" W for 5.95 feet; thence  
17                  S.75°02'38"W., a distance of 175.86 feet; thence S.14°57'22"E., a  
18                  distance of 356.02 feet; thence S.59°39'59"W., a distance of 77.48  
19                  feet; thence S.30° 16'10"E., a distance of 269.50 feet to the said  
20                  Northwesterly right of way line of U.S. Highway No. 1, thence N  
21                  56°19'10" E along the said Northwesterly right of way line of U.S.  
22                  Highway No. 1 for 792.73 feet to the Point of Beginning. Parcel  
23                  contains 557,839 square feet or 12.81 acres, more or less.

24  
25                   AND

26  
27                   **Parcel C**

28                   A portion of Government Lot 3, Section 34, Township 66 South,  
29                   Range 27 East, Sugarloaf Key, Monroe County, Florida and being  
30                   more particularly described as follows (All references to  
31                   Government Lot Lines are per Bailey's Survey of Sugarloaf  
32                   Properties, December 22, 1972):

33  
34                   COMMENCE at the intersection of the Northwesterly Line of U.S.  
35                   Highway No. 1 (State Road No. 5) and the West line of  
36                   Government Lot 3, Section 3, Township 67 South, Range 27 East,  
37                   thence N 0° 16' 32" E along the said Government Lot line for  
38                   60.28 feet; thence N 56° 19' East along the said Northwesterly  
39                   right of way line of U.S. Highway No. 1 for 644.56 feet; thence  
40                   North 33° 41' W for 110.00 feet to the Point of Beginning; thence  
41                   continue N 33° 41' W for a distance of approximately 37.88 feet to  
42                   the point of intersection with the Mean High Tide Line of Upper  
43                   Sugarloaf Sound; thence meander said Mean High Tide Line  
44                   Northeasterly to a point, said point bears N 63°40'43" E from the  
45                   first point of intersection with the said Mean High Tide Line at a

1 distance of 125.84 feet from said point of intersection with the  
2 Mean High Tide Line; thence S 89°59'13" W for a distance of  
3 39.25 feet; thence S 56°19'10" W for a distance of 157.47 feet  
4 back to the Point of Beginning. Parcel contains 4,077 square feet  
5 or 0.09 acres, more or less.  
6  
7  
8

9 **NOTE:**

10 The LUD amendment does not guarantee future development for the three (3) parcels.  
11 Currently, Growth Management does not have any pending applications for development  
12 on this property. When or if, Growth Management receives an application, it will be  
13 addressed at that time.  
14

15 **II. PROCESS**

16 Amendments may be proposed by the Board of County Commissioners (BOCC), the  
17 Planning Commission, the Director of Planning, or the owner or other person having a  
18 contractual interest in property to be affected by a proposed amendment. The Director of  
19 Planning shall review and process map amendment applications as they are received and  
20 pass them onto the Development Review Committee and the Planning Commission for  
21 recommendation and final approval by the BOCC.  
22

23 The Planning Commission and the BOCC shall each hold at least one public hearing on a  
24 proposed amendment. The Planning Commission shall review the application, the  
25 reports and recommendations of the Department of Planning & Environmental Resources  
26 and the Development Review Committee and the testimony given at the public hearing.  
27 The Planning Commission shall submit its recommendations and findings to the BOCC.  
28 The BOCC shall consider the report and recommendation of and the testimony given at  
29 the public hearings and may either deny the application or adopt an ordinance approving  
30 the proposed amendment. Ordinances are then reviewed by the Florida Department of  
31 Community Affairs.  
32

33 **III. RELEVANT PRIOR COUNTY ACTIONS**

34 On December 16, 2008, the Planning Commission approved Resolution P39-08  
35 recommending approval to the BOCC amending the FLUM from Residential  
36 Conservation (RC) to Mixed Use / Commercial (MC).  
37

38 On January 26, 2009, the BOCC approved Resolution 002-2009 transmitting an  
39 ordinance for adoption to the Department of Community Affairs (DCA). There were no  
40 objections, recommendations or comments from the DCA on the proposed FLUM  
41 amendment.  
42

43 On June 2, 2009, the BOCC adopted Ordinance 019-2009 amending a FLUM change on  
44 real estate number 00118420.000000 and only on the triangular portion located 110 feet

1 west of Bat tower Road near U. S. 1 from Residential Conservation (RC) to Mixed Use /  
2 Commercial (MC).  
3  
4

#### 5 **IV. BACKGROUND INFORMATION**

6  
7 An application was received for FLUM and LUD amendments to the subject properties  
8 on June 24, 2008. On June 2, 2009, the BOCC adopted Ordinance 019-2009 amending  
9 the Residential Conservation (RC) to Mixed Use / Commercial (MC) on a 379ft<sup>2</sup> piece of  
10 land. Currently, the Native Area (NA) land use district within the subject area is  
11 nonconforming with the current FLUM of MC.  
12

13 The tier for Real Estate number 00118420.000000 has been undesignated pursuant to  
14 Final Order Number DC07-GM-166. The parcel will be evaluated by the Tier  
15 Designation Committee and recommendations made to the BOCC.  
16

#### 17 **V. PARCEL INFORMATION**

18 There are three parcels related to the proposed LUD amendment.

- 19 1. RE number 00118420.000000 is 26.39 acres
  - 20 2. RE number 00118470.000000 is 1.55 acres
  - 21 3. RE number 00117930.000000 is 15.61 acres
- 22

23 The size of the proposed amendment is 10.86 acres on three parcels. There is a motel,  
24 office, restaurant, marina, real estate office and auto repair on the site.

- 25 1. RE number 00118420.000000 is 8.63 acres
  - 26 2. RE number 00118470.000000 is 1.55 acres
  - 27 3. RE number 00117930.000000 is 0.68 acres
- 28



The surrounding land use districts contain Native Area, Destination Resort, Off Shore Islands, Suburban Commercial and Improved Subdivision.

33  
34  
35  
36  
37  
38  
39  
40  
41  
42 The land use district designations proposed to be amended from NA, SC and DR to MU  
43 is as follows:  
44

<b>Land Use District Designation Existing</b>	<b>Acres</b>
Native Area (NA)	0.08 acres
Suburban Commercial (SC)	0.49 acres
Destination Resort (DR)	10.29 acres
Proposed Amended LUD	10.86 acres

Mr. Good owns the adjacent three parcels northwest of the subject area which includes a small airport and four dwelling units on Bat Tower Road. To the north of the subject area is the Gulf of Mexico. To the west and the east of the subject area are mangroves that require a 100% open space requirement. The subject parcels are adjacent to US 1 Overseas Highway. There is a large developed subdivision to the south across US 1.

**REAL ESTATE NUMBER 00118420.000000**



The total size of RE number 00118420.000000 is 26.39 acres. The portion of this parcel proposed to be amended to MU is 10.66 acres.

The subject parcel is located in the DR and NA land use districts. It is located in the AE – EL 11 and VE – EL 12 flood zone. The parcel has Hotel / Motel PC Code classification.

The parcel has land use codes of Commercial / Highway / Water Transitional Lands and Environmentally Sensitive.

**Tier Designation**

This parcel is undesignated. Pursuant to Final Order Number DC07-GM-166, this parcel was placed in an incorrect category because of the arbitrary four-acre size limitation and may be re-evaluated by the County after the Tier I regulation is revised.

**Existing Vegetation / Habitat**

The subject area is scarified and developed with some exotic vegetation along the western canal. The subject parcel is located in a Marsh Rabbit Buffer. The subject parcel is not located in the Marsh Rabbit Habitat. There are no other endangered species listed for the subject area.

**REAL ESTATE NUMBER 00118470.000000 (1.55 acres)**



**RE 00118470.000000**

The total size of the parcel is 1.55 acres. It is located in two land use district designations, DR and SC. It is located in a Tier 3 designation and has a flood zone of AE, VE (EL 12). The PC Code lists this parcel as store, office, residential or a combination of these uses. It has a land use code designation of commercial / highway / water. The subject parcel is adjacent to and serves the existing marina. The parcel is developed and located in the Marsh Rabbit Buffer, but not in the habitat.

**REAL ESTATE NUMBER 00117930.000000 (0.68 acres)**



**RE 00117930.000000**

1 **Land Use District**

2 RE number 00117930.000000 is 15.61 acres, Mr. Good is proposing to amend only 0.68  
3 acres of land behind the fire station and adjacent to real estate number 00118470.000000.  
4 The subject parcel is in the Suburban Commercial and Native Area land use districts. It  
5 has Tier 1 and Tier 3 designations. It has a flood zone classification of AE, VE (EL 12).  
6 The PC Code classification is Non Agriculture Acreage, five (5) acres or more. The  
7 entire parcel is listed as environmentally sensitive. The subject area is in the Marsh  
8 Rabbit Buffer, but not in the rabbits' habitat and no other endangered species are listed.  
9 There are endangered species listed on the remaining portion of the parcel.  
10

11 **VI. REVIEW OF APPLICATION**

12 A. *Consistency of the proposed amendment with the provisions and intent of the*  
13 *Monroe County Year 2010 Comprehensive Plan:*  
14

15 The proposed LUD amendment retains the community character and quality of  
16 life in the area. The proposed amendment is located in a Tier III area and is  
17 adjacent to the U. S. 1 corridor. The proposed amendment will retain the  
18 surrounding natural resources and direct future growth to this area where  
19 appropriate on the parcel. This is consistent with smart growth initiatives. The  
20 proposed LUD amendment is consistent with the following provisions and intent  
21 of the Monroe County Year 2010 Comprehensive Plan.  
22

- 23 1. Goal 101: Monroe County shall manage future growth to enhance the  
24 quality of life, ensure the safety of County residents and visitors, and  
25 protect valuable natural resources. [9J-5.006(3)a]  
26
- 27 2. Objective 101.4: Monroe County shall regulate future development and  
28 redevelopment to maintain the character of the community and protect the  
29 natural resources by providing for the compatible distribution of land uses  
30 consistent with the designations shown on the Future Land Use Map.  
31
- 32 3. Goal 105: Monroe County shall undertake a comprehensive land  
33 acquisition program and smart growth initiatives in conjunction with its  
34 Livable CommuniKeys Program in a manner that recognizes the finite  
35 capacity for new development in the Florida Keys by providing economic  
36 and housing opportunities for residents without compromising the  
37 biodiversity of the natural environment and the continued ability of the  
38 natural and manmade systems to sustain livable communities in the  
39 Florida Keys for future generations.  
40
- 41 4. Objective 105.1: Monroe County shall implement smart growth initiatives  
42 in conjunction with its Livable CommuniKeys and Land Acquisition  
43 Programs which promote innovative and flexible development processes  
44 to preserve the natural environment, maintain and enhance the community  
45 character and quality of life, redevelop blighted commercial and

1 residential areas, remove barriers to design concepts, reduce sprawl, and  
2 direct future growth to appropriate infill areas.  
3

4 B. *Consistency of the proposed amendment with the provisions and intent of*  
5 *Chapters 102 of the Monroe County Code, Land Development Regulations:*  
6

7 The proposed LUD amendment is consistent with the provisions and intent of the  
8 Monroe County Code, Section 130-88 Mixed Use (MU) District purpose which  
9 states:

10 ‘to establish or conserve areas of mixed uses, including commercial  
11 fishing, resorts, residential, institutional and commercial uses, and  
12 preserve these as areas representative of the character, economy and  
13 cultural history of the Florida Keys.’  
14

15 In accordance with MCC Sec. 102-158(d)(5)b., the BOCC may consider the  
16 adoption of an ordinance enacting the proposed change based on one (1) or more  
17 of the following factors: *changed projections; changed assumptions; data errors;*  
18 *new issues; recognition of a need for additional detail or comprehensiveness; and*  
19 *data updates.* There were no applicant responses for *changed projections,*  
20 *changed assumptions and new issues.*  
21

22 **APPLICANT RESPONSE:**

23 *Recognition of a need for additional detail or comprehensiveness;*

24 The use of the area as a bank or real estate office or tire repair shop is  
25 nonconforming in the DR zone but not in the MU zone.  
26

27 *Data errors:*

28 Any portion of the area RE 00118420-000000 zoned as NA should have  
29 originally been DR. This area is NA should now be MU.  
30

31 *Data updates:*

32 This property has traditionally been used for the uses permitted in a mixed use  
33 zone as distinguished from the DR zone.  
34

35 **STAFF RESPONSE**

36  
37 Staff has determined that the proposed map amendment is in accordance with  
38 MCC Section 102-158(d)(5)b(v) ‘*Recognition of a need for additional detail or*  
39 *comprehensiveness*’ based on the following data and analysis. The ‘*data error*’  
40 and ‘*data updates*’ factors are not applicable to the LUD amendment.  
41

42 **History of the property**

43  
44 In 1960, a 24-unit motel building was built. At one time there was the existence of  
45 fifty-five (55) transient dwellings and one (1) permanent dwelling located in the

1 motel office. There are five (5) buildings on RE 00118420.000000. Accordingly,  
2 in a letter of Development Rights Determination dated August 9, 2006, staff  
3 determined that twenty-four (24) transient dwelling units in the eastern wing of  
4 the motel and thirty-one (31) transient dwelling units in the western wing of the  
5 motel are lawfully-established.

6  
7 There are three (3) existing lawfully-established non-residential structures on the  
8 parcel which consist of a motel office and lobby building, restaurant and marina.  
9

10 As of April 9, 2008, Building Permit 081-1303 was issued to demolish the 24-unit  
11 motel, a pool, and a lift station. The structures were demolished soon after the  
12 permit was issued.  
13

#### 14 Land Use District History

15  
16 Prior to 1986, the area had a land use district designation of a General Use District and a  
17 Business Use District.  
18

#### 19 General Use District

20  
21 The General Use land use district designation did not allow for the development  
22 or redevelopment of any structure except for single family dwellings and clubs.  
23 This district was established as an interim land classification pending action to  
24 rezone the property to a residential, business or industrial classification. The  
25 marina is located in RE 00118420.000000 and was zoned GU prior to 1986.  
26 Marinas were not listed in this land use category.  
27

#### 28 BU-1, Light Business District

29  
30 The hotel and retail establishments are located on RE 00118420.000000 and RE  
31 00118470.000000 and were zoned BU-1. Professional services, business  
32 services, banks, post offices, ticket offices, drug stores, and other retail services  
33 were permitted. This district was intended to protect and enhance the areas best  
34 suited for preservation of businesses related to neighborhood, tourist, and resort  
35 retail sales and business, personal and professional services.  
36

37 After 1986, the area received land use district designations of Suburban  
38 Commercial and Destination Resort LUDs.  
39

#### 40 Suburban Commercial Land Use District

41  
42 After the 1986 zoning took effect, the area surrounding the fire station and part of  
43 the western side of parcel RE 00117930.000000 were rezoned to Suburban  
44 Commercial (SC). The purpose of the SC district is to establish areas for  
45 commercial uses designed and intended primarily to serve the needs of the

1 immediate planning area in which they are allocated. This district should be  
2 established at locations convenient and accessible to residential areas without use  
3 of U.S. 1.  
4

5 Permitted Uses of the Suburban Commercial LUD  
6

7 Commercial retail, low- and medium-intensity and office uses of less than  
8 2,500 ft<sup>2</sup> of floor area, institutional residential uses of less than ten (10)  
9 dwelling units, commercial apartments of less than six (6) dwelling units  
10 and accessory use are permitted as of right.  
11

12 Commercial retail, low- and medium-intensity and offices uses of less than  
13 10,000ft<sup>2</sup> of floor area, commercial retail uses of high intensity of less than  
14 2,500 ft<sup>2</sup> of floor area, institutional residential uses involving ten to twenty  
15 dwelling units, commercial apartments of six to eighteen dwelling units  
16 and hotels of fewer than 25 rooms are permitted as minor conditional uses  
17 subject to certain criteria.  
18

19 Commercial retail of low- and medium-intensity and office uses of greater  
20 than 10,000ft<sup>2</sup> of floor area, commercial retail uses of high intensity  
21 greater than 2,500ft<sup>2</sup> of floor area, institutional residential uses of 20 or  
22 more dwelling units, hotels providing more than that 25 rooms and marinas  
23 are permitted as a major conditional use subject to certain criteria.  
24

25 Destination Resort Land Use District  
26

27 After 1986, most of RE 00118470.000000 and 00118420.000000 were rezoned to  
28 the Destination Resort (DR) land use district.  
29

30 Purpose of Destination Resort LUD:

31 'To establish areas suitable for the development of planned tourist  
32 centers proving on-site residential, recreational, commercial and  
33 entertainment facilities of a magnitude sufficient to attract visitors  
34 and tourists for tenancies of three or more days.'  
35

36 Permitted Uses of Destination Resort LUD

37 Single family detached dwellings and vacation rentals are permitted uses.  
38 One or more resort hotels subject to certain criteria are permitted with a  
39 minor conditional use. Marinas, employee and attached residential  
40 dwelling units are permitted as a major conditional use subject to certain  
41 criteria.  
42  
43  
44  
45

1 Mr. Good is proposing to amend his land use to Mixed Use LUD designation.  
2

3 Mixed Use Proposed Land Use District  
4

5 The proposed amendment will change one parcel (RE 00118470.000000) and  
6 portions of two parcels (RE 00117930.000000 and RE 00118420.000000) from  
7 Destination Resort (DR), Suburban Commercial (SC) and Native Area (NA) land  
8 use district to the Mixed Use (MU) land use district designation.  
9

10 Purpose of the Mixed Use LUD:

11 'To establish or conserve areas of mixed use, including  
12 commercial fishing, resorts, and residential, institutional and  
13 commercial uses and preserve these as areas representative of the  
14 character, economy and cultural history of the Florida Keys.'  
15

16 Permitted Uses of the Mixed Use LUD:

17 Detached residential dwellings, commercial retail and low- and medium-  
18 intensity and office uses of less than 2,500ft<sup>2</sup>, institutional uses, residential  
19 uses of less than ten dwelling units, commercial apartments involving less  
20 than six dwelling units and accessory uses are permitted as of right.  
21

22 Attached residential dwelling units, commercial recreational uses,  
23 commercial retail, low- and medium-intensity and offices of less than  
24 10,000ft<sup>2</sup> of floor area, high-intensity commercial retail uses of less than  
25 2,500ft<sup>2</sup> and commercial apartments involving six to 18 dwelling units are  
26 permitted as a minor conditional use are subject to certain criteria.  
27

28 Commercial retail, low- and medium-intensity uses and offices of less than  
29 10,000ft<sup>2</sup> of floor area, commercial retail, high-intensity uses and office  
30 uses of greater than 2,500 ft<sup>2</sup>, attached residential dwelling units, marinas,  
31 and hotels providing more than 50 rooms are permitted as a major  
32 conditional use with certain conditions.  
33

34 Conditional uses in the MU land use category require individual review of  
35 their location, design and configuration and the imposition of conditions in  
36 order to ensure the appropriateness of the use at a particular location.  
37

38 Currently, the auto body repair shop and real estate office are nonconforming  
39 under the Destination Resort LUD designation. The 379ft<sup>2</sup> of Native Area is not  
40 consistent with the future land use map of Mixed Use / Commercial. The  
41 proposed Mixed Use LUD designation will bring the auto body repair shop and  
42 real estate office into accordance with the Land Development Regulations and  
43 Comprehensive Plan.  
44  
45

1 **VII. IMPACT ON COMMUNITY CHARACTER**

2  
3 MCC §102-158 maintains that amendments may not permit an adverse change in  
4 community character. Sugarloaf Lodge was established in the 1960s and has continuously  
5 operated as a motel and restaurant to present day. The property has waterfront and  
6 provides dockage (marina) for guests staying at the Sugarloaf Lodge facilities.  
7

8 Based on information in this staff report, staff  
9 finds the proposed LUD amendment from  
10 Destination Resort (DR), Suburban  
11 Commercial (SC) and Native Area (NA)  
12 LUD designations to Mixed Use (MU) LUD  
13 designations will effect community character.  
14



15 **APPLICANT RESPONSE**

16  
17 The uses proposed for the mixed use zone are  
18 consistent with the uses the area has had for  
19 over forty years.  
20

21  
22 **STAFF RESPONSE**

23  
24 **Local Use Compatibility**

25  
26 The subject parcels are adjacent to and north of U. S. 1. The existing uses on the  
27 property consist of an office, apartment, restaurant and dockage for motel guests.  
28 Prior to April 9, 2008, a 24-unit motel stood on the property. Building permit  
29 08101303 was issued to demolish the hotel. In a letter of Development Rights  
30 Determination, dated August 9, 2006, staff determined there are 55 transient  
31 dwelling units located on RE 00118420.000000. Staff additionally determined  
32 there are three (3) existing lawfully-established non-residential structures on the  
33 parcel which consist of a motel, office and lobby building, restaurant and marina.  
34

35 The following structures have been lawfully established:  
36

<i>Real Estate Number</i>	<i>Building</i>
00118420.000000	Motel Office and Lobby
	Motel – Eastern Wing
	Motel – Western Wing
	Restaurant and Gazebo
	Marina
00118470.000000	Mixed Use Building

37

1            Density and Intensity

2  
3            The proposed LUD designation amendment would alter the development potential of the  
4            subject properties. The following densities and intensities are permitted:  
5

<b>Maximum Residential Densities in NA (Allocated) – Sec 130-157</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Permanent Residential (market-rate commercial apartments)	3 units/acre	0.08 acres	0 units	0 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Residential Densities in SC (Allocated) – Sec 130-157</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Permanent Residential (market-rate commercial apartments)	3 units/acre	0.49 acres	1.47 units	1 units
Permanent Residential (affordable / employee)	3 units/acre	0.49 acres	1.47 units	1 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Residential Densities in SC (Maximum Net Density) – Sec 130-157</b>					
Permitted Land Uses	Max Net Density	Required Open Space	Size of Site	Total Units	Max Allowed
Permanent Residential (market-rate commercial apartments)	6 units/buildable acre	0.2	0.49 acres (0.39 buildable acres)	2.34 units	2 units
Permanent Residential (affordable employee housing)	15 units/buildable acre	0.2	0.49 acres (0.39 buildable acres)	5.85 units	6 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

NOTE: Net buildable area means that portion of a parcel of land that is developable and is not open space required by sec. 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under sec. 130-186.

NOTE: The maximum net residential density allowed per district shall not require transferable development rights (TDR) for affordable and employee housing and market rate housing developed in accordance with sec. 130-161(a)(8).

<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities in SC (Allocated) – Sec 130-162</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Institutional Residential	5 units/acre	0.49 acres	2.45 units	2 units
Hotel	10 units/acre	0.49 acres	4.9 units	4 units
Recreational Rental	10 spaces/acre	0.49 acres	4.9 spaces	4 spaces

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities in SC (Maximum Net Density) – Sec 130-162</b>					
Permitted Land Uses	Max Net Density	Required Open Space	Size of Site	Total Units	Max Allowed
Institutional Residential	20 units/buildable acre	0	0.49 acres	9.8 units	9 units
Hotel	15 units/buildable acre	0	0.49 acres	7.35 units	7 units
Recreational Rental	10 spaces/buildable acre	0	0.49 acres	4.9 units	4 spaces

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

NOTE: Net buildable area means that portion of a parcel of land that is developable and is not open space required by sec. 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under sec. 130-186.

<b>Maximum nonresidential land use intensities in SC – Sec 130-164</b>			
Permitted Land Uses	FAR	Size of Site	Max Allowed
Commercial Retail (Low)	0.35	17,076 ft <sup>2</sup>	5,976 ft <sup>2</sup>
Commercial Retail (Medium)	0.25	17,076 ft <sup>2</sup>	4,269 ft <sup>2</sup>
Commercial Retail (High)	0.15	17,076 ft <sup>2</sup>	2,561 ft <sup>2</sup>
Office	0.4	17,076 ft <sup>2</sup>	6,830 ft <sup>2</sup>
Commercial Recreational	0.1	17,076 ft <sup>2</sup>	1,708 ft <sup>2</sup>
Institutional	0.3	17,076 ft <sup>2</sup>	5,123 ft <sup>2</sup>
Outdoor Recreational	0.1	17,076 ft <sup>2</sup>	1,708 ft <sup>2</sup>
Public	0.3	17,076 ft <sup>2</sup>	5,123 ft <sup>2</sup>
Light Industrial	0.3	17,076 ft <sup>2</sup>	5,123 ft <sup>2</sup>

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Residential Densities in DR (Allocated) – Sec 130-157</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Permanent Residential (market-rate commercial apartments)	1 units/acre	10.29 acres	10.29 units	10 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Residential Densities in DR (Maximum Net Density) – Sec 130-157</b>					
Permitted Land Uses	Max Net Density	Required Open Space	Size of Site	Total Units	Max Allowed
Permanent Residential (affordable employee housing)	18 units/buildable acre	0.2	10.29 acres (8.23 buildable acres)	148.18 units	148 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

NOTE: Net buildable area means that portion of a parcel of land that is developable and is not open space required by sec. 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under sec. 130-186.

NOTE: The maximum net residential density allowed per district shall not require transferable development rights (TDR) for affordable and employee housing and market rate housing developed in accordance with sec. 130-161(a)(8).

<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities in DR (Allocated) – Sec 130-162</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Hotel	10 units/acre	10.29 acres	102.9 units	102 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities in DR (Maximum Net Density) – Sec 130-162</b>					
Permitted Land Uses	Max Net Density	Required Open Space	Size of Site	Total Units	Max Allowed
Hotel	25 units/buildable acre	0.2	10.29 acres (8.23 buildable acres)	205.8 units	205 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

NOTE: Net buildable area means that portion of a parcel of land that is developable and is not open space required by sec. 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under sec. 130-186.

<b>Maximum nonresidential land use intensities in DR – Sec 130-164</b>			
Permitted Land Uses	FAR	Size of Site	Max Allowed
Commercial Retail (Low)	0.35	358,499ft <sup>2</sup>	125,475 ft <sup>2</sup>
Commercial Retail (Medium)	0.25	358,499ft <sup>2</sup>	89,625 ft <sup>2</sup>
Commercial Retail (High)	0.15	358,499ft <sup>2</sup>	53,775 ft <sup>2</sup>
Institutional	0.3	358,499ft <sup>2</sup>	107,550 ft <sup>2</sup>

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Residential Densities in MU (Allocated) – Sec 130-157</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Permanent Residential (market-rate commercial apartments)	3 units/acre	10.86 acres	32.58 units	32 units
Permanent Residential (affordable / employee)	1 units/acre	10.86 acres	10.86 units	10 unit

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Residential Densities in MU (Maximum Net Density) – Sec 130-157</b>					
Permitted Land Uses	Max Net Density	Required Open Space	Size of Site	Total Units	Max Allowed
Permanent Residential (market-rate commercial apartments)	12 units/buildable acre	0.2	10.86 acres (8.69 buildable acres)	104.28 units	104 units
Permanent Residential (affordable employee housing)	18 units/buildable acre	0.2	10.86 acres (8.69 buildable acres)	156.42 units	156 units

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

NOTE: Net buildable area means that portion of a parcel of land that is developable and is not open space required by sec. 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under sec. 130-186.

NOTE: The maximum net residential density allowed per district shall not require transferable development rights (TDR) for affordable and employee housing and market rate housing developed in accordance with sec. 130-161(a)(8).

<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities in MU (Allocated) – Sec 130-162</b>				
Permitted Land Uses	Allocated Density	Size of Site	Total Units	Max Allowed
Institutional Residential	5 units/acre	10.86 acres	54.3 units	54 units
Hotel	10 units/acre	10.86 acres	108.6 units	108 units
Recreational Rental	10 spaces/acre	10.86 acres	108.6 spaces	108 spaces

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

<b>Maximum Hotel-Motel, RV &amp; Institutional Residential Densities in MU (Maximum Net Density) – Sec 130-162</b>					
Permitted Land Uses	Max Net Density	Required Open Space	Size of Site	Total Units	Max Allowed
Institutional Residential	20 units/ buildable acre	0.2	10.86 acres (8.69 buildable acres)	173.8 units	173 units
Hotel	15 units/ buildable acre	0.2	10.86 acres (8.69 buildable acres)	130.35 units	130 units
Recreational Rental	10 spaces/ buildable acre	0.2	10.86 acres (8.69 buildable acres)	86.9 units	86 spaces

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

NOTE: Net buildable area means that portion of a parcel of land that is developable and is not open space required by sec. 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under sec. 130-186.

<b>Maximum nonresidential land use intensities in MU – Sec 130-164</b>			
Permitted Land Uses	FAR	Size of Site	Max Allowed
Commercial Retail (Low)	0.35	378,450 ft <sup>2</sup>	132,456 ft <sup>2</sup>
Commercial Retail (Medium)	0.25	378,450 ft <sup>2</sup>	94,613 ft <sup>2</sup>
Commercial Retail (High)	0.15	378,450 ft <sup>2</sup>	56,768 ft <sup>2</sup>
Office	0.4	378,450 ft <sup>2</sup>	151,380 ft <sup>2</sup>
Commercial Recreational	0.1	378,450 ft <sup>2</sup>	37,845 ft <sup>2</sup>
Institutional	0.3	378,450 ft <sup>2</sup>	113,535 ft <sup>2</sup>
Outdoor Recreational	0.1	378,450 ft <sup>2</sup>	37,845 ft <sup>2</sup>
Public	0.3	378,450 ft <sup>2</sup>	113,535 ft <sup>2</sup>
Light Industrial	0.3	378,450 ft <sup>2</sup>	113,535 ft <sup>2</sup>

NOTE: The density and intensity provisions are intended to be applied cumulatively so that no development shall exceed the total density limits.

1  
2  
3  
4  
5  
6

1 Local Traffic, Parking and Circulation

2  
3 The subject parcel is located on U. S. 1  
4 in Lower Sugarloaf Key. Including Bat  
5 Tower Road, there are ample driveways  
6 available to enter into and exit out of  
7 the property. However, the property is  
8 only accessible by U.S. 1. Parking is  
9 available for all establishments on the  
10 three subject parcels. The local  
11 neighborhood roads have been well  
12 maintained.



13  
14 The 2009 U. S. 1 Arterial Travel Time  
15 and Delay Study for Monroe County  
16 indicates a LOS of “D” on Sugarloaf  
17 Key (MM 16.5 to MM 20.5). U.S. Highway No. 1 is required to maintain a level of  
18 service (LOS) of “C” in order to support additional development. However, county  
19 regulations and FDOT policy allow segments that fail to meet LOS C standards to receive  
20 a traffic allocation not to exceed 5% below the LOS C standard. Sugarloaf Key has  
21 reserve capacity within the 5% allocation. The resulting flexibility will allow a limited  
22 amount of additional land development to continue until traffic speeds are measured  
23 again next year or until remedial actions are implemented. This segment is a candidate  
24 for being designated either “backlogged” or “constrained” by FDOT. Applications for  
25 new development located within backlogged or constrained segments are required to  
26 undergo a thorough traffic analysis as part of the review process.

27  
28 Currently, Monroe County does not have a development application on file for this  
29 property. A thorough traffic analysis is required as part of the review process and will be  
30 considered when or if a development application is submitted.

31  
32 Effect on Natural Resources

33  
34 The subject parcels applicable to the proposed amendment are mostly scarified or have  
35 been previously cleared. No additional clearing is anticipated. Effects on natural  
36 resources for the proposed amendment are not anticipated.

37  
38 Effects on Public Facilities (Comprehensive Plan 801.1.1)

39  
40 Objective 101.11 of the *Monroe County Year 2010 Comprehensive Plan* requires the  
41 County to direct future growth away from environmentally sensitive land and towards  
42 established development areas served by existing public facilities. The proposed LUD  
43 amendment will not affect Objective 101.11 and will encourage development to remain  
44 on disturbed lands rather than encroaching on environmentally sensitive areas.  
45

1 In a Request for an Amendment to a Minor Conditional Use Permit, dated June 9, 2008,  
2 it was determined that Sugarloaf Lodge currently operates an existing sewage treatment  
3 plant under DEP permit FLA 014893. The proposed LUD amendment will affect public  
4 facilities.  
5

6 Solid Waste (Comprehensive Plan Policy 801.1.1)  
7

8 Monroe County has a solid waste haul out contract with Waste Management LLC, which  
9 authorizes the use of in-state facilities through September 20, 2016, thereby providing the  
10 County with approximately eight (8) years of guaranteed capacity.  
11

12 Maximum Residential = 156 DUs X 2.1 (household size in people) = 328; 346 X 5.44  
13 pounds per capita per day = 1,784 pounds per day  
14

15 Maximum Nonresidential = 12.2 pounds per day per equivalent residential unit X 10.86  
16 acres = 133 pounds per day  
17

18 TOTAL = 1,784 + 133 pounds per day = 1,917 pounds per day  
19

20 The proposed LUD amendment will affect public facilities.  
21

22 Potable Water  
23

24 In March 2008, South Florida Water Management District (SFWMD) approved the  
25 FKAA's modification of WUP 13-00005-5-W for a 20-year allocation from the Biscayne  
26 and Floridian Aquifers. The WUP provides an annual allocation of 8,751 Million  
27 Gallons (MG) or 23.98 MGD and a maximum monthly allocation of 809 MG with a  
28 limited annual withdrawal from the Biscayne Aquifer of 6,492 MG or 17.79 MGD and an  
29 average dry season (December 1<sup>st</sup>-April 30<sup>th</sup>) of 17.0 MGD. The overall level of service  
30 for potable water is 132 gallons per capita/per/day.  
31

32 Maximum Residential = 156 DU X 2.1 (household size in people) = 328; 328 X 132  
33 pounds per capita per day = 43,243 gallons per day  
34

35 Stormwater  
36

37 MCC Section 114-3, titled '*Surface Water Management Criteria*', establishes guidelines  
38 and criteria for the safe management and disposal of stormwater runoff from developed  
39 areas that will minimize or eliminate any resultant adverse impacts on the surface water,  
40 groundwater, and other natural resources of the county. Any change in the use of the  
41 property must comply with State and Federal regulations as well as the Monroe County  
42 Code, the Monroe County Comprehensive Plan and the Livable CommuniKeys Plans.  
43  
44

1 Wastewater

2  
3 Currently, any permitted or replacement on-site or wastewater treatment facility with a  
4 design flow of less than or equal to 100,000 gpd within the County must comply with the  
5 10/10/10/1 Best Available Technology (BAT) standard, as well as require approval from  
6 the Monroe County Health Department and / or the Department of Environmental  
7 Protection. Any proposed development associated with the proposed amendment will be  
8 subject to this provision or will be mandated to hook up to the central sewer system when  
9 it is available. The level of service (LOS) for residential and nonresidential flow is 145  
10 gallons per day per equivalent dwelling units (Exhibit 3-8 Sanitary Wastewater Master  
11 Plan 2000).

12  
13 Maximum Residential = 156 X 145 = 22,620 gallons per day

14  
15 The proposed LUD is not anticipated to adversely impact the wastewater supply LOS.

16  
17 Effects on Redevelopment/Infill Potential

18  
19 The proposed area is cleared, scarified and developed. Objective 102.3.1 of the Monroe  
20 County Year 2010 Comprehensive Plan directs the County to encourage infill  
21 development where existing lands are already substantially developed, served by  
22 complete infrastructure facilities and within close proximity to established commercial  
23 areas and have few sensitive or significant environmental features. The proposed LUD  
24 amendment will encourage infill development to remain on already existing developed  
25 land.

26  
27 Education

28  
29 All public schools are under the purview of Monroe County Board of Education  
30 including all capital expenditures relating to facilities improvements or additional  
31 development of education facilities. Per the 2008 Monroe County Public Facilities  
32 Capacity Assessment Report, the Monroe County requirements are that classroom  
33 capacity be "adequate" to accommodate the school-age children generated by proposed  
34 land development. The School Board uses recommended capacities provided by the  
35 Florida Department of Education to determine each school's capacity. All schools have  
36 adequate reserve capacity to accommodate the impacts of the additional land  
37 development activities projected for the next school year.

38  
39 Parks and Recreation / Open Space

40  
41 The County has adopted an overall level of service, pursuant to Comprehensive Plan  
42 Policy 1201.1.1, for resourced-based and activity-based recreation and open space of 0.82  
43 acres of per 1,000 persons (functional population). As of 2008, there was 60.49 acres of  
44 resourced based parks and 33.29 acres of activity based parks available in reserve in the  
45 lower keys. If development occurs at 156 single family residential dwelling units and 2.1

1 per capita, there would be an additional 328 people located on this property. The  
2 increase would take up 0.27 acres of recreation. The LUD would not affect parks and  
3 recreation or open space.  
4

5 C. *Consistency with the Principles for Guiding Development in the Florida Keys*  
6 *Area of Critical State Concern pursuant to F.S. Chapter 380.0552(7)*  
7

8 For the purposes of reviewing consistency of the adopted plan or any amendments  
9 to that plan with the principles for guiding development and any amendments to  
10 the principles, the principles shall be construed as a whole and no specific  
11 provision shall be construed or applied in isolation from the other provisions.  
12

- 13 a. To strengthen local government capabilities for managing land use and  
14 development so that local government is able to achieve these objectives  
15 without the continuation of the area of critical state concern designation.
- 16 b. To protect shoreline and marine resources, including mangroves, coral reef  
17 formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- 18 c. To protect upland resources, tropical biological communities, freshwater  
19 wetlands, native tropical vegetation (for example, hardwood hammocks and  
20 pinelands), dune ridges and beaches, wildlife, and their habitat.
- 21 d. To ensure the maximum well-being of the Florida Keys and its citizens  
22 through sound economic development.
- 23 e. To limit the adverse impacts of development on the quality of water  
24 throughout the Florida Keys.
- 25 f. To enhance natural scenic resources, promote the aesthetic benefits of the  
26 natural environment, and ensure that development is compatible with the  
27 unique historic character of the Florida Keys.
- 28 g. To protect the historical heritage of the Florida Keys.
- 29 h. To protect the value, efficiency, cost-effectiveness, and amortized life of  
30 existing and proposed major public investments, including:
- 31 1. The Florida Keys Aqueduct and water supply facilities;
  - 32 2. Sewage collection and disposal facilities;
  - 33 3. Solid waste collection and disposal facilities;
  - 34 4. Key West Naval Air Station and other military facilities;
  - 35 5. Transportation facilities;
  - 36 6. Federal parks, wildlife refuges, and marine sanctuaries;
  - 37 7. State parks, recreation facilities, aquatic preserves, and other publicly  
38 owned properties;
  - 39 8. City electric service and the Florida Keys Electric Co-op; and
  - 40 9. Other utilities, as appropriate.

- 1 i. To limit the adverse impacts of public investments on the environmental  
2 resources of the Florida Keys.
- 3 j. To make available adequate affordable housing for all sectors of the  
4 population of the Florida Keys.
- 5 k. To provide adequate alternatives for the protection of public safety and  
6 welfare in the event of a natural or manmade disaster and for a post disaster  
7 reconstruction plan.
- 8 l. To protect the public health, safety, and welfare of the citizens of the Florida  
9 Keys and maintain the Florida Keys as a unique Florida resource.

10  
11 **SUMMARY**  
12

13 The subject parcels are scarified and mainly developed. The Sugarloaf Lodge and its  
14 structures have been in place since the 1960s. County staff had determined the majority  
15 of the structures are lawfully established. The main parcel currently does not have a Tier  
16 designation, while the other two parcels are in Tier 1 and Tier 3 designations. The area is  
17 in the Marsh Rabbit Buffer, but not in the habitat.  
18

19 Staff finds proposed LUD amendment consistent with the Principles for Guiding  
20 Development as a whole and not inconsistent with any one principle.  
21

22 **VIII. RECOMMENDATION**  
23

24 Staff recommends approval of this LUD amendment contingent on a final approval and  
25 effective date of the Lower Sugarloaf Key Community Center Overlay District text  
26 amendment.