

AGENDA

DEVELOPMENT REVIEW COMMITTEE-
Tuesday November 3, 2009

PURSUANT TO Florida Statute 286.011(1), the Development Review Committee of Monroe County will conduct a meeting on Tuesday November 3, 2009 beginning at 10:00 AM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDERROLL CALLDRC MEMBERS:

Townsley Schwab, Senior Director of Planning and Environmental Resources

Janis Vaseris, Biologist

Patricia A. Ivey, DOT Representative

Steve Zavalney, Fire Marshall

Judith Clarke, Director of Engineering Services

STAFF MEMBERS PRESENTING ITEMS:

Joe Haberman, Current Principal Planner

Bill Harbert, Planner

-

CHANGES TO THE AGENDA

MEETING

-

NEW ITEMS:

-

1. Proposed Aqua Ranch, Part Lot 1, Section 33/34, Township 64, Range 35, Long Key, Mile Marker 69: A request for approval of a minor conditional use permit to allow a medium intensity commercial retail and institutional use on the site. The Applicant is proposing to construct 3,600 square feet of nonresidential floor area and accessory dock structures in four phases. The subject parcel is legally described as Part Lot 1, Section 33/34, Township 64, Range 35, Long Key, Monroe County, Florida, having Real Estate Number 00098530.000200.

[29082 FILE.pdf](#)[29082 Site Plan 8.28.09.pdf](#)[29082 SR DRC 11.03.09.PDF](#)

2. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 102-55, Registration, Section 110-4, Determination of completeness and compliance, except for single-family dwellings, Section 110-7, Actions by decision-making persons and bodies, Section 110-37, Development permitted as of right, Section 110-69, Minor conditional uses, Section 110-70, Major conditional uses, Section 110-71, Final development plan subsequent to approval of conditional use permit, Section 110-73, Development under an approved conditional use permit, Section 110-98, Preliminary plat approval, Section 110-99, Final plat approval; eliminating references to the obsolete position of development review coordinator; reassigning the responsibilities and duties of the development review coordinator to the planning director; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[29094 SR DRC 11.03.09.pdf](#)

3. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 110-3, Preapplication

conference; eliminating references to the obsolete position of development review coordinator; reassigning the responsibilities and duties of the development review coordinator to the planning director; amending the timeframe in which a letter shall be mailed to the applicant; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[29092 SR DRC 11.03.09.pdf](#)

4. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 130-189, Applicability of required yards; amending as-of-right development that may exist in the required non-shoreline setbacks; providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[29093 SR DRC 11.03.09.pdf](#)

ADJOURNMENT

-

File #: **29082**

Owner's Name: Zamindari Investments
aka AquaRanch

Applicant: Zamindari Investments
aka AquaRanch

Agent: Douglas Williams CPA

Type of Application: Minor Conditional Use

Key: Long Key

RE #: 00098530-000200
00098530-000700

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: 8/28/09

Dear Applicant:

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

Aqua Ranch to the Monroe County Planning Department.
Project / Name

Thank you.

Gail Creech

Planning Staff

Additional Information added to File 29082

End of Additional File 29082

APPLICATION
MONROE COUNTY
PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT



Request for a Minor Conditional Use Permit / Amendment to a Minor Conditional Use Permit

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

Minor Conditional Use Permit Application Fee: \$8,484.00

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 / 28 / 09
Month Day Year

Property Owner:

Zamindari Investments
Name

4841 W 4th Ave Hialeah FL 33012
Mailing Address (Street, City, State, Zip Code)

(305) 451-4100
Daytime Phone

dalephin@aol.com
Email Address

Agent (if applicable):

Douglas Williams CPA
Name

7900 Nova Dr. #203 Davie FL 33324
Mailing Address (Street, City, State, Zip Code)

(954) 475-1500
Daytime Phone

Email Address

Legal Description of Property:

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

Block	1	Subdivision	LONG
-------	---	-------------	------

Real Estate (RE) Number	00098530-000200 + 00308476.000000 1115231 & 1115240
-------------------------	--

Street Address (Street, City, State, Zip Code)	Approximate Mile Marker
--	-------------------------

APPLICATION

Land Use District Designation(s): _____

Present Land Use of the Property: vacant

Proposed Land Use of the Property: Retail and Education

Total Land Area: 11.30 ac hardwood hammock + 7.7 = 19 ac total

If non-residential or commercial floor area is proposed, please provide:

_____ Total number of non-residential buildings

2120 Total non-residential floor area in square feet

If residential dwelling units are proposed, please provide:

0 Total number of residential buildings

0 Total number of permanent, market-rate units

0 Total number of permanent, affordable / employee housing units

0 Total number of transient units (hotel rooms, recreational vehicle / campground spaces)

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

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 minor conditional use permit application (unaltered and unbound);
- 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;
- Location map;
- Photograph(s) of site from adjacent roadway(s);
- Signed and Sealed Boundary Survey, prepared by a Florida registered surveyor – 6 sets (at a minimum, survey should include elevations; location and dimensions of all existing structures, paved areas and utility structures; all bodies of water on the site and adjacent to the site; total acreage by land use district; and total acreage by habitat);
- Written description of project;
- Signed and Sealed Site Plans, prepared by a Florida registered architect, engineer or landscape architect– 6 sets (drawn to a scale of 1 inch equals 20 feet, except where impractical and the Director of Planning authorizes a different scale). At a minimum, the site plan should include the following:
 - Date, north point and graphic scale;
 - Boundary lines of site, including all property lines and mean high-water lines;
 - Land use district of site and any adjacent land use districts;
 - Flood zones pursuant to the Flood Insurance Rate Map(s);

APPLICATION

- Locations and dimensions of all existing and proposed structures and drives;
- Type of ground cover (i.e. concrete, asphalt, grass, rock);
- Adjacent roadways;
- Setbacks as required by the land development regulations;
- Location and dimensions of all parking spaces (including handicap accessible, bicycle and scooter) and loading zones;
- Calculations for open space ratios, floor area ratios, residential density and parking;
- Location and type of outdoor lighting;
- Extent and area of wetlands, open space areas and landscape areas;
- Location of solid waste storage;
- Location of sewage treatment facilities;
- Location of existing and proposed fire hydrants or fire wells;
- Floor Plans for all proposed structures and for any existing structures to be redeveloped – 6 sets** (drawn at an appropriate standard architectural scale and including handicap accessibility features);
- Elevations for all proposed structures and for any existing structures to be modified – 6 sets** (with the elevations of the following features referenced to NGVD: existing grade; finished grade; finished floor elevations (lowest supporting beam for V-zone development); roofline; and highest point of the structure);
- Landscape Plan by a Florida registered landscape architect – 6 sets** (may be shown on the site plan; however, if a separate plan, must drawn to a scale of 1 inch equals 20 feet, except where impractical and the Director of Planning authorizes a different scale). At a minimum, the landscaping plan should include the following:
 - Date, north point and graphic scale;
 - Boundary lines of site, including all property lines and mean high-water lines;
 - Locations and dimensions of all existing and proposed structures and drives;
 - Open space preservation areas;
 - Existing natural features;
 - Size and type of buffer yards including the species, size and number of plants;
 - Parking lot landscaping including the species, size and number of plants;
 - Specimen trees, or threatened and endangered plants to be retained and those to be relocated or replaced;
 - Transplantation plan (if required);
- Conceptual Drainage Plan – 6 sets** (with drainage calculations; existing and proposed topography; all drainage structures; retention areas; drainage swales; and existing and proposed permeable and impermeable areas);
- Traffic Study, prepared by a licensed traffic engineer;**
- Construction Management Plan**, stating how impacts on near shore water and surrounding property will be managed (i.e. construction barriers, hay bales, flagging);
- Typed name and address mailing labels of all property owners within a 300 foot radius of the property.** This list should be compiled from the current tax rolls of the Monroe County Property Appraiser. In the event that a condominium development is within the 300 foot radius, each unit owner must be included;
- Letters of Coordination are required from the following:**
 - Florida Keys Aqueduct Authority (FKAA);
 - Florida Keys Electric Cooperative (FKEC) or Keys Energy Services;
 - Monroe County Office of the Fire Marshal;
 - Monroe County Health Department;
 - Monroe County Solid Waste Management;

APPLICATION

- Florida Department of Health if wastewater flows are less than or equal to 5,000 gallons per day or Florida Department of Environmental Protection if wastewater flows exceed 5,000 gallons per day

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)
- Vegetation Survey or Habitat Evaluation Index** (please contact Monroe County Environmental Resources prior to application submittal to determine if this documentation is necessary)
- Construction Phasing Plan**
- Additional Letters of Coordination** may be required for your project, please contact with the Planning & Environmental Resources Department to identify other agencies expected to review the project. Other agencies may include, but are not limited to
 - Key Largo Wastewater Treatment District (KLWTD)
 - South Florida Water Management District (SFWMD)
 - Florida Department of Transportation (FDOT)
 - Florida Department of Environmental Protection (FDEP)
 - Florida Department of State, Division of Historic Resources
 - Florida Game and Freshwater Fish Commission (FGFFC)
 - U.S. Army Corps of Engineers (ACOE)
 - U.S. Fish and Wildlife Service (USFW)

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

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

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

Signature of Applicant: Charles Paul Barra Date: 08/28/09

Sworn before me this 28th day of August 2009



Andrea Gail Creech
Notary Public
My Commission Expires

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

COMMERCIAL LEASE AGREEMENT

This Commercial Lease Agreement (Lease) is entered into on this 20th day of June, 2009, by and between Zamindari Investments, Inc. (Landlord) and Aqua Ranch (Tenant).

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the provisions set forth herein.

THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, it is agreed:

Term.

The initial Term of the Lease shall begin on the 1st day of November, 2009, and end on the 1st day of November, 2014.

Tenant may renew the Lease for one extended term of five (5) years. Tenant shall exercise such renewal option, if at all, by providing written notice to Landlord not less than ninety (90) days prior to the expiration of the Initial Term. The terms of the renewal term shall be then determined between Landlord and Tenant.

Rent.

Tenant shall pay to Landlord during the Initial Term rent of \$30,000 Dollars (\$) per year, payable in installments of \$2,500 Dollars (\$) per month. The first year shall be \$18,000 Dollars (\$) per year, payable in installments of \$1,500 Dollars (\$) per month. Each installment payment shall be due in advance on the first day of each calendar month during the lease term to Landlord at the following address:

Zamindari Investments Inc.
c/o David Dewitt
4841 W 4th Avenue
Hialeah, FL 33012

The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.

Prohibited Uses.

Notwithstanding the forgoing, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device.

Sublease and Assignment.

Except as set forth in this Lease, the Tenant shall not, without Landlord's prior written consent which shall not unreasonably be withheld, hypothecate, assign, sublease or otherwise transfer this Lease or any interest hereunder. Landlord's consent to the entire assignment of this Lease shall not be unreasonably withheld, provided the Lease is not in default at the time of the assignment, provided the proposed assignee has demonstrated sufficient ability to perform the conditions of the Lease, and further provided the Landlord has determined that the proposed assignee and its proposed use of the Premises are reasonably compatible to the other tenants in the Building. In all other events, Landlord has the absolute discretion to withhold its consent to a partial assignment, sublease or hypothecation by the Tenant. Should the Tenant attempt to make any encumbrance, assignment, sublease or transfer, Landlord may, at its option, terminate this Lease. The cumulative transfer or hypothecation of fifty (50%) percent or more of the beneficial ownership in Tenant, whether in the form of a transfer of corporate shares or of partnership interests or of membership interests or otherwise, or in the form of a merger or share exchange, shall be deemed to be an assignment of this Lease that requires the Landlord's prior consent.

Repairs.

During the Lease term, Tenant shall make, at Tenant's expense, all necessary repairs to the Leased Premises. Repairs shall include such items as routine repairs of floors, walls, ceilings, and other parts of the Leased Premises damaged or worn through normal occupancy, except for major mechanical systems or the roof, subject to the obligations of the parties otherwise set forth in this Lease.

Alterations and Improvements.

Tenant, at Tenant's expense, shall have the right, to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to time as Tenant may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. Tenant shall have temporary installations in and upon the Leased Premises, and fasten the same to the installations, whether acquired by Tenant at the commencement of the Lease term or placed or installed on the Leased Premises by Tenants thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant shall have the right to remove the same at any time during the term of this Lease provided that Tenant shall repair, at Tenant's expense, all damage to the Leased Premises caused by such removal.

Property Taxes.

Landlord shall pay, prior to delinquency, all general real estate taxes and installments of special assessments coming due during the Lease term on the Leased Premises, and all personal property taxes with respect to Landlord's personal property, if any, on the Leased Premises. Tenant shall be responsible for paying all personal property taxes with respect to Tenant's personal property at the Leased Premises.

Insurance.

If the Leased Premises or any other part of the Building is damaged by fire or other casualty resulting from any act of negligence by Tenant or by any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant shall be responsible for the costs of repair not covered by insurance.

Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the particular activities of each, with the premiums thereon fully paid on or before each due date. Such insurance policy shall be issued by and binding upon an insurance company approved by Landlord, and shall afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall also designate Landlord as an additional insured on its policies.

Utilities.

Tenant shall pay all charges for water, sewer, gas, electricity, telephone and other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord.

Landlord shall give Tenant \$3,700.00 Dollars for fresh water to be brought to the sight, including meter.

Signs.

Tenant shall have the right subject to Landlord's approval to place on the Leased Premises, at locations selected by Tenant and approved by the Landlord, any signs which are permitted by applicable zoning ordinance and private restrictions. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

Entry.

Landlord shall have the right to enter upon the Leased Premises at reasonable hours, provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises.

Parking.

During the term of this Lease, Tenant shall have the right to develop an appropriate parking facility, subject to Landlord's approval. Landlord reserves the right to designate parking areas for Tenant and Tenant's agents and employees. Tenant shall provide Landlord with a list of all license numbers for the cars owned by Tenant, it's agents and employees if so requested.

Default.

In the event of a default made by Tenant in the payment of rent when due to Landlord, Tenant shall have fifteen (15) days after receipt of written notice thereof to cure such default. In the event of a default made by Tenant in any of the other covenants or conditions to be kept, observed and performed by Tenant, Tenant shall have thirty (30) days after receipt of written notice thereof to cure such default. IN the event that the

Tenant shall fail to cure any default within the time allowed under this paragraph, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Premises is not surrendered, Landlord may reenter said premises. Landlord shall have, in addition to the remedy of above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable, and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

Condemnation.

If any legally, constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

Subordination.

Tenant does not accept this Lease as subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of rust or other lien now existing or hereafter placed upon the Leased

Premises of the Building. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or is there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows

Landlord:

**Zamindari Investments, Inc.
c/o David Dewitt
4841 W 4th Avenue
Hialeah, FL 33012**

Tenant:

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

Brokers.

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease

Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be constructed as a waiver of a subsequent breach of same covenant, term or condition.

Memorandum of Lease.

The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, at the request of either party, Landlord and Tenant shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

Exercised by the parties on _____, _____.

WITNESSES:


Printed Name: Sandra Stringer


Printed Name: Kristin Stringer


Printed Name: Kristin Stringer

Printed Name: _____


Landlord
DAVID E DeWitt
Print Name

Contact Number _____


Tenant

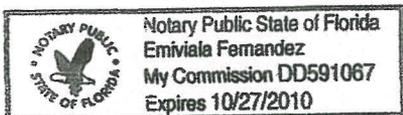
Charles Banna
Print Name

(864) 237-8242
Contact Number

(ACKNOWLEDGMENTS CONTINUE ON THE FOLLOWING PAGE)

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 29th day of June, 2007 by David Dewitt, Landlord, ZAMINDARI INVESTION behalf of said corporation. He is personally known to me or produced _____ as identification and who did not take an oath.



NOTARY PUBLIC

[Signature]

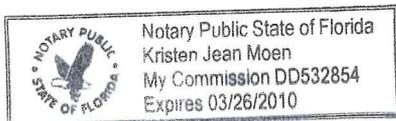
State of Florida at Large

My Commission Expires:

(NOTARIAL SEAL)

STATE OF FLORIDA
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 8th day of July, 2009, by Charles Berre, who is personally known to me or produced DL as identification and who did not take an oath.



NOTARY PUBLIC:

[Signature]
Kristen Jean Moen

State of Florida at Large

My Commission Expires:

(NOTARIAL SEAL)

Monroe County Property Record Card (124)

Alternate Key: 1115231
 Effective Date: 4/15/2009 3:00:58 PM
 Roll Year 2009
 Run: 04/15/2009 03:01 PM

ZAMINDARI INVESTMENTS INC
 4841 WEST 4TH AVENUE
 HIALEAH FL 33012

Parcel 00098530-000200-34-64-35
 Alt Key 1115231
 Affordable Housing No
 FEMA Injunction
 Inspect Date
 Business Name
 Physical Addr , LONG KEY

Nbhd 4600
 Mill Group 500L
 PC 0000
 Next Review

Associated Names
 Name ZAMINDARI INVESTMENTS INC,
 DBA

Role Owner

Legal Description
 33/34 64 35 LONG KEY PT LOT 1 OR559-616/617 OR568-519 OR715-682 OR778-971 OR1641-205/07(CW)

Land Data	1.	Use	Front	Depth	Notes	# Units	Type	SOH %	Rate	Depth	Loc	Shp	Phys	Class	ROGO	Class Value	Just Value
12194	5000	0	0	0	No	6.87	AC	0.00		1.00	1.00	1.00	1.00		Y		
12195	10RP	0	0	0	No	13.13	AC	0.00		1.00	1.00	1.00	1.00		N		
Total Just Value																	

Monroe County Property Record Card (124)

Alternate Key: 1115240
 Effective Date: 4/15/2009 3:01:26 PM
 Roll Year 2009
 Run: 04/15/2009 03:01 PM

ZAMINDARI INVESTMENTS INC
 4841 WEST 4TH AVENUE
 HIALEAH FL 33012

Parcel 00098530-000700-34-64-35 Nbhhd 4600
 Alt Key 1115240 Mill Group 500L
 Affordable Housing No PC 0000
 FEMA Injunction
 Inspect Date Next Review
 Business Name
 Physical Addr , LONG KEY

Associated Names
 Name DBA Role
 ZAMINDARI INVESTMENTS INC, Owner

Legal Description
 33/34 64 35 LONG KEY PT LOT 1 SEC 33 PT LOT 1 SEC 34 OR568-519 OR715-684 OR778-971 OR568-511 OR568-513 OR1641-205/07(CW)

Land Data	1.	Line ID	Use	Front	Depth	Notes	# Units	Type	SOH %	Rate	Depth	Loc	Shp	Phys	Class	ROGO	Class Value	Just Value
12196		5000		0	0	No	0.84	AC	0.00		1.00	1.00	1.00	1.00		N		
12197		10RP		0	0	No	7.70	AC	0.00		1.00	1.00	1.00	1.00		N		
Total Just Value																		

Handwritten notes:
 (631) Jim Grant
 750-6250
 21086

Monroe County Property Record Card (124)

Alternate Key: 1115240
 Effective Date: 4/15/2009 3:01:26 PM
 Roll Year 2009
 Run: 04/15/2009 03:01 PM

Value History												
Tax Year	Val Meth	Just Land	Class Land	Building	Misc	Just	Assessed Value	Exempt	Sr Ex	Tax Value		
2008F	C	96,334	0	0	0	96,334	96,334	0	N	96,334		
2007F	C	96,334	0	0	0	96,334	96,334	0	N	96,334		
2006F	C	96,334	0	0	0	96,334	96,334	0	N	96,334		
2005F	C	96,334	0	0	0	96,334	96,334	0	N	96,334		
2004F	C	73,234		0	0	73,234	73,234	0	N	73,234		
2003F	C	73,234		0	0	73,234	73,234	0		73,234		
2002F	C	73,234		0	0	73,234	73,234	0		73,234		
2001F	C	73,234		0	0	73,234	73,234	0		73,234		
2000F	C	73,234		0	0	73,234	73,234	0		73,234		
1999F	C	73,234		0	0	73,234	73,234	0		73,234		
1998F	C	73,234		0	0	73,234	73,234	0		73,234		
1997F	C	73,234		0	0	73,234	73,234	0		73,234		
1996F	C	73,234		0	0	73,234	73,234	0		73,234		
1995F	C	73,234		0	0	73,234	73,234	0		73,234		
1994F	C	73,234		0	0	73,234	73,234	0		73,234		
1993F	C	73,234		0	0	73,234	73,234	0		73,234		
1992F	C	73,234		0	0	73,234	73,234	0		73,234		
1991F	C	213,500		0	0	213,500	213,500	0		213,500		
1990F	C	213,500		0	0	213,500	213,500	0		213,500		
1989F	C	213,500		0	0	213,500	213,500	0		213,500		
1988F	C	213,500		0	0	213,500	213,500	0		213,500		
1987F	C	213,500		0	0	213,500	213,500	0		213,500		
1986F	C	48,875		0	0	48,875	48,875	0		48,875		
1985F	C	48,875		0	0	48,875	48,875	0		48,875		
1984F	C	48,875		0	0	48,875	48,875	0		48,875		
1983F	C	48,875		0	0	48,875	48,875	0		48,875		
1982F	C	48,875		0	0	48,875	48,875	0		48,875		

Sales History

Book	Page	Sale Date	Instrument	Transfer Code	Q/U	Vacant	Sale Price
1641	205	5/30/2000	Warranty Deed	0	M	V	197,900

Monroe County Property Record Card (124)

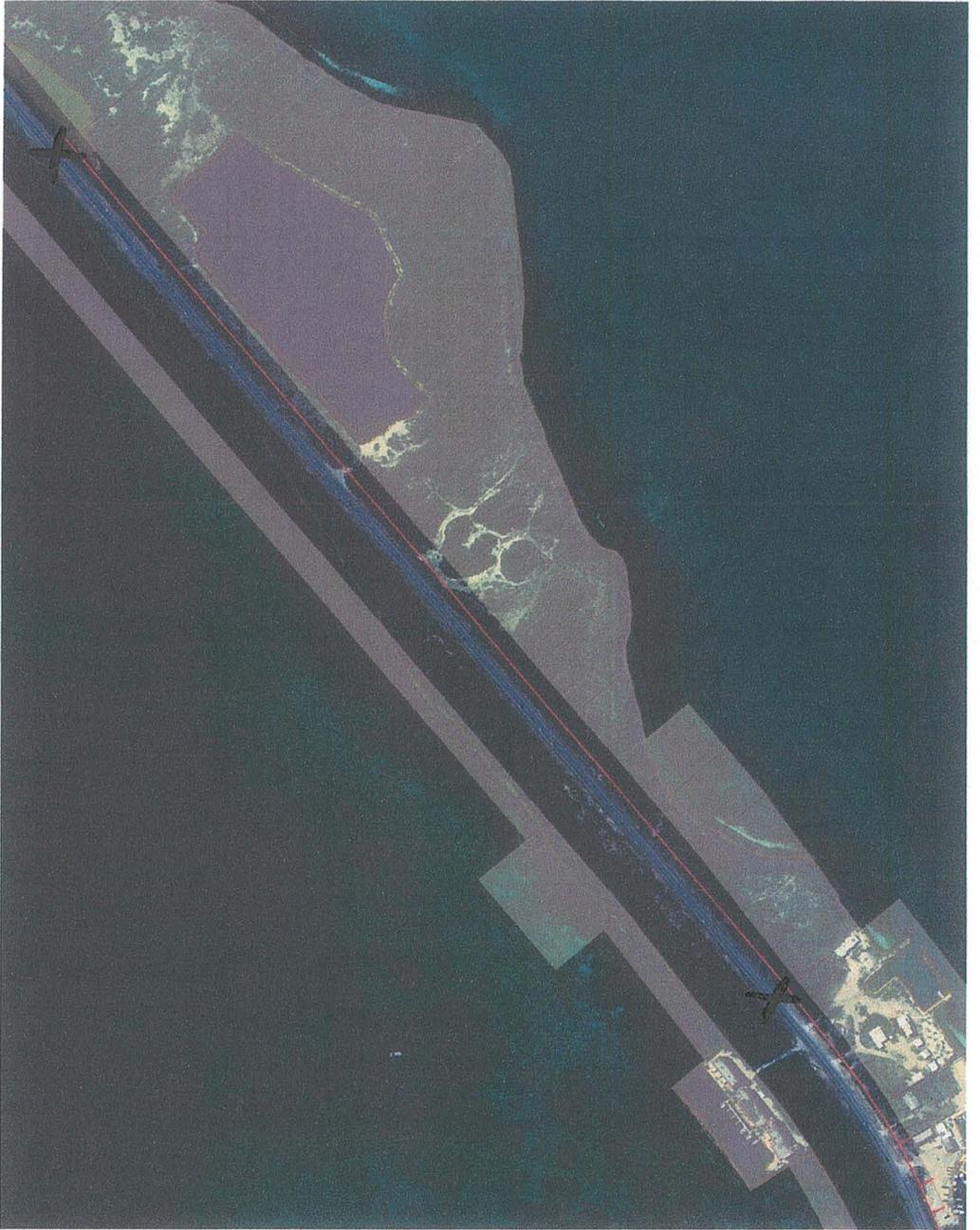
Alternate Key: 1115231
 Effective Date: 4/15/2009 3:00:58 PM
 Roll Year 2009
 Run: 04/15/2009 03:01 PM

Value History

Tax Year	Val Meth	Just Land	Class Land	Building	Misc	Just	Assessed Value	Exempt	Sr Ex	Tax Value
2008F	C	164,537	0	0	0	164,537	164,537	0	N	164,537
2007F	C	164,537	0	0	0	164,537	164,537	0	N	164,537
2006F	C	164,537	0	0	0	164,537	164,537	0	N	164,537
2005F	C	98,887	0	0	0	98,887	98,887	0	N	98,887
2004F	C	125,422	0	0	0	75,253	75,253	0	N	75,253
2003F	C	125,422	0	0	0	75,253	75,253	0		75,253
2002F	C	125,422	0	0	0	75,253	75,253	0		75,253
2001F	C	125,422	0	0	0	75,253	75,253	0		75,253
2000F	C	125,422	0	0	0	75,253	75,253	0		75,253
1999F	C	125,422	0	0	0	75,253	75,253	0		75,253
1998F	C	125,422	0	0	0	75,253	75,253	0		75,253
1997F	C	125,422	0	0	0	75,253	75,253	0		75,253
1996F	C	125,422	0	0	0	75,253	75,253	0		75,253
1995F	C	125,422	0	0	0	125,422	125,422	0		125,422
1994F	C	125,422	0	0	0	125,422	125,422	0		125,422
1993F	C	125,422	0	0	0	125,422	125,422	0		125,422
1992F	C	125,422	0	0	0	125,422	125,422	0		125,422
1991F	C	500,000	0	0	0	500,000	500,000	0		500,000
1990F	C	500,000	0	0	0	500,000	500,000	0		500,000
1989F	C	500,000	0	0	0	500,000	500,000	0		500,000
1988F	C	500,000	0	0	0	500,000	500,000	0		500,000
1987F	C	500,000	0	0	0	500,000	500,000	0		500,000
1986F	C	59,225	0	0	0	59,225	59,225	0		59,225
1985F	C	59,225	0	0	0	59,225	59,225	0		59,225
1984F	C	59,225	0	0	0	59,225	59,225	0		59,225
1983F	C	59,225	0	0	0	59,225	59,225	0		59,225
1982F	C	59,225	0	0	0	59,225	59,225	0		59,225

Sales History

Book	Page	Sale Date	Instrument	Transfer Code	Q/U	Vacant	Sale Price
1641	205	5/30/2000	Warranty Deed	0	M	V	1



To this
property
line

From
Anglers Cove
at Long Key

* no fire
protection



- Legend**
- Selected Features
 - Real Estate Number
 - Parcel Lot Text
 - Dimension Text
 - Block Text
 - Point of Interest Text
 - Hooks/Leads
 - Lot Lines
 - Essements
 - Road Centerlines
 - Water Names
 - Parcels
 - Shoreline
 - Section Lines
 - 2006 Aerials

PLAINTIFF'S EXHIBIT
3

PALMS

Monroe County Property Appraiser
500 Whitehead Street
Key West, FL

DISCLAIMER: The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for *ad valorem tax purposes only* and should not be relied on for any other purpose.

Date Created: April 27, 2009 3:50 PM

The proposed facility would utilize the existing quarry, which is submerged, to locate fish and other aquatic wildlife, including Cobia, Peppermint Shrimp and Sea Urchin. The facility would be open to the public and would include a greeting station, a viewing platform, an auditorium tent, tiki huts for shade and signage.



Subject Property (outlined in blue) (2006)

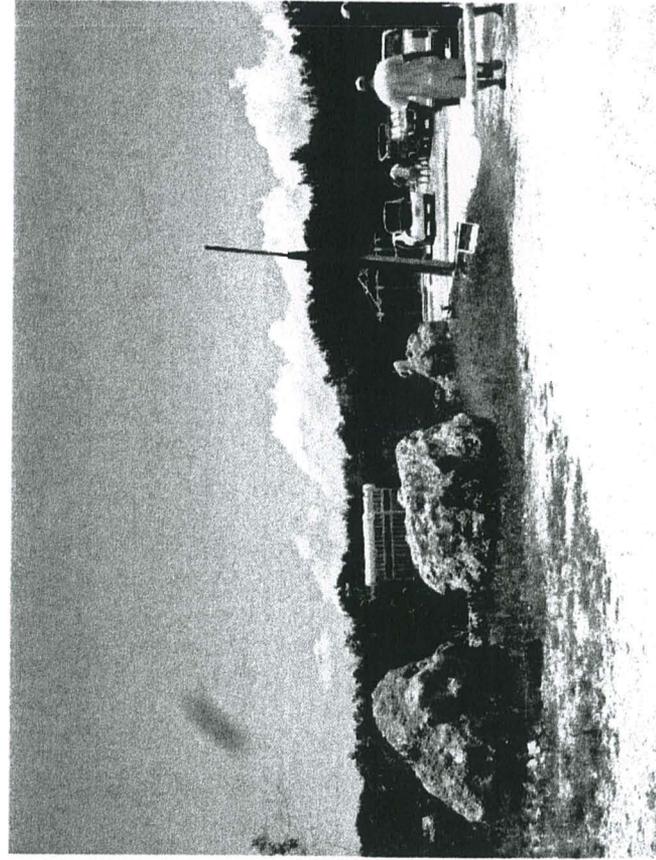
II. SUBJECT PROPERTY DESCRIPTION

1. The property is located at mile marker 69 along the gulf-side of the Overseas Highway (US 1) on Long Key.
2. The property consists of two (2) contiguous, un-platted parcels of land. The parcels are legally described as part of Lot 1, Section 33/34, Township 64, Range 35, Long Key, having real estate (RE) numbers 00098530.000200 and 00098530.000700.
3. According to the Monroe County Property Appraiser's records, both parcels are currently owned by Zamindari Investments Inc. Both parcels are currently being assessed under the property classification (PC) code of 00 (vacant residential).
4. According to the Property Appraiser's records, the eastern parcel, RE 00098530.000200, consists of 11.3 acres of total upland area. The western parcel, RE 00388470.000000, consists of 7.7 acres of total upland area.

A boundary survey was not submitted. Therefore, all calculations included in this letter are based on the Property Appraiser's records. A sealed boundary survey may be required at the

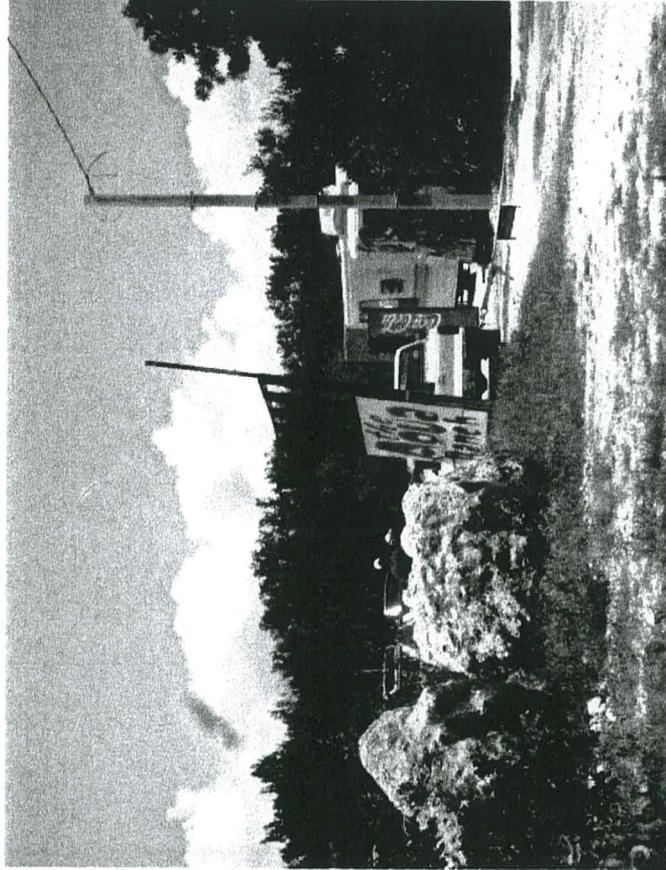
07-22-09 CE 09040149

Inspector: Kerri Walbroehl
Aqua Ranch



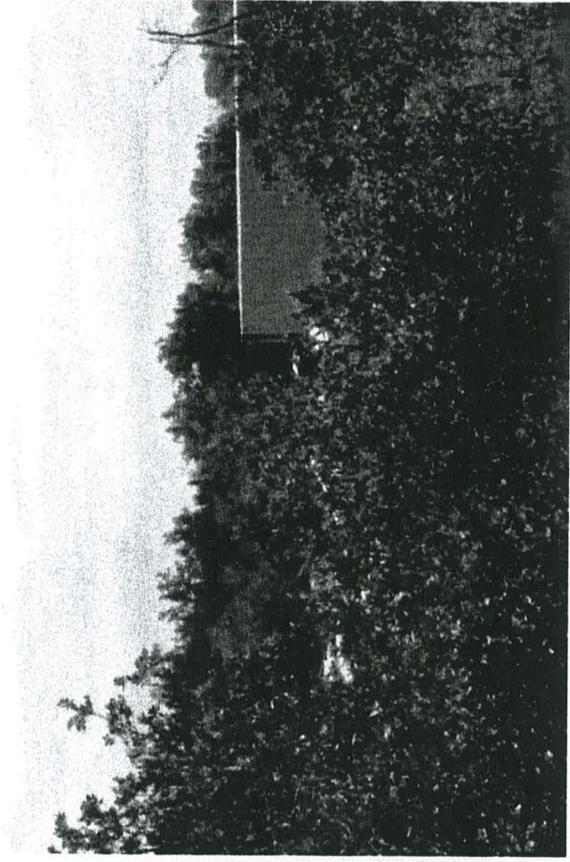
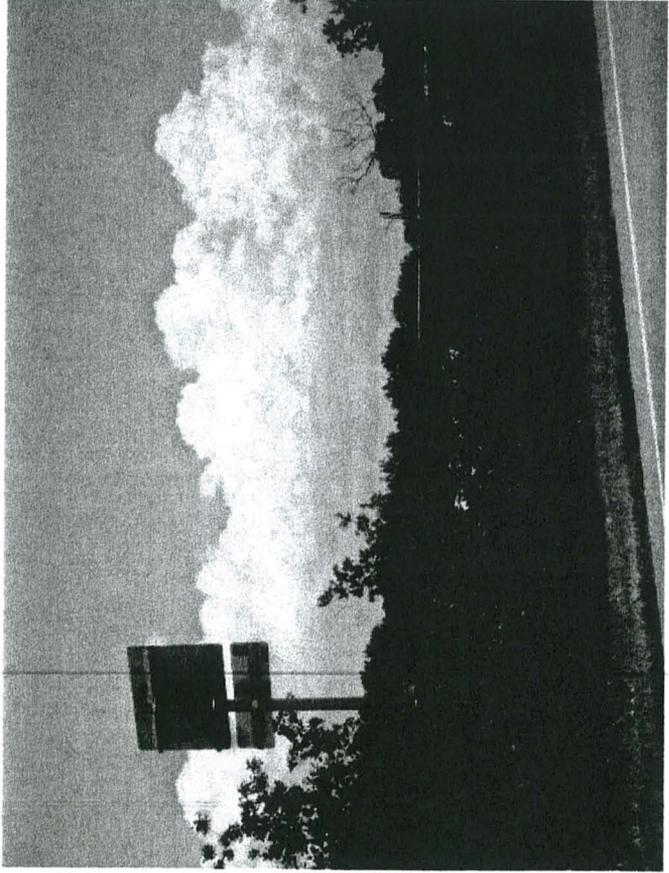
tabbles
**PLAINTIFF'S
EXHIBIT**
9
2 of 3

07-22-09 CE 09040149
Inspector: Kerri Walbroehl
Aqua Ranch



07-22-09 CE 09040149

Inspector: Kerri Walbroehl
Aqua Ranch



tabbler
PLAINTIFF'S
EXHIBIT
9
1 of 3

Aqua Ranch Project Description

Aquatic Awareness

The Aqua Ranch's main objective is to provide safe marine entertainment while educating and restoring a variety of marine habitats. We work in conjunction with a multitude of other companies throughout Florida. Guests will be greeted in a natural environment with signs and descriptions pointing out all the natural wildlife from trees to bees. As they reach the host station, the guest will be able to pick from an array of educational activities from attending our Aquatic Awareness Presentation to feeding the fish in the quarry. As the business grows, we will invite our affiliates to help create and balance a natural eco system where there is no waste or pollution. Dr. Robert Bullis, DVM, will work with growing an abundance of corals in the quarry, while Seagrass Recovery out of the Tampa Bay area will use our quarry to grow a variety of sea grasses so they may start replenishing our damaged sea grass beds throughout the Florida Keys. Guests will be invited to snorkel around the 14 acre quarry, which allows them to learn through hands on experience what they have been absorbing through our presentations and the information scattered around the facility. In addition to all the tourists, both local and international, we already have an overwhelming intrigue from big groups, such as Boy Scouts, Girl Scouts and schools from across the country.

Shark Research Program

The Aqua Ranch's breakthrough Shark Research Program intensifies our tourist attraction through interactive experiences with lemon sharks, Bonnethead Sharks, and nurse sharks, in a fenced off section of our quarry that is about 5 acres and 44 feet deep. This develops research and education with our partner Shark Defense Technologies. This aids in attracting both student internships and public volunteers. The program is designed to help the fishing industry where sharks are considered a nuisance, as well personal safety in the diving and boating industries. The basis of this program revolves around separating sharks from humans, including the fish we are trying to catch. Patents are held for the repellent and the product is already available. There are many other patented technologies soon to enter our array of product lines in this field.

Dive Program

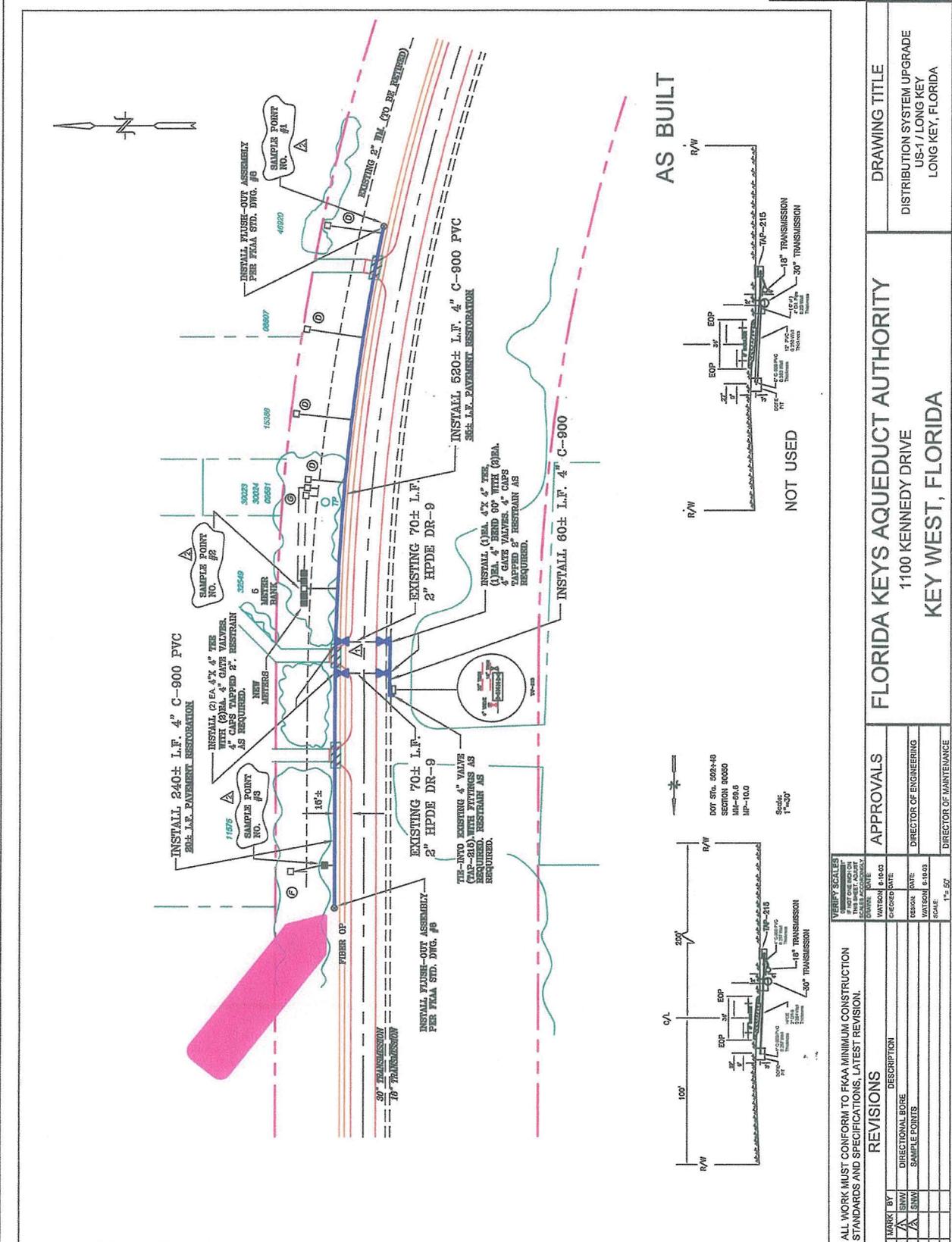
Our dive program is a truly unique experience. Guests will dive a 14 acre 62' deep quarry brimming with sea life. We are planning to create our own reef with live corals and rocks, as well as a multitude of fish. In addition to regular divers, we already have an array of dive instructors that use our quarry to certify their students. The dive program works directly with Florida Keys Community College (FKCC) and is a major part in their training program. This program will start small but will grow with the facility. It also will excel when conditions are poor for boating due to low current and no boat rides required.

Aqua Ranch Traffic Study

We are waiting on completion of the Traffic Study. It is being prepared by Richard Eichinger, a licensed traffic engineer and will be submitted very soon.

Monroe County Property Appraiser - Radius Report

AK: 1115045	Parcel ID: 00098370-000000	Physical Location: LONG KEY	
Legal Description:	33/34 64 35 H64533-04 LONG KEY BAY BOTTOM ADJ TO P	T GOVT LOT 1 SEC 33 & 34 OR477-2	
Owners Name:	PONTICOS ANDREWS		
Address::	110 DONNA COURT	PUNTA GORDA ISLES, FL 33950	
<hr/>			
AK: 1114898	Parcel ID: 00098330-000000	Physical Location: LONG KEY	
Legal Description:	33-64-35 LONG KEY PT GOV LOT 1 (AKA LOTS 11-12-13-	14) OR497-30/31 OR427-885/886 OR4	
Owners Name:	VERTREGT DON		
Address::	P O BOX 335	BIG PINE KEY, FL 33043	
<hr/>			
AK: 1115223	Parcel ID: 00098530-000100	Physical Location: LONG KEY	
Legal Description:	LONG KEY PT GOV LT 1 TRACT 13 LTS 29 & 30 OR455-4	29/31AG OR559-625 OR1164-1561 OI	
Owners Name:	SPRIGGS DEIN P TR		
Address::	10897 154TH RD N	JUPITER, FL 33478	
<hr/>			
AK: 8647786	Parcel ID: 00098530-000101	Physical Location: LONG KEY	
Legal Description:	34-64-35 LONG KEY PT GOV LT 1 TRACT 13 LT 31 OR5	06-293 OR786-1047C OR1164-1561 C	
Owners Name:	SPRIGGS DEIN P TR (D P SPRIGGS PROFIT SHARING TR)		
Address::	12265 169TH CT N	JUPITER, FL 33478	
<hr/>			
AK: 1114936	Parcel ID: 00098330-000201	Physical Location: LONG KEY	
Legal Description:	33-64-35 LONG KEY PT GOV LT 1 PT TR 5 & 6 (AKA LOT	S 15-16-17-18) OR434-922/924 OR671	
Owners Name:	TIITF C/O DEP		
Address::	3900 COMMONWEALTH BLVD	TALLAHASSEE, FL 32399-3000	
<hr/>			
AK: 1115215	Parcel ID: 00098530-000000	Physical Location: LONG KEY	
Legal Description:	33/34 64 35 LONG KEY PT LOT 1 SEC 33 PT LOT 1 SEC	34 OR427-885/887 OR433-285/294 OI	
Owners Name:	RECKWERDT R E & MONA L		
Address::	P O BOX 2208	KEY WEST, FL 33045	
<hr/>			
AK: 8647794	Parcel ID: 00098530-000102	Physical Location: LONG KEY	
Legal Description:	34-64-35 LONG KEY PT GOV LT 1 PT TR 13 LT 32 & PT	TR 14 LT 33 OR559-616/18 OR1164-1	
Owners Name:	SPRIGGS DEIN P TR		
Address::	10897 154TH RD N	JUPITER, FL 33478	
<hr/>			
AK: 1115053	Parcel ID: 00098370-000100	Physical Location: LONG KEY	
Legal Description:	33/34 64 35 LONG KEY BAY BOTTOM ADJ TO PT LOT 1 SE	C 33 & 34 OR477-255/256 OR496-617	
Owners Name:	PONTICOS ANDREW S AND VALENTINE H		
Address::	13140 ORTEGO LN	N MIAMI, FL 33161	



ALL WORK MUST CONFORM TO FWA MINIMUM CONSTRUCTION STANDARDS AND SPECIFICATIONS, LATEST REVISION.

REVISIONS	
DATE	DESCRIPTION
10/26/04	DIRECTIONAL BORE
5-12-08	SAMPLE POINTS

APPROVALS	
DATE	DESCRIPTION
10/26/04	MARK J. D. E.
5-12-08	MARK J. D. E.

VERIFY SCALES	
SCALE	DESCRIPTION
1"=50'	PLAN
1"=30'	SECTION

FLORIDA KEYS AQUEDUCT AUTHORITY
 1100 KENNEDY DRIVE
 KEY WEST, FLORIDA

DRAWING TITLE
 DISTRIBUTION SYSTEM UPGRADE
 US-7 / LONG KEY
 LONG KEY, FLORIDA

Aqua Ranch Letter of Coordination FKEC

We are currently working with Florida Keys Electric Coop. They have installed a pole and we are pending permitting to have the power fully hooked up. At this time, they stated there is no letter of coordination that they write any more.

[Print](#) | [Close Window](#)

Subject: letter of coordination Aqua Ranch
From: kristin@aquaranch.org
Date: Tue, Aug 25, 2009 7:48 am
To: romero-wally@monroecounty-fl.gov

Dear Joan,

I am sending this email as a formal request for a letter of coordination. The Aqua Ranch has moved to another location at mm 69 and we are applying for a 'minor conditional use permit' and a letter of coordination is needed from multiple companies and divisions of state. The letter of coordination has been called many different names but what it all boils down to is we need a letter stating that we have contacted you regarding us opening a new business and it needs to state if your area needs to inspect the impact it will have. If you have any questions, please feel free to call us at (305) 509-7753 or (305) 394-5437. If I am not available, please ask for Charles Barra (my partner).

Thank you for your time.

Sincerely,

Kristin Kurtz
Owner/Operator
Aqua Ranch
Kristin@aquaranch.org

Copyright © 2003-2009. All rights reserved.

[Print](#) | [Close Window](#)

Subject: letter of coordination Aqua Ranch
From: kristin@aquaranch.org
Date: Tue, Aug 25, 2009 7:47 am
To: gary_lichtler@doh.state.fl.com

Dear Gary,

I am sending this email as a formal request for a letter of coordination. The Aqua Ranch has moved to another location and we are applying for a 'minor conditional use permit' and a letter of coordination is needed from multiple companies and divisions of state. The letter of coordination has been called many different names but what it all boils down to is we need a letter stating that we have contacted you regarding us opening a new business and it needs to state if your area needs to inspect the impact it will have. If you have any questions, please feel free to call us at (305) 509-7753 or (305) 394-5437. If I am not available, please ask for Charles Barra (my partner).

Thank you for your time.

Sincerely,

Kristin Kurtz
Owner/Operator
Aqua Ranch
Kristin@aquaranch.org

Copyright © 2003-2009. All rights reserved.

Solid waste management

[Print](#) | [Close Window](#)

Subject: letter of coordination for Aqua Ranch
From: kristin@aquaranch.org
Date: Tue, Aug 25, 2009 7:45 am
To: sherry-joan@monroecounty-fl.gov

Dear Joan,

I am sending this email as a formal request for a letter of coordination. The Aqua Ranch has moved to another location and we are applying for a 'minor conditional use permit' and a letter of coordination is needed from multiple companies and divisions of state. The letter of coordination has been called many different names but what it all boils down to is we need a letter stating that we have contacted you regarding us opening a new business and it needs to state if your area needs to inspect the impact it will have. If you have any questions, please feel free to call us at (305) 509-7753 or (305) 394-5437. If I am not available, please ask for Charles Barra (my partner).

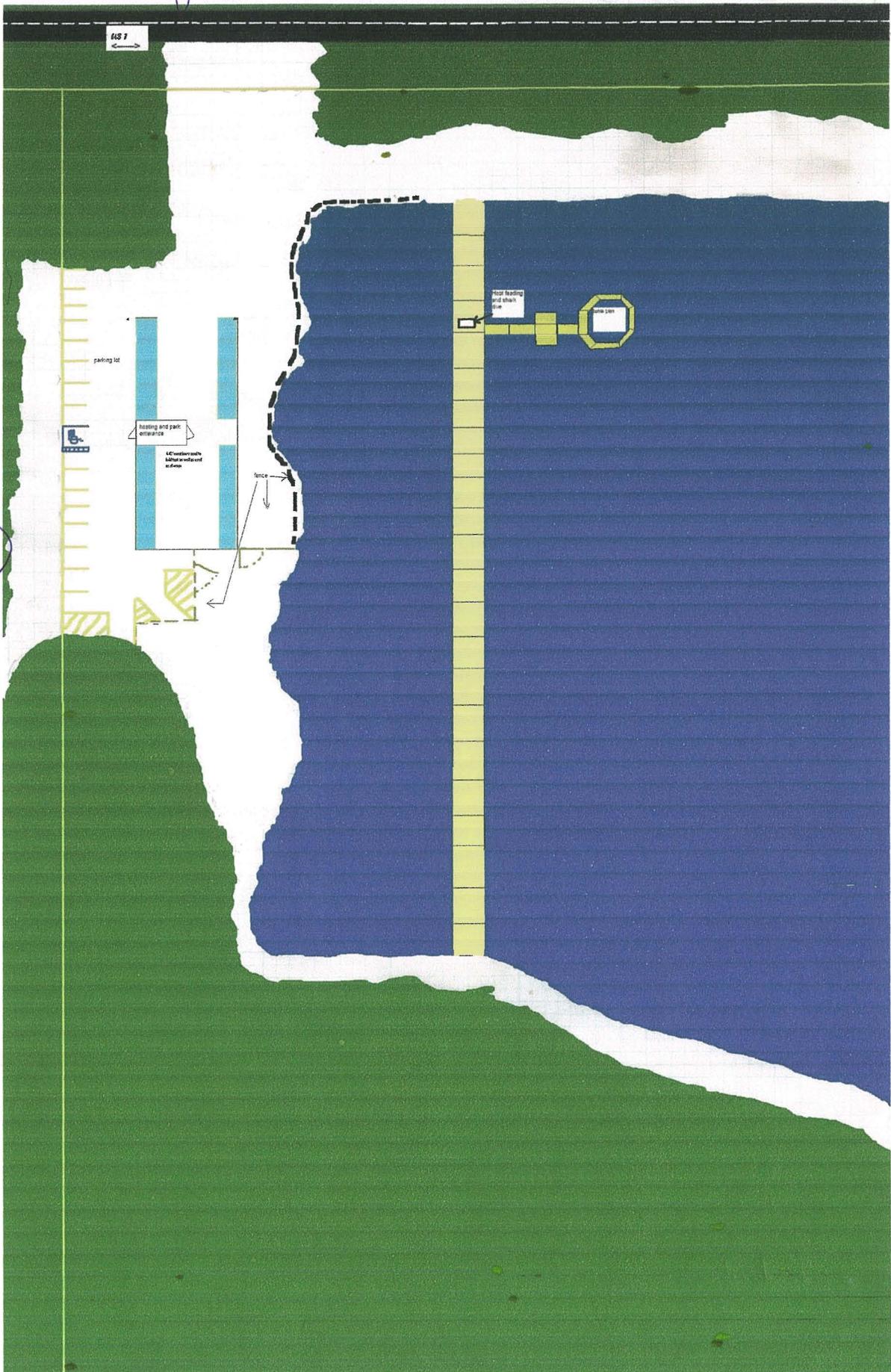
Thank you for your time.

Sincerely,

Kristin Kurtz
Owner/Operator
Aqua Ranch
Kristin@aquaranch.org

Copyright © 2003-2009. All rights reserved.

Agua Ranch Site Plan



7/4/17
Joan
Sherry

[Print](#) | [Close Window](#)

Subject: letter of coordination Aqua Ranch
From: kristin@aquaranch.org
Date: Tue, Aug 25, 2009 7:50 am
To: epermits@sfwmd.gov

To Whom It May Concern:

I am sending this email as a formal request for a letter of coordination. The Aqua Ranch has moved to another location at mm 69 in the Florida Keys and we are applying for a 'minor conditional use permit' and a letter of coordination is needed from multiple companies and divisions of state. The letter of coordination has been called many different names but what it all boils down to is we need a letter stating that we have contacted you regarding us opening a new business and it needs to state if your area needs to inspect the impact it will have. If you have any questions, please feel free to call us at (305) 509-7753 or (305) 394-5437. If I am not available, please ask for Charles Barra (my partner).

Thank you for your time.

Sincerely,

Kristin Kurtz
Owner/Operator
Aqua Ranch
Kristin@aquaranch.org

Copyright © 2003-2009. All rights reserved.

[Print](#) | [Close Window](#)

Subject: letter of coordination for Aqua Ranch
From: kristin@aquaranch.org
Date: Tue, Aug 25, 2009 7:45 am
To: sherry-joan@monroecounty-fl.gov

Dear Joan,

I am sending this email as a formal request for a letter of coordination. The Aqua Ranch has moved to another location and we are applying for a 'minor conditional use permit' and a letter of coordination is needed from multiple companies and divisions of state. The letter of coordination has been called many different names but what it all boils down to is we need a letter stating that we have contacted you regarding us opening a new business and it needs to state if your area needs to inspect the impact it will have. If you have any questions, please feel free to call us at (305) 509-7753 or (305) 394-5437. If I am not available, please ask for Charles Barra (my partner).

Thank you for your time.

Sincerely,

Kristin Kurtz
Owner/Operator
Aqua Ranch
Kristin@aquaranch.org

Copyright © 2003-2009. All rights reserved.

[Print](#) | [Close Window](#)

Subject: letter of coordination Aqua Ranch
From: kristin@aquaranch.org
Date: Tue, Aug 25, 2009 7:46 am
To: clarke-judy@monroecounty-fl.gov

Dear Judy,

I am sending this email as a formal request for a letter of coordination. The Aqua Ranch has moved to another location and we are applying for a 'minor conditional use permit' and a letter of coordination is needed from multiple companies and divisions of state. The letter of coordination has been called many different names but what it all boils down to is we need a letter stating that we have contacted you regarding us opening a new business and it needs to state if your area needs to inspect the impact it will have. If you have any questions, please feel free to call us at (305) 509-7753 or (305) 394-5437. If I am not available, please ask for Charles Barra (my partner).

Thank you for your time.

Sincerely,

Kristin Kurtz
Owner/Operator
Aqua Ranch
Kristin@aquaranch.org

Copyright © 2003-2009. All rights reserved.



[FWD: Permit request]

Monday, August 10, 2009 4:33 PM

From: "charlie@aquaranch.org" <charlie@aquaranch.org>
To: "allen billingsley" <billingsley_allen@yahoo.com>

----- Original Message -----

Subject: Permit request
From: Katherine_Stewart@fws.gov
Date: Wed, July 08, 2009 9:03 am
To: charlie@aquaranch.org

Good afternoon -

In regards to you phone call, no Special Use Permit is required from the USFWS since the coral and seagrass farming will take place in a 14-acre former quarry on property owned by the Aqua Ranch. Thank you.

Ivy

K. Ivy Stewart
Wildlife Refuge Specialist
Florida Keys National Wildlife Refuges
O: 305-872-2239 ext. 231
F: 305-872-3675

[Print](#) | [Close Window](#)

Subject: stuff to print of mcup
From: kristin@aquaranch.org
Date: Fri, Aug 28, 2009 6:48 am
To: allen@aquaranch.org

please print this email as well as attachments

----- Original Message -----

Subject: RE: letter of coordination Aqua Ranch
From: "Bair-Dianne" <Bair-Dianne@MonroeCounty-FL.Gov>
Date: Wed, August 26, 2009 6:41 am
To: <kristin@aquaranch.org>

Hello Kristin:

Can you please send me the parcel ID# for the Aqua Ranch?

Dianne Bair, CFM
Special Projects/Floodplain Administrator
Growth Management Division
(305) 289-2518

HELP US HELP YOU!

Please take a moment to complete our Customer Satisfaction Survey:

http://monroecofl.virtualtownhall.net/Pages/MonroeCoFL_WebDocs/css **Your feedback is important to us!**

Please note: Florida has a very broad public records law. Most written communications to or from the County regarding County business are public record, available to the public and media upon request. Your e-mail communication may be subject to public disclosure.

From: kristin@aquaranch.org [<mailto:kristin@aquaranch.org>]
Sent: Tuesday, August 25, 2009 1:42 PM
To: Bair-Dianne
Subject: letter of coordination Aqua Ranch
Importance: High

Dear Dianne,

As per our conversation, here is a copy of our site plan. We will have 4 40' storage containers whose primary use is to secure a hurricane proof tent. In addition to the tent, we will use the containers to store supplies. Most of the equipment that will be housed in the containers will be waterproof, but some will not be. With that being said, we will teather them down the way you deem necessary. I am requesting this letter of coordination so that we may continue our operation 100% compliant with the Flood Plain Administrations codes. Thank you for your time and for all of your infomation.

Sincerely,

Kristin Kurtz
Owner
Aqua Ranch
kristin@aquaranch.org
(305) 509-7753 - Bus
(305) 394-5437 - Cell

Copyright © 2003-2009. All rights reserved.

RANKING MEMBER:
COMMITTEE ON FOREIGN AFFAIRS

<http://foreignaffairs.house.gov/minority/republicans.htm>
www.twitter.com/irl
www.youtube.com/ileanaroslehtinen



Congress of the United States
House of Representatives

ILEANA ROS-LEHTINEN
18TH DISTRICT, FLORIDA

June 15, 2009

PLEASE RESPOND TO:
2470 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0918
 (202) 225-3931
FAX: (202) 225-5620
<http://www.house.gov/ros-lehtinen>

DISTRICT OFFICE:
4960 SW 72 AVENUE
SUITE 208
MIAMI, FL 33155
(305) 668-2285
FAX: (305) 668-5970

MONROE COUNTY:
(305) 304-7789
 MIAMI BEACH AREAS:
(305) 934-9441

Monroe County
Department of Planning and Environmental Resources
Marathon Government Center
2798 Overseas Highway Suite 400
Marathon, FL 33050

Dear Monroe County Commissioners:

I am writing you to express my strong support for Aqua Ranch's restoration efforts in the Florida Keys, as well as their request for a waiver of the Minor Conditional Use Permit fee.

Aqua Ranch and Florida Keys Community College (FKCC) have been collaborating over the past year to conduct research and education, including the development of a world class shark research facility, sea grass and coral nursery area, and a finfish aquaculture research center, among other projects. The Aqua Ranch is dedicated to marine conservation efforts and has demonstrated continued support for FKCC marine conservation goals through collaboration on fishery enhancement, by-catch reduction and coral and sea grass restoration proposals. I have personally collaborated with Dr. Patrick Rice of FKCC on the aquaculture Grouper enhancement program, which would hatch and develop Grouper fingerlings to be released in the waters of the Florida Keys, and perhaps the entire state of Florida.

As part of its mission the Aqua Ranch will provide a much needed example of a successful eco-tourism in the facility in the Florida Keys. It is my great hope that the Monroe County Department of Planning and Environmental Resources will embrace the Aqua Ranch as they develop the facilities necessary to accomplish all of our combined goals and initiatives for the community.

Again, I urge you to give full and fair consideration to these projects and requests from Aqua Ranch. If you have any questions or concerns, please do not hesitate in contacting my Washington, D.C. office at (202) 225- 3931.

Sincerely,

Ileana Ros-Lehtinen
Member of Congress

IRL: sag
CC: Charles Barra
Aqua Ranch
PO Box 779
Long Key, FL 33001



Reply to:

**90311 Overseas Highway, Suite A
Post Office Box 699
Tavernier, FL 33070
305/853-1947**

**203 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300
850/488-9965
ron.saunders@myfloridahouse.gov**

Councils:

**Democratic Ranking Member
Appropriations Council**

Rules and Calendar Council

Committees:

Legislative Budget Commission

**Florida House of Representatives
Ron Saunders
State Representative, District 120**

June 16, 2009

Board of County Commissioners
Marathon Government Center
2798 Overseas Highway
Marathon, FL 33050

Dear Commissioners,

I write today to lend my support to the Aqua Ranch and its request to operate their business in the quarry on MM 69 in the Florida Keys. I believe that this previously damaged property has great potential to restock the damaged resources of the Florida Keys environment.

I feel the Aqua Ranch's concept to use retired rock quarries to grow coral, sea grass, and fish species for restoration throughout the Keys is a true asset to eco tourism and education. The collaborating institution will be able to operate more efficiently if the Aqua Ranch is allowed the minor conditional use permit fee waiver. As we all know the reef system, which brings the Keys a great portion of its economic means, is in desperate need of efficient and timely restoration. I believe a waiver of this permit will facilitate the services by the Aqua Ranch now, rather than later.

Due to the unique nature of this request, and the timeliness of its consideration, I thank the Board of Monroe County Commissioners in advance for its approval.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron Saunders".

Ron Saunders
State Representative
District 120



May 7, 2009

Monroe County
Department of Planning and Environmental Resources
Marathon Government Center
2798 Overseas Highway Suite 400
Marathon, FL 33050
Phone: (305) 289-2500

Dear Sir/Madam,

This letter is intended to demonstrate the support and cooperation of the Florida Keys Community College (FKCC) Department of Marine Science for the Aqua Ranch in Layton, FL. (MM69). Aqua Ranch and FKCC have been collaborating over the past year and the Aqua Ranch has agreed to provide the platform for FKCC to conduct research and education, including the development of a world class shark research facility, the FKCC Middle Keys SCUBA diving training center, seagrass and coral nursery area, and a finfish (i.e. grouper, tuna, and cobia) aquaculture research center.

These initiatives will draw students, researchers, environmentalist and tourist to the Florida Keys from local, regional, national and internationally audiences. The unique vision of the Aqua Ranch and FKCC will draw media attention, including local and national press, documentaries and film makers. In fact, Ron Mott of MSNBC is scheduled to broadcast FKCC shark sensory biology research, every hour on the hour, live from the Aqua Ranch on May 21st, 2009.

The Aqua Ranch is dedicated to marine conservation efforts and has demonstrated continued support for FKCC marine conservation goals through collaboration on pending fishery enhancement, bycatch reduction and coral and seagrass restoration proposals. The vision of the Aqua Ranch is in perfect harmony with the Monroe County Department of Planning and Environmental Resources Mission Statement which states: *The mission of Monroe County is to provide outstanding public service responsive to the needs of our citizens, our unique community, and our environment.* As part of this mission the Aqua Ranch will provide a much needed example of a successful eco-tourism in the facility in the Florida Keys. The success of the Aqua Ranch will have a direct impact on the educational abilities of FKCC and it is our hope that the Monroe County Department of Planning and Environmental Resources will embrace the Aqua Ranch as they develop the facilities necessary to accomplish all of our combined goals and initiatives. Thank you for your time and efforts in advance.

Sincerely,

Patrick H. Rice, Ph.D.
Director of Marine Science
Florida Keys Community College

June 9, 2009

Monroe County Board of Commissioners
Marathon Government Center
2798 Overseas Highway, Suite 400
Marathon, FL 33050

Dear Board members:

My name is Dr. Robert A. Bullis and I am writing this letter in support of a request pending before the Board from The Aqua Ranch of Long Key, Florida.

My company, South Eastern Aquatechnologies, Inc. (S.E.A., Inc.) is an aquaculture biotechnology company located in the city of Marathon. My company is dedicated to the development of advanced coral technologies for research, educational, and commercial applications. Coral reefs are some of the most beautiful yet fragile ecosystems on the planet. As the Board is no doubt sadly aware, coral reefs are under immense pressure worldwide and the issues impacting coral reefs are of particular importance here in the Florida Keys where our reefs provide the basis of eco-tourism to our county. The accumulated damage from hurricanes, the anchor damage from boats of recreational and commercial divers, the illegal activities of poachers, increasing levels of pollution and the effects of global warming have all had major impacts on our reefs. The once exquisitely beautiful reefs of Florida are today just shades of their former glory. S.E.A. looks for ways to positively impact long-term solutions to these issues.

S.E.A. has recently developed aquaculture technologies that allow coral to be reproduced and raised on local farms with greatly improved health and growth rates. Today, farming is a viable option for the future of this industry. Aquacultured corals, provide a choice in the retail marketplace for discriminating buyers, relieves demand on wild-collected specimens, and provides a technology that can replant and/or restore already damaged coral reefs. S.E.A. currently provides research animals to scientists who conduct research in aquaculture, fisheries enhancement, ecology, ecotoxicology and the effects of global warming on reefs.

S.E.A. has been working closely with Dr. Patrick Rice at Florida Keys Community College (FKCC) and Mr. Charlie Barra at Aqua Ranch to build a research and educational consortium of local business to foster integrated training and job creation opportunities for Monroe County residents. Monroe County is the only county in the continental U.S. with a climate conducive for raising coral and therefore maintains a competitive advantage in the newly emerging sciences of marine aquaculture and coral reef restoration.

Our current business plans anticipate a long-term relationship with forward thinking partners like FKCC and Aqua Ranch whose unique visions are helping to promote the growth of this nascent local industry while helping to educate students and create jobs in our local community. It is clear to me that the economic viability of Aqua Ranch positively impacts my own company's future. I therefore urge the Board to resolve the current permitting request recently submitted to you by Aqua Ranch positively in their favor.

Most respectfully,

Robert A. Bullis, DVM

Robert A. Bullis, D.V.M.
President, South Eastern Aquatechnologies, Inc.

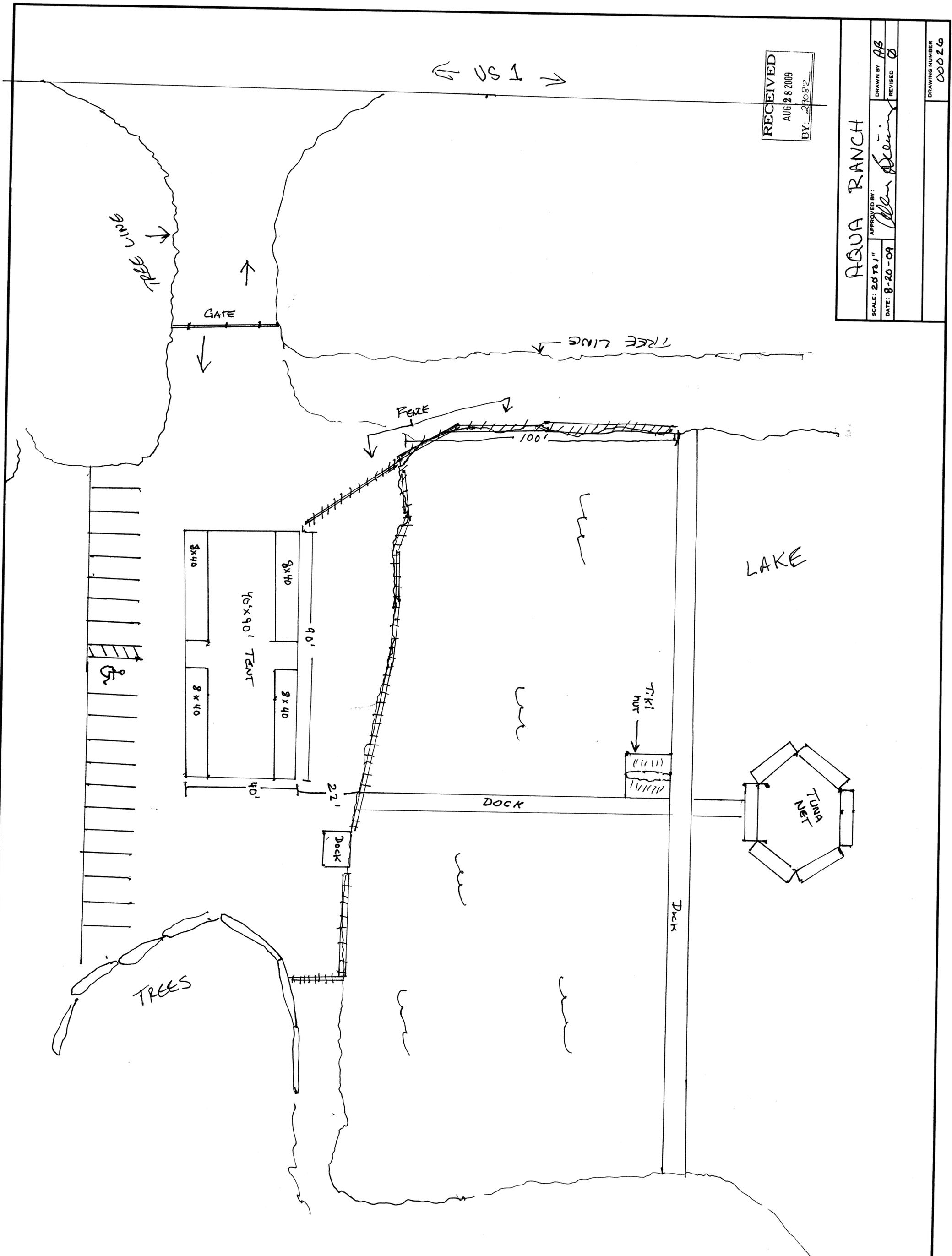
↑ US 1 ↓

RECEIVED
AUG 28 2009
BY: 27082

AQUA RANCH

SCALE: 20 FT = 1" APPROVED BY: *Allen Stein*
DATE: 8-20-09 DRAWN BY: AS
REVISED: 0

DRAWING NUMBER
00026



TREE LINE

GATE

TREE LINE

FENCE

100'

LAKE

8x40
8x40
46'x90' TENT
8x40
8x40
40'

Tiki hut

TUNA NET

DOCK

Docks

Dock

TREES

Easy Peel® Labels
Use Avery® Template 5160®

▲
Feed Paper  Bend along line to
expose Pop-Up Edge™



Ponticos Andrews
110 Donna Court
Punta Gorda Isles, FL 33950

Vertregt Don
PO Box 335
Big Pine Key, FL 33043

Spriggs Dein P TR
10897 154th Rd N
Jupiter, FL 33478

Spriggs Dein P TR
12265 169th Ct N
Jupiter, FL 33478

TIITF C/O DEP
3900 Commonwealth Blvd
Tallahassee, FL 32399-3000

Reckwerdt R E & Mona L
PO Box 2208
Key West, FL 33045

Spriggs Dein P TR
10897 154th Rd N
Jupiter, FL 33478

Ponticos Andrew S and Valentine H
13140 Ortego Ln
N Miami, FL 33161

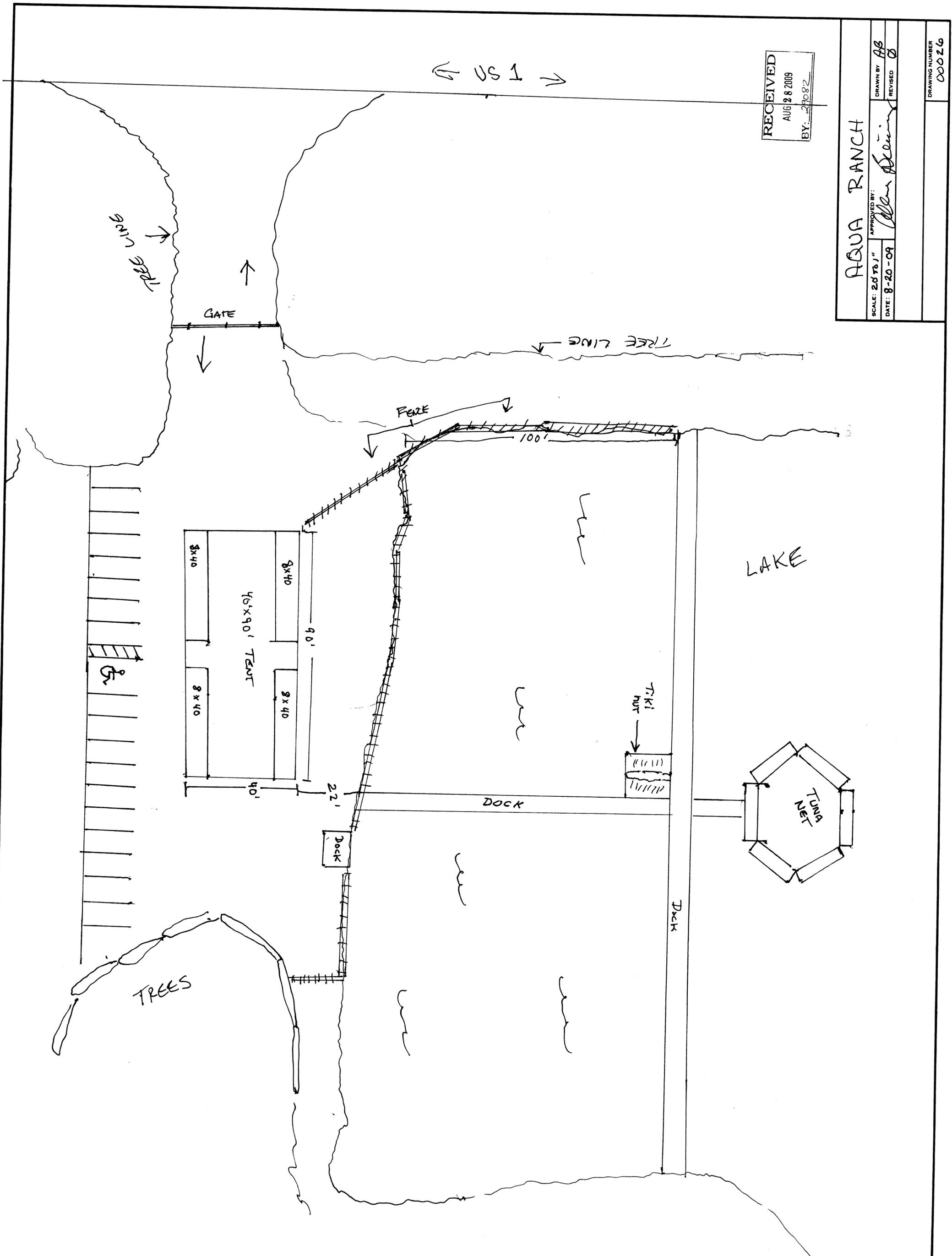
↑ US 1 ↓

RECEIVED
AUG 28 2009
BY: 27082

AQUA RANCH

SCALE: 20' TO 1" APPROVED BY: *Allen Stein*
DATE: 8-20-09 DRAWN BY: *AS*
REVISED: 0

DRAWING NUMBER
00026



TREE LINE

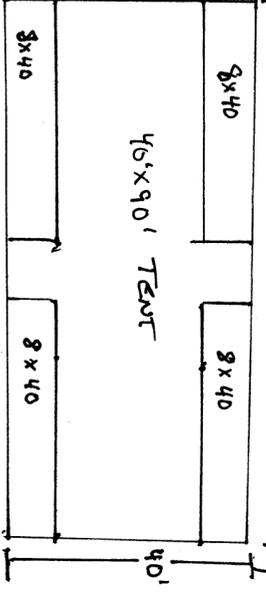
GATE

TREE LINE

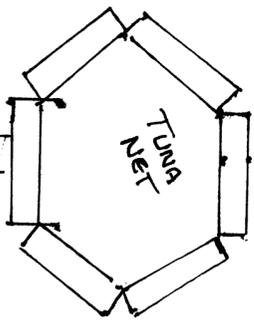
FENCE

100'

LAKE



Tiki hut



DOCK

Docks

TREES



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

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

From: Bill Harbert, Planner *BH*
Janis Vaseris, Biologist

Date: November 3, 2009

Subject: *Request for a Minor Conditional Use Permit at property located at approximate mile marker 69 of the Overseas Highway (US 1), Long Key, real estate numbers 00098530.000200 & 00098530.000700*

Meeting: November 3, 2009

1 I REQUEST:

2
3 The applicant is requesting approval of a minor conditional use permit in order to develop an
4 "Aqua Ranch" facility on the vacant subject property, a development composed of
5 commercial retail and institutional uses. The proposed facility would utilize the existing
6 submerged quarry to raise and study fish and other aquatic wildlife, including Cobia,
7 Peppermint Shrimp and Sea Urchin, as well as educate visitors about the exhibits.

8
9 The facility would be open to the public and would include a greeting station, a viewing
10 platform, a 3,600 ft² auditorium tent, and tiki huts. The development shall be constructed in
11 conjunction with a four (4) part phasing plan.



Subject Property and
Surrounding Vicinity
(2006)

1
2 Note: the applicant identified real estate number "00388470.000000" as being part of this
3 proposal in the application. Staff has determined that this as an error and has identified the
4 correct real estate number as 00098530.000700.
5

6 Applicant:

7 Property Owner: Zamindari Investments
8 Lessee: Aqua Ranch
9 Agent: Douglas Williams
10
11

12 II RELEVANT PRIOR COUNTY ACTIONS:
13

14 Code Enforcement Case CE09040149 was opened on April 27, 2009 after a code
15 enforcement officer determined that a 12 foot by 12 foot shed was constructed on the
16 property without the benefit of permit. The case remained open as of the date of this report.
17

18 A letter of understanding dated May 27, 2009 was written based on the same proposed
19 development outlined as part of this conditional use application. The letter provided
20 applicable land development regulations that would affect the development as proposed at
21 that time.
22

23 III BACKGROUND INFORMATION:
24

- 25 A. Size of Site (per Property Appraiser records): 827,640 ft² (19 total acres) eastern parcel
26 11.3 acres and western parcel 7.7 acres
27 B. Land Use District: Suburban Residential (SR) and Native Area (NA); all proposed
28 development to take place in the SR portion
29 C. Future Land Use Map (FLUM) Designation: Residential Low (RL) and Residential
30 Conservation (RC); all proposed development to take place in the RL portion
31 D. Tier Designation: Tier 1
32 E. Flood Zone: All proposed development to take place in the AE – EL 8 zone
33 F. Existing Use: Vacant
34 G. Existing Vegetation / Habitat: Area of proposed development is scarified and water,
35 surrounded by dense native and exotic vegetation
36 H. Community Character of Immediate Vicinity: Vacant vegetated lands on the adjacent
37 parcels; residential and commercial areas of the City of Layton located approximately ½
38 mile to the southwest
39

40 IV REVIEW OF APPLICATION:
41

42 MCC §110-67 provides the standards which are applicable to all conditional uses. When
43 considering applications for a conditional use permit, the Development Review Committee
44 and the Director of Planning and Environmental Resources shall consider the extent to
45 which:
46

1 A. *The conditional use is consistent with the purposes, goals, objectives and standards of the*
2 *comprehensive plan and the land development regulations:*
3

4 The proposed development is consistent with the purposes, goals, objectives and
5 standards of the RL future land use category and the SR District.
6

7 Policies from the Monroe County Year 2010 Comprehensive Plan that directly pertain to
8 the proposed use include:
9

10 Policy 101.4.2: The principal purpose of the Residential Low land use category is to
11 provide for low-density residential development in partially developed areas with
12 substantial native vegetation. Low intensity public and low intensity institutional uses
13 are also allowed. In addition, Monroe County shall adopt Land Development
14 Regulations which allow any other nonresidential use that was listed as a permitted
15 use in the Land Development Regulations that were in effect immediately prior to the
16 institution of the 2010 Comprehensive Plan.
17

18 B. *The conditional use is consistent with the community character of the immediate vicinity:*
19

20 A mixed use development containing this type of low-intensity commercial retail and
21 institutional uses, essentially a for-profit research and educational facility, would be
22 compatible with neighboring properties, an area which is composed of conservation,
23 commercial retail and residential uses. Furthermore, the property is relatively isolated
24 with the exception of the City of Layton located approximately ½ mile to the southwest.
25 The City of Layton contains residential, commercial retail and marina uses. Therefore,
26 the proposed development would be consistent with the community character of the
27 immediate vicinity.
28

29 C. *The design of the proposed development minimizes adverse effects, including visual*
30 *impacts, on adjacent properties:*
31

32 The applicant did not submit elevation of the proposed structures as part of this
33 conditional use application. Therefore, design criteria shall be reviewed and approved by
34 the Director of Planning and Environmental Resources prior to the issuance of any
35 building permit for the proposed structures. However, based on the isolation of the site
36 and the descriptions of proposed structures, staff has determined that their visual impact
37 would be minimal. Therefore, the proposed development minimizes adverse effects,
38 including visual impacts, on adjacent properties.
39

40 D. *The proposed use will have an adverse impact on the value of surrounding properties:*
41

42 It is not anticipated that the proposed development will have an adverse impact on the
43 value of the surrounding properties.
44

45 E. *The adequacy of public facilities and services:*
46

1 1. Roads:

2
3 *Localized Impacts & Access Management:* Access to and from the development shall
4 be approved by the county's traffic consultant and the Florida Department of
5 Transportation (FDOT) (See section I-22, Access Standards).

6
7 *Level of Service (LOS):* A level 1 traffic engineering and planning report is being
8 reviewed by the county's traffic consultant (See section I-23, Traffic Study).

9
10 2. Stormwater: The applicant shall coordinate with the Public Works Division, and, if
11 necessary, the South Florida Water Management District (SFWMD) to determine
12 compliance with all applicable regulations (See section I-9, Surface Water
13 Management Criteria).

14
15 3. Sewer: The applicant shall coordinate with the Florida Department of Health, Florida
16 Department of Environmental Protection and/or the Florida Keys Aqueduct Authority
17 to determine compliance with all applicable regulations (See section I-10, Wastewater
18 Treatment Criteria).

19
20 4. Emergency Management: The applicant shall coordinate with the Office of the Fire
21 Marshal to determine compliance with fire and life safety codes.

22
23 F. *The applicant has the financial and technical capacity to complete the development as*
24 *proposed:*

25
26 Staff has no evidence to support or disprove the applicant's financial and technical
27 capacity.

28
29 G. *The development will adversely affect a known archaeological, historical or cultural*
30 *resource:*

31
32 The proposed development will not adversely affect a known archaeological, historical or
33 cultural resource. In fact, the educational element of the proposed facility would
34 contribute the public education of the Keys cultural and environmental resources.

35
36 H. *Public access to public beaches and other waterfront areas is preserved as part of the*
37 *proposed development:*

38
39 Public access means the ability of the public to physically reach, enter or use beaches and
40 shores. The property is bordered by the open water of the Florida Bay to the northwest.

41
42 The property is under private ownership and due to the nature of the type of shoreline,
43 heavy vegetation and the located proposed developed area in accordance with the open
44 water, it has been determined that unrestricted public access to the waterfront area has not
45 existed. Therefore, the proposed development will not have an adverse impact on public

1 access to a waterfront area. In fact, access to submerged quarry, which currently does not
2 exist, would be available to visitors of the site.

3
4 I. *The project complies with all additional standards imposed on it by the Land*
5 *Development Regulations:*

6
7 1. Residential Rate of Growth Ordinance (ROGO) (§138-19 – §138-28): *Not applicable.*

8
9 There are no existing or proposed residential dwelling units.

10
11 2. **Non-Residential Rate of Growth Ordinance (NROGO) (§138-47 – §138-56):** *In*
12 *compliance following the receipt of required NROGO permit allocations.*

13
14 The parcel is currently vacant. Therefore, all 3,600 ft² of floor area under the
15 proposed covered, permanent structures, including the proposed greeting station and
16 auditorium tent, shall be subject to NROGO permit allocation system. The tiki huts
17 may be exempted from the NROGO permit allocation in accordance with MCC
18 §138-50 if the Director determines that they are for sunshade use only, not enclosed
19 and less than 200 ft² in area. However, no commercial activities may occur under the
20 tiki shade structures if exempted.

21
22 3. Purpose of the SR District (§130-44): *In compliance.*

23
24 The purpose of the SR district is to establish areas of low- to medium-density
25 residential uses characterized principally by single-family detached dwellings. This
26 district is predominated by development; however, natural and developed open space
27 create an environment defined by plants, spaces and over-water views.

28
29 4. **Permitted Uses (§130-94):** *In compliance following the receipt of required minor*
30 *conditional use permit.*

31
32 In the SR District institutional as well as low and medium-intensity commercial retail
33 uses containing floor area of up to 2,500 ft² may both be permitted with a minor
34 conditional use permit from the Planning & Environmental Resources Department
35 and building permits from the Building Department provided that the commercial
36 retail use is able to meet the following criteria:

37
38 a) The parcel of land on which the commercial retail use is to be located abuts
39 the right-of-way of US 1 or a dedicated right-of-way to serve as a frontage road
40 for US 1;

41 b) The commercial structure(s) must be located within 200 feet of the
42 centerline of US 1;

43 c) The commercial retail use does not involve the sale of petroleum products;

44 d) The commercial retail use does not involve the outside storage or display of
45 goods or merchandise;

- e) There is no direct access to US 1 from the parcel of land on which the commercial retail use is to be located;
- f) The structure(s) in which the commercial retail use is to be located is separated from the US 1 right-of-way by a class "C" bufferyard;
- g) The structure in which the commercial retail use is to be located is separated from any existing residential structure by a class "C" bufferyard; and
- h) no signage other than one identification sign of no more than four (4) ft² shall be placed in any yard or on the wall of the structure in which the commercial retail use is to be located except for the yard or wall that abuts the right-of-way for US 1.

Based on the Letter of Understanding dated May 27, 2009, the Director of Planning and Environmental Resources has determined that the proposed use is partially institutional and not purely commercial retail. There is an existing direct access drive on US 1, the existing access drive meets the major road access requirements set forth in MCC §114-195. Therefore, Staff has found that criteria e) shall not prohibit the applicant from applying for and receiving a minor conditional use permit.

5. Residential Density and Maximum Floor Area Ratio (§130-157, §130-162 & §130-164): *In compliance.*

Land Use Intensity

Land Use	Floor Area Ratio	Size of Site *	Maximum Allowed	Proposed Amount	Potential Used
Institutional	0.25 FAR **	7.5 acres (326,700 ft ²)	81,675 ft ²	3,480 ft ²	4.3%
Commercial Retail (low-intensity)	n/a ***	7.5 acres (326,700 ft ²)	2,500 ft ²	120 ft ²	4.8%
Total					9.1%

- * Although the site is 19 acres, according to our GIS records, only approximately 7.5 acres are designated as SR upland.
- ** Floor area ratio is total floor area of the non-residential structures (s) divided by the gross area
- *** No FAR is given and the maximum per lot stated in MCC §130-94 shall prevail

6. Required Open Space (§118-9, §118-12, §130-157, §130-162 & §130-164): *In compliance.*

The plans submitted with this application do not include open space calculations. However, Staff has determined that the site has adequate open space and shall meet the 50 percent requirement for the entire site and 40 percent for all shoreline setbacks.

7. **Minimum Yards (§118-12 & §130-186): *Compliance to be determined.***

The required non-shoreline setbacks are as follows: Front yard – 25 feet; Rear yard – 10 feet; and Side yard – 10/15 feet (where 10 feet is required for one side and 15 feet is the minimum combined total of both sides).

1 The required shoreline setbacks are as follows: Principal structures shall be set back
2 at least 20 feet as measured from the mean high water (MHW) line along lawfully
3 altered shorelines including manmade canals, channels, and basins. Accessory
4 structures within the shoreline setback shall be constructed at a foundation height not
5 to exceed 18 inches above existing grade and in no event shall the total, combined area of
6 all structures occupy more than 60 percent of the upland area of the shoreline setback.
7

8 Staff has found that the principal structure proposed is to be located 22 feet from the
9 MHW line. However, there is a deck existing on the property that is located at the
10 MHW line. Although, no elevations have been provide for this structure, Staff has
11 found that the deck may exceed the 18 inches in height and would either have to be
12 lowered to 18 or fewer inches above grade or be removed.
13

14 8. Maximum Height (§130-187): *Compliance to be determined by the Monroe County*
15 *Building Department prior to issuance of a building permit.*
16

17 9. Surface Water Management Criteria (§114-3): *Compliance to be determined by the*
18 *Public Works Division and/or SFWMD prior to issuance of a building permit.*
19

20 The applicant has submitted a letter requesting coordination from Public Works
21 Division and the SFWMD relating to surface water treatment.
22

23 10. Wastewater Treatment Criteria (§114-5): *Compliance to be determined by Florida*
24 *Department of Health and/or Florida Department of Environmental Protection prior*
25 *to the issuance of a building permit.*
26

27 The applicant has submitted a letter requesting coordination from the Florida
28 Department of Health and the Florida Department of Environmental Protection
29 relating to wastewater treatment.
30

31 11. **Fencing (§114-20): *Compliance to be determined upon submittal of a building***
32 ***permit application to the Monroe County Building Department.***
33

34 The applicant is proposing to install an entry gate and fence as part of phase 2 of the 4
35 phase project. Fences located in the SR District may be constructed to a height of six
36 feet provided that no other residentially developed property is located within 200 feet
37 of the subject property. The applicant has not identified the height or type of fence
38 proposed.
39

40 12. Floodplain Management (§122-1 – §122-6): *Compliance to be determined by the*
41 *Monroe County Building Department prior to issuance of a building permit.*
42

43 13. Energy Conservation Standards (§114-45): *In compliance.*
44

45 The development proposal involves no clearing of existing vegetation and the
46 required buffer yards would involve the installation of native plants and shade trees,

1 which will reduce the requirements for water and maintenance and provide shade for
2 parking areas.

3
4 14. Potable Water Conservation Standards (§114-46): *Compliance to be determined by*
5 *the Monroe County Building Department prior to issuance of a building permit.*

6
7 15. Environmental Design Criteria and Mitigation Standards (§118-6, §118-7 & §118-8):
8 *In Compliance.*

9
10 The proposed development requires no new clearing of vegetation and is educating
11 the public on marine and vegetative conservation techniques. Therefore, no mitigation
12 shall be required and this facility has been designed to improve surrounding
13 environmental quality.

14
15 16. **Required Parking (§114-67): *Not in compliance.***

16
17 This proposed development will consist of a mixture of commercial retail and
18 institutional uses. The institutional uses provided on site will provide educational and
19 recreational programs to the public as well as private researchers. MCC §114-67
20 does not outline parking requirements for institutional uses. Therefore, Staff has
21 found that the proposed use shall be classified as “Commercial Recreation” for the
22 purpose of calculating parking.

23
24 The development proposal would be subject to the following off-street parking
25 requirements:

26
27 Required Parking

Specific Use	Multiplier	Proposed	Required Spaces
Commercial Recreation (Outdoor)	5 spaces / 1,000 ft ²	3,480 ft ²	17.4 spaces
Commercial Retail	3 spaces / 1,000 ft ²	120 ft ²	0.3 spaces
Total			17.7 spaces

28
29 According to the site plan, 19 off-street parking spaces would be provided. This
30 exceeds the number of parking spaces required.

31
32 However, the dimensional/aisle width requirements shall not be met as shown on the
33 proposed site plan. Parking lots providing parallel parking spaces and two-way
34 access aisles have a required aisle width of 24 feet. The width of the proposed aisle
35 has not been identified.

36
37 17. **Required Loading and Unloading Spaces (§114-69): *Not in compliance.***

38
39 The site plan submitted as part of this application does not show a loading/unloading
40 space. However, the applicant has stated that a revised site plan is being prepared and
41 will include a loading/unloading space.

1
2 **18. Required Landscaping (§114-99 – §114-105): *Not in compliance.***
3

4 The site has a parking requirement of 18 spaces and according to the site plan
5 provided as part of the conditional use application, the applicant will provide 19
6 parking spaces. The parking lot landscape requirement for 24 or fewer spaces in SR
7 District is a Class C Parking Lot Landscaping plan. The Class C Parking Lot
8 Landscaping plan for 19 parking spaces requires the installation of 2 canopy trees and
9 4 shrubs in an area designated to be 340 ft². The applicant has not provided a
10 landscaping plan for Staff to determine compliance.
11

12 **19. Required Buffer-yards (§114-124 – §114-130): *Not in compliance.***
13

14 No structure or land that abuts US 1, a boundary between two different land use
15 districts, or fronts on a major street shall hereafter be developed, used or occupied
16 unless a scenic corridor or bufferyard is provided. No structure other than a fence
17 shall be placed within a required bufferyard, provided that where there is existing
18 native vegetation that will provide for a bufferyard, no clearing will be permitted for
19 the installation for a fence.
20

21 The site is comprised of a basin filled with water surrounded by existing vegetation
22 on all sides including the property line bordering US 1. The applicant did not provide
23 a vegetation survey as part of the conditional use application. However, Staff has
24 found that the majority of existing vegetation located along the US 1 property line
25 exists on either the Florida Department of Transportation right of way or may not
26 count toward buffer yard requirement. Staff has also found that the existing
27 vegetation located behind the proposed parking area may not count toward the district
28 boundary buffer yard requirement.
29

30 A Class E major street buffer yard and a Class A district boundary buffer yard are
31 required as part of this development proposal. The minimum width of Class E buffer
32 yard is 30 feet. Staff has estimated the width of land between the basin of water and
33 the US 1 property line to be less than 30 feet. As a result, the site will have to install
34 the required plantings outlined as part of a Class E buffer yard in the available area
35 between the basin and the property line bringing the buffer yard into compliance to
36 the greatest extent practical.
37

38 **20. Outdoor Lighting (§114-159 – §114-163): *Compliance to be determined by the***
39 ***Monroe County Building Department prior to issuance of a building permit.***
40

41 **21. Signs (§142-1 – §142-7): *Compliance to be determined upon submittal of a***
42 ***building permit application to the Monroe County Building Department.***
43

44 The applicant has expressed the interest in using an existing sign located to the
45 Southwest corner of the property. However, no plans showing the size, location or
46 text has been submitted as part of this application.

1
2 **22. Access Standards (§114-195 – §114-201): *Compliance to be determined.***
3

4 There is an existing access drive to the site from US 1 located to the Southeast corner
5 of the property. According to the site plan, the access would not be reconfigured.
6

7 A traffic study by Crossroads Engineering indicates that the development would
8 generate no new trips. The county's traffic consultant, Raj Shanmugam of URS
9 Corporation, is reviewing the information found in the level 1 traffic letter submitted
10 as part of this application.
11

12 **23. Chapter 533, Florida Statutes: *Full compliance to be determined upon submittal to***
13 ***Building Department.***
14

15 **Other Issues**

- 16
17 1. The Applicant has requested that this project be approved as outlined within the
18 proposed 4 phase plan. According to the application, the construction of the phased
19 development would allow the applicant to operate out of temporary structures that
20 will be required to be removed on a daily basis, while applying for NROGO
21 allocations to permit the construction of the permanent structure and coordinating
22 with the State of Florida Department of Environmental Protection to obtain permits
23 for the docks.
24

25 Phase 1 will allow the applicant to install electricity to this site, setup two 10 ft x 10 ft
26 temporary tents and install all required parking.
27

28 Phase 2 will be carried out once ACOE and FDEP permits for the docks have been
29 obtained. This will allow the applicant to apply for building permits to install the
30 docks, netting systems, entry gate and fencing.
31

32 Phase 3 will be carried out once the first NROGO allocations are awarded to the
33 applicant. The applicant is proposing to construct 1,600 ft² of 3,600 ft² total
34 nonresidential floor area requested as part of phase 3.
35

36 Phase 4 will be carried out once the final NROGO allocations are awarded to the
37 applicant. This will allow the applicant to construct the remaining 2,000 ft² on
38 nonresidential floor area.
39

40 The applicant does not specify a projected date of project completion. However, due
41 to potential competition, receipt of the required NROGO permit allocations is not
42 guaranteed for any given allocation period. Therefore, a date of completion would be
43 difficult to predict.
44

45 Staff has reviewed the Applicant's request and recommends that, if approved, the
46 development order be valid for two (2) years from the issuance of the initial building

1 permit. In the event the applicant is unable to acquire the necessary NROGO permit
2 allocations time extensions would need approval from the Planning Commission.
3

- 4 2. Letters of support for the proposed development were provided as part of this
5 conditional use application from State Representative Ron Saunders, Congress
6 Woman Ileana Ros-Lehtinen, Florida Keys Community College Director of Marine
7 Sciences Dr. Patrick Rice and South Eastern Aquatechnologies, Inc President Dr.
8 Robert Bullis.
9

10 **V RECOMMENDED ACTION:**

11
12 Staff recommends **APPROVAL** to the Director of Planning & Environmental Resources if
13 all the following conditions are met:
14

- 15 A. Prior to the issuance of a development order, the applicant shall submit a signed and
16 sealed, scaled site plan from a registered engineer or architect that shows the setbacks
17 of all structures in orientation to the property lines, basins of water and centerline of
18 US 1. The site plan must also include parking space and access aisle widths,
19 directional flows and a loading zone.
20
- 21 B. Prior to the issuance of a development order, the applicant shall submit a landscaping
22 plan that outlines buffer yards and parking lot landscaping designs as well as types of
23 plantings to be used.
24
- 25 C. Prior to the issuance of a development order, the county's traffic consultant must
26 approve the findings of the traffic study submitted in the application.
27
- 28 D. Prior to the issuance of a development order, the applicant shall provide a letter of
29 coordination from the Florida Department of Transportation concerning access.
30
- 31 E. Prior to the issuance of a development order, the applicant shall provide a letter of
32 coordination from the Public Works Division and if necessary the South Florida
33 Water Management District concerning surface water management.
34
- 35 F. Prior to the issuance of a development order, the applicant shall provide a letter of
36 coordination from the Office of the Fire Marshal concerning compliance with the fire
37 and life safety codes.
38
- 39 G. Prior to the issuance of a building permit, the applicant shall provide a letter of
40 coordination from the Florida Department of Health and if necessary the Florida
41 Department of Environmental Protection concerning wastewater treatment.
42
- 43 H. Prior to the issuance of a building permit for permanent structure(s), the applicant
44 shall receive all required NROGO allocations for the proposed square footage.
45

1 I. Prior to the issuance of a building permit, the proposed development shall be found in
2 compliance by the Monroe County Building Department, the Monroe County
3 Floodplain Administrator and the Monroe County Office of the Fire Marshal.
4

5 VI PLANS REVIEWED:
6

- 7 A. Site Plan (Stage-1) Hand Drawn by Allen Billingsley, dated September 20, 2004;
8 B. Site Plan (Stage-2) Hand Drawn by Allen Billingsley, dated September 20, 2009;
9 C. Site Plan (Stage-3) Hand Drawn by Allen Billingsley, dated August 20, 2009;
10 D. Site Plan (Stage-4) Hand Drawn by Allen Billingsley, dated August 20, 2009;
11 E. Level 1 Traffic Study by Crossroads Engineering, dated October 2, 2009



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

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

From: Joseph Haberman, AICP, Principal Planner *J.H.*

Date: October 23, 2009

Subject: *Proposed Ordinance to the Board of County Commissioners to amend the Monroe County Code Sections 102-55, Registration; 110-4, Determination of completeness and compliance, except for single-family dwellings; 110-7, Actions by decision-making persons and bodies; 110-37, Development permitted as of right; 110-69, Minor conditional uses; 110-70, Major conditional uses; 110-71, Final development plan subsequent to approval of conditional use permit; 110-73, Development under an approved conditional use permit; 110-98, Preliminary plat approval; & 110-99, Final plat approval*

Meeting: November 3, 2009

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §102-55, §110-4, §110-7, §110-37, §110-69, §110-70, §110-71, §110-73, §110-98 and
6 §110-99 of the Monroe County Code. The purpose of the proposed amendments is to
7 eliminate references to the obsolete position of development review coordinator and reassign
8 those responsibilities and duties of the development review coordinator to the planning
9 director.
10

11 II RELEVANT PRIOR COUNTY ACTIONS:
12

13 At the October 7, 2009 public hearing, members of the planning commission recommended
14 that staff review the entire land development code and remove all references to the now
15 obsolete position of "development review coordinator". This recommendation followed
16 staff's request to amend §102-21. Among other proposed amendments to §102-21, staff
17 recommended that §102-21(c) be deleted due to the fact that the position of development
18 review coordinator has been eliminated in the Planning & Environmental Resources
19 Department.
20

21 III REVIEW
22

23 The current text within the Land Development Code describing the job qualifications and
24 functioning of the Planning & Environmental Resources Department is outdated.
25

1 Concerning the development review coordinator position, the position of development review
2 coordinator has been eliminated in the Planning & Environmental Resources Department. All
3 responsibilities of the position have been assumed by the Director of Planning and the Principal
4 Current Planner. Therefore, staff is recommending that the following sections of code be
5 amended only to replace "development review coordinator" with "planning director":
6

7 **NOTE: The reference to the development review coordinator in Sec. 110-73(a) is already**
8 **being addressed and corrected in another text amendment application in progress, which**
9 **has already been approved by the planning commission.**

10
11 (deletions are ~~stricken through~~ and additions are underlined):

12
13 **Sec. 102-55. Registration.**

14
15 All claims of nonconforming uses and structures shall be registered with the ~~development~~
16 ~~review coordinator~~ planning director in a form provided by the director of planning within one
17 year of the service of individual notice by mail to all landowners of record of the adoption of
18 the plan and the requirement to register nonconforming uses and structures. Individual notice
19 by mail shall be deemed served upon the deposit of duly stamped notice in the U.S. mails
20 addressed to the owner of record according to the most recent listing of the property appraiser
21 of the county. Failure to register a claim of nonconforming use or structure within one year
22 after adequate legal notification by the director of planning shall constitute a waiver of the right
23 to claim nonconforming use status. Evaluation of nonconformity claims shall be on a case-by-
24 case basis by the director of planning based on the lawful nature of the use or structure when
25 established, subject to appeal as provided in article VI of this chapter. The board of county
26 commissioners, at its discretion, may direct the director of planning to issue notification by
27 category.
28

29 **Sec. 110-4. Determination of completeness and compliance, except for single-family**
30 **dwelling.**

31
32 Within 15 working days after an application for development approval has been received, the
33 ~~development review coordinator~~ planning director shall determine whether the application is
34 complete. If the ~~development review coordinator~~ planning director determines that the
35 application is not complete, he shall serve a written notice on the applicant specifying the
36 application's deficiencies. The ~~development review coordinator~~ planning director shall take no
37 further action on the application unless the deficiencies are remedied. If the ~~development~~
38 ~~review coordinator~~ planning director fails to make a determination of completeness within 15
39 working days, the application is deemed complete. Once the application is deemed complete,
40 the ~~development review coordinator~~ planning director shall cause the application to be
41 evaluated within ten working days for compliance with the county's land use regulations. If
42 the ~~development review coordinator~~ planning director determines that the application is not in
43 compliance, he shall serve a written notice explaining why this is so; and the application shall
44 be denied. If the application is determined to be in compliance with these land use
45 regulations, the ~~development review coordinator~~ planning director shall notify the applicant
46 and the secretary of the planning commission so that a public hearing may be scheduled no

1 earlier than 30 days following a determination of compliance and a notice given, if required,
2 and shall convene the development review committee. A determination of completeness shall
3 not constitute a determination of compliance with the substantive requirements of this
4 chapter.
5

6 **Sec. 110-7. Actions by decision-making persons and bodies.**
7

8 (a) Generally. All decision-making persons and bodies shall act in accord with time limits
9 established in this chapter except as provided in section 101-2(b). Action shall be taken as
10 promptly as possible in consideration of the interests of the citizens of the county.

11 (b) Findings. All decisions shall be in writing and adopted by resolution and shall include at
12 least the following elements:

- 13 (1) A summary of the information presented before the decision-making body;
- 14 (2) A summary of all documentary evidence provided to the decision-making
15 body or which the decision-making body considered in making its decision; and
- 16 (3) A clear statement of specific findings of fact and a statement of the basis
17 upon which such facts were determined, with specific reference to the relevant
18 standards set forth in this chapter, including, but not limited to, the standards in
19 section 110-67.

20 (c) Notification. Notification of a decision-making body's decision, by copy of the
21 resolution, shall be mailed by the ~~development review coordinator~~ planning director to the
22 applicant by certified mail.
23

24 **Sec. 110-37. Development permitted as of right.**
25

26 (a) Purpose. Uses permitted as of right are those uses that are compatible with other land uses
27 in a land use district, provided they are developed in conformity with this chapter.

28 (b) Application. An applicant for development approval for a use permitted as of right shall
29 submit an application for a building permit, together with a certificate of compliance, if
30 required, obtained pursuant to section 110-142 and a description of the proposed development,
31 to the building official.

32 (c) Action on the application. If the director of planning determines that the proposed
33 development is in compliance with all requirements of this Code and the Monroe County
34 Comprehensive Plan, and the building official determines that it is in compliance with the
35 Florida Building Code and the applicant for development approval has been awarded a
36 certificate of compliance, the building official shall issue a building permit with or without
37 conditions.

38 (d) Certified IS districts. This subsection authorizes the ~~development review coordinator~~
39 planning director to submit for certification by the board of county commissioners certain IS
40 areas herein defined which may be issued permits without review by the land planning
41 division.

42 (1) At any regularly scheduled meeting of the board of county commissioners,
43 certification may be given to those IS areas recommended for approval and listing by the
44 ~~development review coordinator~~ planning director.

45 (2) The ~~development review coordinator~~ planning director shall recommend from time to
46 time to the board of county commissioners any IS area that meets the following:

- 1 a. Documentation that all utilities and roads are in place consistent with the definition
- 2 of IS;
- 3 b. Documentation that all appropriate bulk regulations found in section 130-186 can
- 4 be followed, as well as the requirements of article V of this ~~chapter~~ chapter and chapter
- 5 130, article VI;
- 6 c. Provision for appropriate impact fee payments as required by chapter 126;
- 7 d. Provision for required landscaping as required by chapter 114, article IV; and
- 8 e. Provisions for adequate parking as required by chapter 114, article III and access
- 9 standards as required by chapter 114, article VII.

10 (3) Any certificate given by the board of county commissioners under this section shall be
11 in the form of a resolution that shall specify compliance with the requirements of
12 subsection (d)(2) of this section.

13
14 **Sec. 110-69. Minor conditional uses.**

15
16 (a) Applications for a minor conditional use permit. An application for a minor conditional
17 use permit shall be submitted to the ~~development review coordinator~~ planning director in the
18 form provided by the director of planning. If approval of a plat is required for the proposed
19 development, an application for plat approval shall be submitted in conjunction with the
20 application for a conditional use permit. If an application for a minor conditional use includes a
21 major conditional use, then the minor conditional use shall be considered in conjunction with
22 the major conditional use in accordance with the procedures of section 110-70.

23 (b) Review by the development review committee. An application for a minor conditional use
24 permit shall be reviewed by the development review committee. The development review
25 committee shall forward its report and recommendation on the application for a minor
26 conditional use permit to the director of planning within ten working days of its determination
27 of completeness.

28 (c) Decision by the director of planning. Within ten working days after receiving the report
29 and recommendation of the development review committee, the director of planning shall
30 render a development order granting, granting with conditions or denying the application for a
31 minor conditional use permit.

32 (d) Notice of grant of a minor conditional use permit. The director of planning shall give
33 notice of any development order granting a minor conditional use by sending a written notice
34 to all owners of real property located within 300 feet of the property that is subject to the minor
35 conditional use permit, and notice of the intent to issue the minor conditional approval shall be
36 published in newspapers of local circulation in the county by advertisement in the legal section.
37 The costs of publication and written notice are to be borne by the applicant. Notice by the
38 planning director shall be by regular mail on the day of the granting of the minor conditional
39 use.

40 (e) Consideration of a minor conditional use approval by the planning commission.
41 Consideration of a minor conditional use approval shall be governed by the provisions of
42 chapter 102, article VI.

43 (f) Public hearing on an application for a minor conditional use permit. The public hearing on
44 an application for minor conditional use, if requested by the applicant, an adjacent property
45 owner, or an aggrieved or adversely affected person, as defined by F.S. § 163.3215(2), or any

1 resident or real property owner, shall be conducted by the planning commission in accordance
2 with the provisions of section 102-185(e).
3

4 **Sec. 110-70. Major conditional uses.**
5

6 (a) Applications for major conditional uses. An application for a major conditional use permit
7 shall be submitted to the ~~development review coordinator~~ planning director in a form provided
8 by the director of planning.

9 (1) If approval of a plat is required for the proposed development, an application for plat
10 approval shall be submitted in conjunction with the application for a conditional use permit.
11 However, a major conditional use shall not become effective until the plat has been
12 approved by the board of county commissioners.

13 (2) As a part of the application for major conditional use, an applicant shall be required to
14 submit the following, except for those inappropriate to the proposed development due to
15 the limited size or scale of the development as determined by the planning director:

16 a. An environmental designation survey consisting of:

17 1. A plan drawn to a scale of one inch equals 20 feet or less, except where
18 impractical and the planning director authorizes a smaller scale, and
19 showing the following:

- 20 (i) The location of property;
- 21 (ii) The date, approximate north point and graphic scale;
- 22 (iii) The acreage within the property;
- 23 (iv) The boundary lines of the property and their bearings and
24 distances;
- 25 (v) The topography and typical ground cover;
- 26 (vi) The general surface characteristics, water areas and drainage
27 patterns;
- 28 (vii) The contours at an interval of not greater than one foot or at
29 lesser intervals if deemed necessary for review purposes;
- 30 (viii) The 100-year flood-prone areas by flood zone;
- 31 (ix) The presently developed and/or already altered areas; and
- 32 (x) The location of mean high-water line;

33 2. A natural vegetation map and/or a map of unique environmental features
34 such as:

- 35 (i) Climax tropical hardwood hammocks;
- 36 (ii) Endangered species habitats; and
- 37 (iii) Major wildlife intensive use areas;

38 3. Aerial photographs of the property and surrounding area;

39 4. A review of historical and archeological sites by the Florida Division of
40 Archives, History and Records Management;

41 5. A review of unique environmental features such as:

- 42 (i) Climax tropical hardwood hammocks;
- 43 (ii) Endangered species habitats; and
- 44 (iii) Major wildlife intensive use areas;

45 6. Actual acreage of specific vegetation species or other environmental
46 characteristics;

1 7. General information relating to the property in regard to the potential
2 impact which development of the site could have on the area's natural
3 environment and ecology;

4 8. Environmental resources:

5 (i) If shoreline zones were identified, describe in detail any
6 proposed site alterations in the areas, including vegetation removal,
7 dredging, canals or channels; identify measures which have been
8 taken to protect the natural, biological functions of vegetation within
9 this area such as shoreline stabilization, wildlife and marine habitat,
10 marine productivity and water quality maintenance;

11 (ii) If tropical hammock communities or other protected vegetative
12 communities were identified, describe proposed site alteration in
13 those areas and indicate measures which were taken to protect intact
14 areas prior to, during and after construction;

15 (iii) Describe plans for vegetation and landscaping of cleared sites
16 including a completion schedule for such work;

17 9. Environmental resources-wildlife. Describe the wildlife species that
18 nest, feed or reside on or adjacent to the proposed site. Specifically identify
19 those species considered to be threatened or endangered. Indicate measures
20 that will be taken to protect wildlife and their habitats; and

21 10. Environmental resources-water quality:

22 (i) Identify any wastewater disposal areas, including stormwater
23 runoff, septic tank drain-fields, impervious surfaces and
24 construction-related runoff; describe anticipated volume and
25 characteristics. Indicate measures taken to minimize the adverse
26 impacts of these potential pollution sources upon the quality of the
27 receiving waters prior to, during, and after construction; identify the
28 near shore water quality; and identify how this development will not
29 adversely impact the near shore water quality.

30 (ii) Indicate the degree to which any natural drainage patterns have
31 been incorporated into the drainage system of the project;

32 b. A community impact statement, including:

33 1. General description of proposed development:

34 (i) Provide a general written description of the proposed
35 development; include in this description the proposed phases of
36 development or operation and facility use, target dates for each of
37 these, and date of completion; in addition, indicate the site size,
38 developing staging and appropriate descriptive measures such as
39 quantity and type of residential units, commercial floor area, tourist
40 accommodation units, seating and parking capacities; for residential
41 development, indicate the anticipated unit-per-acre density of the
42 completed project;

43 (ii) Identify aspects of the project design, such as a clustering,
44 which were incorporated to reduce public facilities costs and
45 improve the scenic quality of the development; describe building
46 and siting specifications which were used to reduce hurricane and

- 1 fire damage potential to comply with federal flood insurance
2 regulations and the comprehensive land use plan;
- 3 2. Impact assessment on public facilities and water supply:
4 (i) Identify projected daily potable water demands at the end of
5 each development phase and specify any consumption rates that
6 have been assumed for the projection;
7 (ii) Provide proof of coordination with the Florida Keys Aqueduct
8 Authority; assess the present and projected capacity of the water
9 supply system and the ability of such system to provide adequate
10 water for the proposed development; and
11 (iii) Describe measures to ensure that water pressure and flow will
12 be adequate for fire protection for the type of construction proposed;
- 13 3. Public facilities--Wastewater management:
14 (i) Provide proof of coordination with the Florida Department of
15 Health and Rehabilitative Services;
16 (ii) Provide projection of the average flows of wastewater
17 generated by the development at the end of each development phase;
18 describe proposed treatment system, method and degree of
19 treatment, quality of effluent, and location of effluent and sludge
20 disposal areas; identify method and responsibilities for operation
21 and maintenance of facilities;
22 (iii) If public facilities are to be used, provide proof of coordination
23 with the county waste collection and disposal district; assess the
24 present and projected capacity of the treatment and transmission
25 facilities and the ability of such facilities to provide adequate service
26 to the proposed development; and
27 (iv) If applicable, provide a description of the volume and
28 characteristics of any industrial or other effluents;
- 29 4. Public facilities--Solid waste:
30 (i) Identify projected average daily volumes of solid waste
31 generated by the development at the end of each phase; indicate
32 proposed methods of treatment and disposal;
33 (ii) Provide proof of coordination with county municipal services
34 district; assess the present and projected capacity of the solid waste
35 treatment and disposal system and the ability of such facilities to
36 provide adequate services to the proposed development; and
37 (iii) Comply with the requirements of section 114-200 concerning
38 any applicable traffic study;
- 39 5. Public facilities--Transportation:
40 (i) Provide a projection of the expected vehicle trip generation at
41 the completion of each development phase; describe in terms of
42 external trip generation and average daily and peak hour traffic;
43 (ii) If the project site is adjacent to U.S. 1, describe the measures,
44 such as setbacks and access limitations, which have been
45 incorporated into the project design to reduce impacts upon U.S. 1;
- 46 6. Housing:

- 1 (i) If the project includes residential development, provide
2 breakdown of the proposed residential units by price range or rental
3 range and type of unit such as single-family, duplex, townhouse,
4 etc.;
- 5 (ii) If lots are to be sold without constructed dwelling units,
6 indicate the number and percentage of such lots and the extent of
7 improvements to be made prior to sale;
- 8 (iii) Assess the potential of the proposed development to meet local
9 or regional housing needs; in particular, indicate any measures taken
10 to provide low- and moderate-income housing;

11 7. Special considerations:

- 12 (i) Describe the relationship of the proposed development to the
13 comprehensive land use plan objectives and policies; also indicate
14 relationships between existing or proposed public facilities plans;
15 identify any conflicts;
- 16 (ii) Indicate any relationships of the project to special land use and
17 development district such as airport noise and hazard zones, solid or
18 liquid waste treatment or disposal areas;
- 19 (iii) If applicable, assess the impact of the proposed development
20 upon other adjacent or nearby municipalities or counties;

21 8. The data and information provided in a community impact statement
22 shall be coordinated with data and other information and/or permits required
23 by local, regional, state or federal regulatory or reviewing agencies as
24 appropriate to the major conditional use proposed.

25 (b) Review by the development review committee. An application for a major conditional use
26 permit shall be reviewed by the development review committee. Within 15 working days after
27 the submission of a complete application for a major conditional use permit, the development
28 review committee shall forward a report and recommendation on the application for a major
29 conditional use permit to the planning commission.

30 (c) Public hearing on an application for a major conditional use permit. The planning
31 commission shall hold a public hearing on the application for a major conditional use permit
32 and shall within 45 working days of the submission of a complete application for a major
33 conditional use permit to the ~~development review coordinator~~ planning director issue a
34 development order granting, granting with conditions or denying the application for a major
35 conditional use permit.

36 (d) Notice of grant of a major conditional use permit. The director of planning shall give
37 notice of any development order granting a major conditional use by sending a written notice
38 to all owners of real property located within 300 feet of the property that is the subject of the
39 major conditional use permit, and notice of the intent to issue the major conditional approval
40 shall be published in newspapers of local circulation in the county by advertisement other than
41 in the legal notice section with the cost to be borne by the applicant. Notice by the planning
42 director shall be by regular mail within 15 days of the granting of the major conditional use.

43 (e) Appeal of a conditional use approved by the planning commission. The applicant, an
44 adjacent property owner, or any aggrieved or adversely affected person, as defined by F.S. §
45 163.3215(2), or any person who presented testimony or evidence at the public hearing
46 conducted pursuant to subsection (c) of this section may request an appeal of the planning

1 commission's major conditional use decision under chapter 102, article VI, division 2 by filing
2 the notice required by that article within 30 days after the publication of notice or sending of
3 the written notice by the county, whichever is later.
4

5 **Sec. 110-71. Final development plan subsequent to approval of conditional use permit.**
6

7 (a) Purpose. The final development plan is a more detailed plan for implementation of an
8 approved conditional use.

9 (b) Authority. The final plan representing conditions placed by the planning commission and
10 required for development approval shall be submitted to the director of planning within 60 days
11 of the rendering of the development order for the conditional use permit. The final plan may be
12 submitted in phases if phases have been approved as part of approval at the time of major
13 conditional use approval.

14 (c) Application. An application for final development plan approval shall include the
15 information specified in a form provided by the director of planning.

16 (d) Staff review. If the ~~development review coordinator~~ planning director shall find that the
17 application is complete, the application shall be reviewed by a development review committee,
18 who shall submit a report to the director of planning and planning commission within 15
19 working days of the date of a determination that the application is complete.

20 (e) Final plan approval. Unless final development plan approval has been reserved to the
21 planning commission as a condition of approval of a conditional use permit or by the
22 provisions pertaining to that land use district, the director of planning, upon a finding of
23 conformity with the conditional use approval, shall prepare a report of his findings. If final
24 action of a final development plan has been reserved to the planning commission, the planning
25 commission shall hear it at a regularly scheduled meeting and upon the recommendation of the
26 planning director shall approve a final development plan if it is deemed to be in conformity
27 with conditional use approval. If the plan is not in conformity, the planning commission shall
28 return the final plan to the applicant with a written statement of the changes that would make
29 the final plan conform. The planning commission shall consider the final plan at a regularly
30 scheduled hearing when requested by the applicant. Any final plan rejected by the planning
31 commission shall be deemed null and void if not resubmitted within 180 days unless tolled by
32 the filing of an appeal under subsection (e)(2) of this section.

33 (1) A final plan shall be deemed to be in conformity if it:

34 a. Evidences development within the parameters established by the planning
35 commission in the prior approval of the conditional use as to the total number of
36 dwelling units proposed by type of structure and number of bedrooms;

37 b. Evidences development within the parameters established by the planning
38 commission as to the total number of nonresidential structures;

39 c. Evidences development within the parameters established by the planning
40 commission as to the total square feet of building floor area proposed;

41 d. Evidences development within the parameters established by the planning
42 commission as to the total land area devoted to residential uses, commercial uses,
43 public and private open space, streets, off-street parking and loading areas and other
44 impervious surfaces;

45 e. Evidences development within the parameters established by the planning
46 commission for floor area ratio by type of development;

- f. Evidences development within the parameters established in the prior approval of the conditional use permit for the number of off-street parking and loading spaces for each type of use;
- g. Evidences development that is consistent with the stated purpose of the land use district; and
- h. Evidences conformity to such other criteria and/or conditions as were established by the planning commission in the conditional use permit.

(2) The holder of an approved conditional use whose final development plan has been denied by the planning commission may request an appeal hearing before a hearing officer under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days of the date of the written denial of the planning commission

Sec. 110-73. Development under an approved conditional use permit.

(a) Effect of issuance of a conditional use approval. Approval for a conditional use shall be deemed to authorize only the particular use for which it is issued. A conditional use approval shall not be transferred to a successive owner without notification to the development review coordinator within five days of the transfer.

(1) Unless otherwise specified in the approved conditional use approval, application for a building permit shall be made within six months of the date of the approval of the conditional use, and all required certificates of occupancy shall be procured within two years of the date of issuance of the initial building permit, or the conditional use approval shall become null and void with no further action required by the county. Approval time frames do not change with successive owners. An extension of time may be granted only by the planning commission for a period not to exceed one year and only within the original period of validity. When a hearing officer has ordered a conditional use approval initially denied by the planning commission, the planning commission shall nonetheless have the authority to grant or deny a time extension under this section. If the planning commission denies a time extension, the holder of the conditional use may request an appeal of that decision under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days of the written denial of the planning commission.

(2) Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by this chapter, this Code, or regional, state and federal agencies and until the approved conditional use is recorded in accordance with section 110-72.

(b) Adjustments to approved conditional use approvals and inspection during development under a conditional use approval.

(1) Authorized. After a conditional use has been approved, adjustments may be approved for major or minor deviations as set forth in subsections (b)(3) and (b)(4) of this section.

(2) Inspections by department of planning. Following issuance of a conditional use approval, the director of planning shall review on a quarterly basis until the completion of the development all permits issued and construction undertaken, shall compare actual development and the approved plans and permits for development and the approved development schedule, if any, and shall report his findings in writing to the planning commission.

1 (3) Minor deviations. The director of planning may approve a minor deviation from the
2 final development plan and schedule. Minor deviations must be authorized in writing and
3 are subject to administrative appeal to the planning commission. Minor deviations that may
4 be authorized are those that appear necessary in light of technical and engineering
5 considerations brought to light by the applicant or the director of planning and shall be
6 limited to the following:

- 7 a. Alteration of the location of any road or walkway by not more than five feet;
- 8 b. Reduction of the total amount of open space by not more than five percent or
9 reduction of the yard area or open space associated with any single structure by not
10 more than five percent, provided that such reduction does not permit the required
11 open space to be less than that required by section 130-157; and
- 12 c. Alteration of the location, type or quality of required landscaping elements of
13 the conditional use permit.

14 (4) Major deviations. If the holder of an approved conditional use wishes to make an
15 adjustment to the approval that is not a minor deviation, approval of the planning
16 commission in accordance with the provisions of subsection (b)(5) of this section must be
17 obtained. If the director of planning finds that the development is not proceeding in
18 substantial accordance with the approved plans or schedule or that it fails in any other
19 respect to comply with the conditional use approval issued or any provision contained in
20 this chapter, that director shall immediately notify the ~~development review coordinator~~
21 planning director and the planning commission and may, if necessary for the protection of
22 the public health, safety or welfare, notify the building official to issue a temporary order
23 stopping any and all work on the development until such time as any noncompliance is
24 cured. No action may be taken by the planning commission that effectively amends the
25 conditional use approval except by way of the procedures set out in section 110-70.

26 (5) Action by the planning commission. Within 30 working days following notification by
27 the director of planning that work is not proceeding in substantial accordance with the
28 approved plans or schedule or in some other respect is not in compliance with the
29 conditional use approval, the commission shall:

- 30 a. Determine that action be taken to bring development into substantial
31 compliance;
- 32 b. Determine that the conditional use approval be revoked; or
- 33 c. Authorize adjustments to the approved conditional use approval when such
34 adjustments appear necessary in light of technical or engineering considerations
35 first discovered during actual development and not reasonably anticipated during
36 the initial approval process. Such adjustments shall be consistent with the intent and
37 purpose of the conditional use approval as permitted, and shall be the minimum
38 necessary to overcome the particular difficulty. No adjustment shall be inconsistent
39 with the requirements of this chapter. Prior to considering action on such
40 adjustments, the planning commission shall make inquiry of any person having
41 information that may relate to the basis for consideration of an adjustment, but shall
42 act as promptly and as expeditiously as possible. If the planning commission
43 determines that an adjustment is necessary, it may, without public hearing, approve
44 the following adjustments, provided that such adjustments do not have the effect of
45 reducing the open space required under the provisions of section 130-157:

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

- 1. Alteration of the bulk regulations for any one structure by not more than five percent;
- 2. Alteration of the location of any one structure or group of structures by not more than ten feet; and
- 3. Alterations of such other requirements or conditions as were imposed in the approval of the conditional use or in approval of the final development plan by not more than five percent or, in the case of location, a variation of not more than ten feet from the location approved in the final plan, so long as in all cases such adjustments are in accord with the parameters established in the conditional use approval.

d. In the event the building official has issued a temporary order stopping work as provided for herein, the planning commission shall, within 30 working days from the date of the issuance of the temporary order:

- 1. Proceed to revoke the conditional use approval; or
- 2. Overrule the action of the building official, in which case the temporary order shall immediately become null and void.

(6) Appeal before hearing officer. The holder of a conditional use approval aggrieved by the decision of the planning commission made pursuant to subsection (b)(5) of this section may request an appeal before a hearing officer under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days of the date of the written decision of the planning commission.

(c) Other adjustments. Any other adjustments or changes not specified in subsection (b) of this section shall be granted only in accordance with procedures for original approval of a conditional use, as set forth in section 110-63 et seq.

(d) Inspections after development.

(1) Inspections by planning department. Following completion of the development of a conditional use, the planning department shall review the development for compliance with the use as approved. If it is determined that the conditional use has been developed in accordance with the approval, then a certificate of occupancy shall be issued in accordance with section 6-145. If the director of planning finds that the development, as completed, fails in any respect to comply with the use as approved, he shall immediately notify the building official, the ~~development review coordinator~~ planning director, the planning commission, the board of county commissioners, and the applicant of such fact. The building official shall not issue a certificate of occupancy pursuant to section 6-145 until the planning commission has acted on the planning director's notification of noncompliance. ~~per~~

(2) Action by planning commission. Within 30 working days following notification by the director of planning, the commission shall:

- a. Recommend that the finding of the director of planning be overruled;
- b. Recommend to the applicant modifications in the development to bring it into accord with the terms and provisions of the final plan approval and the conditional use permit; or
- c. Revoke the conditional use permit, as well as all prior approvals and related or resulting permits.

(3) Appeal before hearing officer. The holder of a conditional use approval aggrieved by the decision of the planning commission pursuant to subsection (b)(5) of this section may

1 request an appeal before a hearing officer under chapter 102, article VI, division 2 by filing
2 the notice required by that article within 30 days of the date of the written decision of the
3 planning commission
4

5 **Sec. 110-98. Preliminary plat approval.**
6

7 (a) Generally. All applicants for approval of a plat involving five or more lots shall submit a
8 preliminary plat for approval in accordance with the provisions of this section.

9 (b) Application. An application for preliminary approval shall be submitted to the
10 ~~development review coordinator~~ planning director in accordance with the provisions of this
11 section, accompanied by a nonrefundable fee as established from time to time by the board of
12 county commissioners. The application shall contain the information required on a form
13 provided by the director of planning.

14 (c) Staff review. After a determination that the application for preliminary plat approval is
15 complete under the provisions of section 110-4, the ~~development review coordinator~~ planning
16 director shall submit the application to the development review committee, which shall prepare
17 a recommendation and report for the commission.

18 (d) Public hearing and action by the planning commission. The planning commission shall
19 conduct a public hearing on an application for preliminary plat approval of a subdivision
20 involving five or more lots, in accordance with the requirements of sections 110-6 and 110-7.
21 The commission shall review such applications, the recommendation of the development
22 review committee, and the testimony at the public hearing, and shall recommend granting
23 preliminary plat approval, granting approval subject to specified conditions, or denying the
24 application at its next meeting following submittal of the report and recommendation of the
25 development review committee.

26 (e) Effect of approval of preliminary plat. Approval of a preliminary plat shall not constitute
27 approval of a final plat or permission to proceed with development. Such approval shall
28 constitute only authorization to proceed with the preparation of such documents as are required
29 by the director of planning for a final plat.

30 (f) Limitation on approval of preliminary plat. An application for final plat approval shall be
31 filed within one year of the date of preliminary plat approval. Unless an extension is granted by
32 the board of county commissioners, failure to file such an application automatically shall
33 render null and void the preliminary approval previously granted by the board.
34

35 **Sec. 110-99. Final plat approval.**
36

37 (a) Generally. All applicants for approval of a plat shall submit a final plat for approval in
38 accordance with the provisions of this section.

39 (b) Application. It shall be the responsibility of the developer to complete, have in final form,
40 and submit to the ~~development review coordinator~~ planning director for final processing the
41 final plat, along with all final construction plans, required documents, exhibits, legal
42 instruments to guarantee performance, certificates properly executed by all required agencies
43 and parties as required in this article, and the recording fee, and any other documents or
44 information as are required by the director of planning. After receipt of a complete application
45 for final plat approval, as determined in accordance with section 110-4, the ~~development~~

1 ~~review coordinator~~ planning director shall submit the application and accompanying
2 documents to the development review committee.

3 (c) Review and action by development review committee. The development review
4 committee shall review all applications for final plat approval.

5 (1) If the committee determines that a final plat for a subdivision involving fewer than
6 five lots conforms to the substantive and procedural requirements of this chapter, the
7 committee shall approve the final plat or approve it with conditions at its next regular
8 meeting 15 working days after receipt of a complete application from the ~~development~~
9 ~~review coordinator~~ planning director, or as soon thereafter as practical. Final plats that are
10 approved by the committee shall be placed on the consent agenda of the next regularly
11 scheduled meeting of the board of county commissioners and shall become final unless
12 removed from the consent agenda by the affirmative vote of three members of the board. If
13 a final plat is removed from the consent agenda, the board shall not modify or reject the
14 decision of the committee unless the board finds that the record does not contain competent
15 substantial evidence to support approval. If the committee denies final plat approval, the
16 applicant may appeal such denial to the board, which shall consider the application and any
17 additional testimony submitted by the applicant and other persons and shall approve the
18 final plat, approve it with conditions, or deny final plat approval.

19 (2) For a final plat for a subdivision involving five or more lots, if the plat conforms to the
20 approved preliminary plat and the substantive and procedural requirements of this chapter,
21 at its next regular meeting or as soon as practical after receipt of a complete application, the
22 development review committee shall recommend to the planning commission approval of
23 the final plat or approval with conditions. If the committee finds that the plat does not
24 substantially conform to the approved preliminary plat or the substantive and procedural
25 requirements of this chapter, the committee shall recommend denial, specifying the area of
26 nonconformity.

27 (d) Review and action by the planning commission. The planning commission shall review all
28 applications for final plat approval involving five or more lots and the recommendation of the
29 development review committee. If the commission finds that the final plat conforms to the
30 approved preliminary plat and the substantive and procedural requirements of this chapter, and
31 commission shall recommend to the board of county commissioners approval of the final plat,
32 or approval with specified conditions, and shall submit a report and written findings in
33 accordance with section 110-7.

34 (e) Public hearing by the board of county commissioners. The board of county commissioners
35 shall conduct a public hearing on all applications for final plat approval involving five or more
36 lots in accordance with the procedures of section 110-6(c).

37 (f) Action by the board of county commissioners. For proposed subdivisions involving five or
38 more lots, the board of county commissioners shall review the application, the
39 recommendations of the development review committee and the planning commission, and the
40 testimony at the public hearing, and shall grant final plat approval, grant approval subject to
41 specified conditions, or deny the application, in accordance with the provisions of section 110-
42 7.

1 IV RECOMMENDATION

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

11
12 Therefore, staff recommends that the Board of County Commissioners amend the
13 Monroe County Code as stated in the text of this staff report.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

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

From: Joseph Haberman, AICP, Principal Planner *J.H.*

Date: October 23, 2009

Subject: *Proposed Ordinance to the Board of County Commissioners to amend the
Monroe County Code Section 110-3, Preapplication conference*

Meeting: November 3, 2009

1
2 I REQUEST

3
4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §110-3 of the Monroe County Code. The purpose of the proposed amendment is to
6 eliminate references to the obsolete position of development review coordinator, reassign
7 those responsibilities and duties of the development review coordinator to the planning
8 director and amend the timeframe in which a letter shall be mailed to the applicant.
9

10 II RELEVANT PRIOR COUNTY ACTIONS:

11
12 At the October 7, 2009 public hearing, members of the planning commission recommended
13 that staff review the entire land development code and remove all references to the now
14 obsolete position of "development review coordinator". This recommendation followed
15 staff's request to amend §102-21. Among other proposed amendments to §102-21, staff
16 recommended that §102-21(c) be deleted due to the fact that the position of development
17 review coordinator has been eliminated in the Planning & Environmental Resources
18 Department.
19

20 III REVIEW

21
22 The current text within the Land Development Code describing the functioning of the Planning
23 & Environmental Resources Department is outdated. Concerning the development review
24 coordinator position, the position of development review coordinator has been eliminated in
25 the department. All responsibilities of the position have been assumed by the Director of
26 Planning and the Principal Current Planner. Therefore, staff is recommending that the section
27 be amended to replace "development review coordinator" with "planning director".
28

29 The current text within the Land Development Code providing the timeframe in which a letter
30 of understanding shall be mailed to an applicant is outdated and does not reflect current
31 practice. Upon review, staff has found that the department is not always able to mail letters of

1 understanding to applicants within the stated five (5) day timeframe. Although many letters of
2 understanding are mailed to the applicant within five (5) days, other applications involve very
3 complex and multifaceted projects that require more time for staff to review and consider how
4 the county's regulations shall be applied and/or interpreted. A more realistic and feasible
5 timeframe, that remains fair and timely to the applicant, is required. In addition, language is
6 required that provides for circumstances in which staff has to await the submittal of additional
7 information prior to issuing a letter of understanding.
8

9 NOTE: The references to the development review coordinator in other sections is already being
10 addressed and corrected in other text amendment applications in progress.
11

12 (deletions are ~~stricken through~~ and additions are underlined):
13

14 **Sec. 110-3. ~~Preapplication~~ Pre-application conference.**
15

16 An applicant for development approval may request ~~in writing a preapplication~~ pre-application
17 conference with ~~the development review coordinator~~ planning department staff by submitting
18 an application to the planning department. Prior to the conference, the applicant shall provide
19 to the ~~development review coordinator~~ planning department with a description of the proposed
20 development including its character, location and magnitude ~~of the proposed development~~. The
21 purpose of this ~~meeting conference~~ is to acquaint the participants with the requirements of
22 ~~these~~ the land development regulations, applicable comprehensive plan policies and the views
23 and concerns of the county. The substance of the ~~preapplication~~ pre-application conference
24 shall be recorded in a letter of understanding prepared by ~~the development review coordinator~~
25 planning department staff and signed by the ~~director of planning~~ planning director. The letter
26 shall be mailed to the applicant within ~~five working~~ 30 days after the conference, except under
27 circumstances when additional information or materials is required by planning department
28 staff following the conference and the planning director cannot issue a letter until all required
29 information is submitted and reviewed. The letter ~~of understanding~~ shall set forth the subjects
30 discussed at the conference and the county's position in regard to the subject matters discussed.
31 The applicant shall be entitled to rely upon representation made at the conference only to the
32 extent such representations are set forth in the letter ~~of understanding~~. A letter of
33 understanding shall not provide any vesting to requirements and regulations. The development
34 shall be required to be consistent with all goals, objectives and standards at the time of
35 development approval. The planning director acknowledges that all items required as a part of
36 the application for development approval may not have been addressed at the conference, and
37 consequently reserves the right for additional comment.
38

39 **IV RECOMMENDATION**
40

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

1 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
2 the proposed text amendments are necessary due to new issues.

3
4 Therefore, staff recommends that the Board of County Commissioners amend the
5 Monroe County Code as stated in the text of this staff report.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

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

From: Joseph Haberman, AICP, Principal Planner *C.*

Date: October 23, 2009

Subject: *Proposed Ordinance to the Board of County Commissioners to amend the
Monroe County Code Section 130-189, Applicability of required yards*

Meeting: November 3, 2009

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §130-189 of the Monroe County Code. The purpose of the proposed amendment is to
6 amend as-of-right development that may exist in the required non-shoreline setbacks.
7

8 II RELEVANT PRIOR COUNTY ACTIONS:
9

10 None applicable.
11

12 III REVIEW
13

14 There is a countless number of properties on which there is existing impervious surfaces, such
15 pavers, concrete and asphalt, that are nonconforming to the non-shoreline setback
16 requirements. These nonconforming structures are only allowed to continue and be replaced in
17 accordance with the nonconformity and substantial improvement regulations of the land
18 development code. In addition, several property owners have applied for building permits to
19 have new impervious surfaces installed within the required non-shoreline setbacks. All of
20 these property owners were required to modify their plans, with the exception of those who
21 applied for and were granted variances to allow the development in the setback.
22

23 Following the issuance of several variances, staff reviewed the necessity of regulations limiting
24 impervious surfaces in the required setbacks. Upon review, staff found that many of these
25 requests concerned the establishment of impervious walkways to access the rear of the yard.
26

27 The land development code's existing regulations allow pervious walkways in required
28 setbacks. Since these walkways already exist and are often needed for access, staff has
29 determined that allowing impervious walkways would not adversely impact community
30 character or create a nuisance to adjacent property owners if surface water management issues
31 can be addressed. Therefore, staff is recommending amendments to §130-189 to allow

1 walkways of industry standard width in side and front yards (note: impervious areas are already
2 permitted in the required rear yard and shoreline setback if all open space and surface water
3 management regulations are met).
4

5 Also, following a review of the land development code, staff found that the existing language
6 does not specifically allow driveways in the front yard. For obvious reasons, in most cases,
7 driveways have to be located in the required front yard setback. Therefore, staff is
8 recommending amendments to §130-189 to allow expressly allow driveways in front yards.
9

10 Also, following a review of administrative interpretations, staff found that there has been a
11 long standing administrative interpretation that allows one (1) required off-street parking space
12 to be located in the required front yard of a “small residential lot” [Administrative
13 Interpretation No. 01-121, first approved by Marlene Conaway, former Director of Planning,
14 on November 2, 2001 and later re-approved by Aref Joulani, former Director of Planning, in
15 2006). This interpretation is relied upon by many property owners and builders; however it
16 does not define “small” and therefore is subjective. In other sections of the land development
17 code, small lots are defined as those consisting of less than 4,000 ft² of land area. In addition,
18 there is some concern that this interpretation does not interpret ambiguous language in the land
19 development code and that it in fact amends the language of the code to permit something
20 otherwise prohibited. Therefore, in order to provide relief to owners of small residential lots
21 and eliminate a controversial interpretation, staff is recommending amendments to §130-189 to
22 allow the parking of one (1) licensed vehicle in the front yard of a small residential lot of less
23 than 4,000 ft².
24

25 As a note: the City of Marathon expressly allows driveways, which may include a turnaround
26 area, and walkways not to exceed five (5) feet in side and front yards [reference: City of
27 Marathon Code §107.36].
28

29 (deletions are ~~stricken through~~ and additions are underlined):
30

31 **Sec. 130-189. Applicability of required yards.**
32

33 (a) When a bufferyard is required under the provisions of chapter 114, article V, compliance
34 with the bufferyards standards shall relieve the necessity of complying with the yard
35 provisions set forth in section 130-186 if such bufferyard is greater than the applicable yard
36 requirements.
37

38 (b) All development shall be setback from shorelines as required in section 118-12.
39 Compliance with the shoreline setback shall relieve the necessity of complying with the yard
40 provisions set forth in section 130-186.
41

42 (c) Front yard non-shoreline requirements shall be as follows:

43 (1) Access drives and driveways, as permitted in sections 114-195 through 114-201, are
44 permitted in the required front yard setback.

45 (2) Sidewalks as permitted in section 114-14 and walkways of five (5) feet or less in
46 width are permitted in the required front yard setback.

1 (3) In no event shall the total combined area of all accessory structures occupy more than
2 60 percent in any one of the required front yard setbacks.

3 (4) On residential lots of less than 4,000 square feet in land area, one (1) of the required
4 off-street parking spaces may be located in the driveway within the front yard setback.
5 Any vehicle utilizing this off-street parking space shall be properly licensed and operable.

6 (5) Signs, as permitted in chapter 142, are permitted in the required front yard setback.

7 (d)(e) Rear yard non-shoreline requirements for residential dwellings that are not on the
8 shoreline (dry lots) shall be as follows:

9 (1) Accessory structures, as defined in section 101-1, not exceeding 18 inches in height,
10 are permitted within the required rear yard setback only if the development is engineered
11 so that all stormwater runoff from the development can be contained onsite.

12 (2) Accessory structures to a maximum of 12 feet in height shall may be setback set back
13 a minimum of ten 10 feet from the rear property line.

14 (3) No use within the rear yard shall extend into ~~the a~~ a required side yard setbacks setback
15 unless otherwise permitted in section 130-189(e).

16 (4) In no event shall the total combined area of all accessory structures occupy more than
17 60 percent of the required rear yard setbacks.

18 (e) Side yard non-shoreline requirements for residential dwellings shall be as follows:

19 (1) Accessory structures, as defined in section 101-1 and excluding swimming pools, not
20 exceeding four (4) inches in height are permitted within the required side yard setback
21 only if the development is engineered so that all stormwater runoff from the development
22 can be contained onsite.

23 (2) No use within the side yard shall extend into a required front yard setback unless
24 otherwise permitted in section 130-189(c) or a required rear yard setback unless
25 otherwise permitted in section 130-189(d).

26 (3) In no event shall the total combined area of all accessory structures occupy more than
27 60 percent in any one of the required side yard setbacks.

28 29 IV RECOMMENDATION

30
31 Staff has found that the proposed text amendment would be consistent with the provisions of
32 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
33 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
34 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
35 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
36 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
37 the proposed text amendments are necessary due to new issues and a recognition of a need
38 for additional detail or comprehensiveness

39
40 Therefore, staff recommends that the Board of County Commissioners amend the
41 Monroe County Code as stated in the text of this staff report.