



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: The Monroe County Development Review Committee

Through: Emily Schemper, AICP, Senior Director of Planning & Environmental Resources

From: Michael Roberts, Assistant Director/Environmental Resources

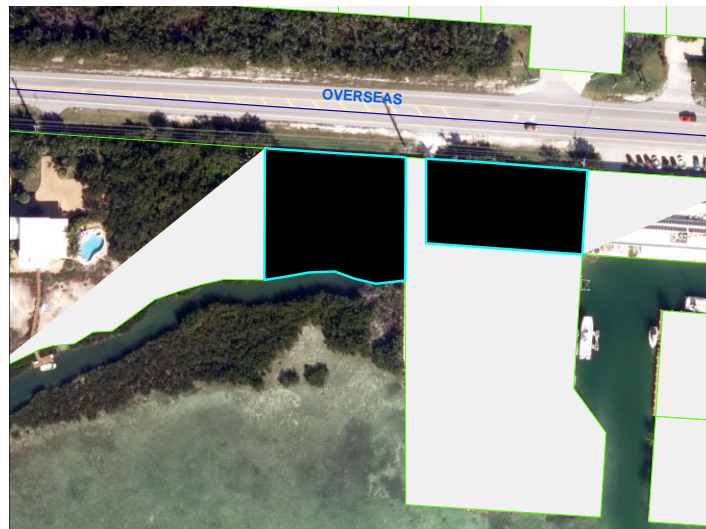
Date: February 24, 2023

Subject: *Request for an Amendment to the Monroe County Tier Overlay District Map from Tier III-A to Tier III, by Maciej Jarzebowski, for 24100 and 24150 Overseas Hwy, Lots 2 and 3 as shown on the Amended Plat of Dobie's Subdivision, Plat Book 2 Page 135, Summerland Key, having Parcel ID Number 00188710-000000; and for a Portion of Lot 1, Dobie's Subdivision, Plat Book 2 Page 95 and a Portion of Lot 21, Block 2, Summerland Cove, Addition 2, Plat Book 4 Page 100, Summerland Key, having Parcel ID Number 00190940-000200; approximate mile marker 24.1.*

Meeting: March 28, 2023

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2 **I REQUEST**

3 Agent Lori Thompson and Don Craig, of Spottswood, Spottswood, Spottswood & Sterling,
4 PLLC, on behalf of Maciej Jarzebowski, property owner, is requesting to amend the Tier
5 Overlay District designation from Tier III-A to Tier III, for 24100 and 24150 Overseas Hwy,
6 Summerland Key - Lots 2 and 3 as shown on the Amended Plat of Dobie's Subdivision, Plat
7 Book 2 Page 135, having Parcel ID Number 00188710-000000; and for a Portion of Lot 1,
8 Dobie's Subdivision, Plat Book 2 Page 95 and a Portion of Lot 21, Block 2, Summerland Cove,
9 Addition 2, Plat Book 4 Page 100, having Parcel ID Number 00190940-000200.
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11
12 Subject Parcels (outlined in blue) (2022)

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2 **II BACKGROUND INFORMATION & RELEVANT PRIOR COUNTY ACTIONS**

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4 **Site Information**

5 **Address:** 24100 OVERSEAS Hwy, SUMMERLAND KEY
6 24150 OVERSEAS Hwy, SUMMERLAND KEY

7 **Legal Description:**

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9 Lots 2 and 3 as shown on the Amended Plat of Dobie’s Subdivision, Plat Book 2 Page 135,
10 Summerland Key, having Parcel ID Number 00188710-000000

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12 A Portion of Lot 1, Dobie’s Subdivision, Plat Book 2 Page 95 and a Portion of Lot 21, Block
13 2, Summerland Cove, Addition 2, Plat Book 4 Page 100, Summerland Key, having Parcel ID
14 Number 00190940-000200

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16 **Parcel ID Numbers:** 00188710-000000; 00190940-000200

17 **Applicant/Agent:** Lori Thompson and Don Craig,
18 Spottswood, Spottswood, Spottswood & Sterling, PLLC

19 **Owner:** Maciej Jarzebowski

20 **Size of Site:** 00188710-000000 (25,943 square feet)

21 00190940-000200 (18.858 square feet)

22 **Land Use District(s):** IS (Improved Subdivision)

23 **FLUM Designation:** RM (Residential Medium)

24 **Tier Designation:** III-A

25 **Flood Zone:** AE-10, AE-11

26 **Existing Use:** Vacant

27 **Existing Vegetation / Habitat:** Scarified, cleared land

28 **Community Character of Immediate Vicinity:** The subject parcels are vacant scarified lots
29 immediately west of Mote Marine Lab and Summerland Key Marina. The parcels to the south
30 and west of the subject lots consist of oceanfront estate homes.

31
32 **Previous County Action**

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34 The Monroe County Board of County Commissioners adopted Ordinances 08-2006, 09-2006,
35 10-2006, 11-2006 and 13-2006 in March of 2006.

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37 **Community Meeting**

38 A Community Meeting was held virtually on Monday February 13, 2023.

39
40 **DRC Review**

41 The request is scheduled to be reviewed by the Development Review Committee (DRC) on
42 March 28, 2023.

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44 **PC Review**

45 The requested amendment has not been scheduled for Planning Commission at this time. The
46 earliest Planning Commission hearing date will be April 26, 2023.

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III PROPOSED AMENDMENT

Request to amend the Tier Overlay District designations for Parcels # 00188710-000000 and 00190940-000200.



Existing Tier



Proposed Tier

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IV Review of Amendment

Monroe County 2030 Comprehensive Plan Policy 205.1.1 provides the criteria for the designation of Tier III-A (Special Protection Areas):

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Objective 205.1

Monroe County shall maintain the Tier Overlay District Maps as required in Policy 105.2.2. [F.S. § 163.3177(6)d.2.d., h.]

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Policy 205.1.1

The County shall establish the following criteria, at a minimum, to use when designating Tiers: [F.S. § 163.3177(6)d.2.d., h.]

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1. Land located outside of Big Pine Key and No Name Key shall be designated as Tier I based on following criteria:
 - Natural areas including old and new growth upland native vegetated areas, above 4 acres in area.
 - Vacant land which can be restored to connect upland native habitat patches and reduce further fragmentation of upland native habitat.
 - Lands required to provide an undeveloped buffer, up to 500 feet in depth, if indicated by appropriate special species studies, between natural areas and development to reduce secondary impacts; canals or roadways, depending on size may form a boundary that removes the need for the buffer or reduces its depth.

- 1 • Lands designated for acquisition by public agencies for conservation and natural
2 resource protection.
- 3 • Known locations of threatened and endangered species.
- 4 • Lands designated as Conservation and Residential Conservation on the Future Land
5 Use Map or within a buffer/restoration area as appropriate.
- 6 • Areas with minimal existing development and infrastructure.
- 7 2. Lands on Big Pine Key and No Name Key designated as Tier I, II, or III shall be in
8 accordance with the wildlife habitat quality criteria as defined in the Habitat Conservation
9 Plan for those islands.
- 10 3. Lands located outside of Big Pine Key and No Name Key that are not designated Tier I
11 shall be designated Tier III.
- 12 4. Designated Tier III lands located outside of Big Pine Key and No Name Key with tropical
13 hardwood hammock or pinelands of one acre or greater in area shall be designated as
14 Special Protection Areas.
- 15 5. Lands within the Ocean Reef planned development shall be excluded from any Tier
16 designation..

17 The subject parcel does not meet the criteria for Tier III-A. As required by Comprehensive Plan
18 Policy 205.1.1 and Land Development Code Section 130-130(b)(2), lands that are not designated
19 Tier I shall be designated Tier III.

20 130-130:

- 21 (c) Tier boundary criteria, excluding Big Pine Key and No Name Key. The tier boundaries are
22 designated using aerial photography, data from the Florida Keys Carrying Capacity Study,
23 the endangered species maps, property and permitting information and field evaluation.
24 The following criteria, at a minimum, are used to evaluate upland habitats and designate
25 boundaries between different tier overlays:
 - 26 2. Lands located outside of Big Pine Key and No Name Key that are not designated tier
27 I shall be designated tier III.
 - 28 a. The following conditions shall constitute a break in pinelands or tropical hardwood
29 hammock for calculating the one-acre minimum patch size for designation of tier
30 III-A boundaries:
 - 31 1. U.S. Highway 1, canals and open water;
 - 32 2. Any disturbed pinelands or tropical hardwood hammock with invasive
33 coverage of 40 percent or more;
 - 34 3. Property lines of developed lots or vacant lots with a ROGO allocation
35 award or an issued building permit, as of September 28, 2005, located
36 within a Land Use District that allows only one unit per lot; or
 - 37 4. Property lines of developed parcels of less than 10,000 square feet in area
38 with a ROGO/NROGO allocation award or issued building permit, as of
39 September 28, 2005, located within a Land Use District that allows
40 residential development of more than one dwelling unit per parcel/lot or
41 non-residential development.
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1 *Based on the above, staff finds that the appropriate Tier Overlay District designation for the*
2 *subject parcel is Tier III.*

3 **Consistency of the proposed amendment with the provisions and intent of the Monroe**
4 **County Land Development Code:**

5 **Staff has determined that the proposed tier overlay district (zoning) map amendment is**
6 **not inconsistent with the provisions and intent of Section 130-130 of the Monroe County**
7 **Land Development Code.**

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9 **Sec. 130-130. – Tier Overlay District**

10 (a) **Purpose.** The purpose of the tier overlay district is to designate geographical areas
11 outside of the mainland of the county, excluding the Ocean Reef planned development,
12 into tiers to assign ROGO and NROGO points, determine the amount of clearing of
13 upland native vegetation that may be permitted, and prioritize lands for public
14 acquisition. The tier boundaries are to be depicted on the tier overlay district map.
15 Lands on Big Pine Key and No Name Key shall be delineated as tier I, II, or III. Lands
16 in the remainder of the unincorporated county, excluding the Ocean Reef planned
17 development, shall be delineated as tier I, III, and III-A (special protection area).

18 (b) **Tier boundaries.** Tier boundaries shall follow property lines wherever possible,
19 except where a parcel line or distinct geographical feature, such as a canal or roadway,
20 may be more appropriate.

21
22 (c) **Tier boundary criteria, excluding Big Pine Key and No Name Key.** The tier
23 boundaries are designated using aerial photography, data from the Florida Keys
24 Carrying Capacity Study, the endangered species maps, property and permitting
25 information and field evaluation. The following criteria, at a minimum, are used to
26 evaluate upland habitats and designate boundaries between different tier overlays:

27
28 (1) Tier I boundaries shall be delineated to include one or more of the following criteria
29 and shall be designated tier I:

- 30 a. Vacant lands which can be restored to connect upland native habitat patches
31 and reduce further fragmentation of upland native habitat.
32 b. Lands required to provide an undeveloped buffer, up to 500 feet in depth, if
33 indicated as appropriate by special species studies, between natural areas and
34 development to reduce secondary impacts. Canals or roadways, depending on
35 width, may form a boundary that removes the need for the buffer or reduces its
36 depth.
37 c. Lands designated for acquisition by public agencies for conservation and
38 natural resource protection.
39 d. Known locations of threatened and endangered species, as defined in section
40 101-1, identified on the threatened and endangered plant and animal maps or
41 the Florida Keys Carrying Capacity Study maps, or identified in on-site
42 surveys.
43 e. Conservation, native area, sparsely settled, and offshore island land use
44 districts.

- 1 f. Areas with minimal existing development and infrastructure.
- 2 (2) Lands located outside of Big Pine Key and No Name Key that are not designated
- 3 tier I shall be designated tier III.
- 4 a. The following conditions shall constitute a break in pinelands or tropical
- 5 hardwood hammock for calculating the one-acre minimum patch size for
- 6 designation of tier III-A boundaries:
- 7 1. U.S. Highway 1, canals and open water;
- 8 2. Any disturbed pinelands or tropical hardwood hammock with invasive
- 9 coverage of 40 percent or more;
- 10 3. Property lines of developed lots or vacant lots with a ROGO allocation
- 11 award or an issued building permit, as of September 28, 2005, located
- 12 within a Land Use District that allows only one unit per lot; or
- 13 4. Property lines of developed parcels of less than 10,000 square feet in
- 14 area with a ROGO/NROGO allocation award or issued building permit,
- 15 as of September 28, 2005, located within a Land Use District that allows
- 16 residential development of more than one dwelling unit per parcel/lot or
- 17 non-residential development.
- 18

19 **Consistency of the proposed amendment with the Principles for Guiding Development in the**

20 **Florida Keys Area of Critical State Concern pursuant to F.S. Chapter 380.0552(7).**

21

22 For the purposes of reviewing consistency of the Land Development Code or any amendments

23 to the Code with the principles for guiding development and any amendments to the principles,

24 the principles shall be construed as a whole and no specific provision shall be construed or

25 applied in isolation from the other provisions.

26

27 (a) To strengthen local government capabilities for managing land use and development so

28 that local government is able to achieve these objectives without the continuation of the

29 area of critical state concern designation.

30 (b) To protect shoreline and marine resources, including mangroves, coral reef formations,

31 seagrass beds, wetlands, fish and wildlife, and their habitat.

32 (c) To protect upland resources, tropical biological communities, freshwater wetlands,

33 native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges

34 and beaches, wildlife, and their habitat.

35 (d) To ensure the maximum well-being of the Florida Keys and its citizens through sound

36 economic development.

37 (e) To limit the adverse impacts of development on the quality of water throughout the

38 Florida Keys.

39 (f) To enhance natural scenic resources, promote the aesthetic benefits of the natural

40 environment, and ensure that development is compatible with the unique historic character

41 of the Florida Keys.

42 (g) To protect the historical heritage of the Florida Keys.

43 (h) To protect the value, efficiency, cost-effectiveness, and amortized life of existing and

44 proposed major public investments, including:

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

11 (i) To limit the adverse impacts of public investments on the environmental resources of
12 the Florida Keys.

13 (j) To make available adequate affordable housing for all sectors of the population of the
14 Florida Keys.

15 (k) To provide adequate alternatives for the protection of public safety and welfare in the
16 event of a natural or manmade disaster and for a post disaster reconstruction plan.

17 (l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and
18 maintain the Florida Keys as a unique Florida resource.

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

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27 **In accordance with MCC §102-158(d)(5)., the BOCC may consider the adoption of an**
28 **ordinance enacting the proposed change based on one or more of the following factors:**

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30 1. *Changed projections (e.g., regarding public service needs) from those on which the text or*
31 *boundary was based;*
32 **NA**

33
34 2. *Changed assumptions (e.g., regarding demographic trends);*
35 **NA**

36
37 3. *Data errors, including errors in mapping, vegetative types and natural features described*
38 *in Volume 1 of the Year 2010 Comprehensive Plan;*
39 **The Tier Designation of III-A is not consistent with the criteria of Comprehensive**
40 **Plan Policy 205.1.1. It appears that this area was designated in error.**

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42 4. *New issues;*
43 **NA**

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45 5. *Recognition of a need for additional detail or comprehensiveness; or*

1 **NA**

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3 6. *Data updates;*

4 **The physical characteristics of the property are not consistent with the Tier III-A**
5 **criteria contained in Section 130-130 of the Land Development Code and Policy**
6 **205.1.1 of the Comprehensive Plan.**

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8 7. *Impact on Community Character:*

9 **The Tier Overlay District designation is utilized to implement and score ROGO**
10 **applications, to steer growth and to establish clearing limits. While the proposed**
11 **change may result in a ROGO or NROGO allocation being issued sooner than**
12 **otherwise, the Tier designation will not impact community character. There are no**
13 **native upland habitats on either parcel. Likewise, the development of the subject lots**
14 **should not negatively impact the community character of the area.**

15
16 **V RECOMMENDATION**

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18 **Staff recommends approval of the proposed amendment as the parcels do not meet the**
19 **criteria for Tier III-A designation and is more appropriately designated Tier III in**
20 **accordance with criteria of Section 130-130(b)(2) of the Land Development Code.**

EXHIBIT I
TIER OVERLAY DISTRICT MAP AMENDMENT
PROPOSED TIER OVERLAY DISTRICT DESIGNATION