

PLANNING COMMISSION
October 26, 2022

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Wednesday, October 26, 2022**, beginning at 10:02 a.m.

CALL TO ORDER by Chair Scarpelli

PLEDGE OF ALLEGIANCE

ROLL CALL by Ilze Aguila

PLANNING COMMISSION MEMBERS

Joe Scarpelli, Chair	Present
Ron Demes, Vice Chair	Present
George Neugent, Commissioner	Absent
David Ritz, Commissioner	Present
Rosemary Thomas, Commissioner	Present
Douglas Pryor, Ex-Officio Member (MCSD)	Absent
Christina Gardner, Ex-Officio Member (NASKW)	Absent

STAFF

Emily Schemper, Sr. Director of Planning and Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Mike Roberts, Assistant Director of Environmental Resources
Bradley Stein, Development Review Manager
Devin Rains, Planning and Development Permit Services Manager
Devin Tolpin, Principal Planner
Liz Lustberg, Senior Planner
Peter Morris, Assistant County Attorney
Patrick Stevens, Planning Commission Counsel
Ilze Aguila, Planning Commission Supervisor

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by Mr. Patrick Stevens.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Ilze Aguila confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

County staff was sworn in by Mr. Patrick Stevens.

CHANGES TO THE AGENDA

There were no changes to the agenda. However, due to not having a full Commission, applicants for Items 3 and 7 elected to have their items continued to the next meeting. Items 4, 5 and 6 were read together.

DISCLOSURE OF EX PARTE COMMUNICATIONS

None.

APPROVAL OF MINUTES

Motion: Commissioner Ritz made a motion to approve the August 24, 2022 meeting minutes. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

AGENDA ITEMS

1. ALBERT AND WANDA CASARETTO, 700 GROUPER LANE, KEY LARGO, MILE MARKER 95: A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE UP TO 18 FEET AND 1 INCH FROM THE FRONT YARD SETBACK REQUIREMENT SET FORTH IN SECTION 131-1 OF THE MONROE COUNTY LAND DEVELOPMENT CODE (LDC). APPROVAL WOULD RESULT A MINIMUM FRONT YARD SETBACK OF 6 FEET AND 11 INCHES, WITH OTHER PORTIONS OF THE STRUCTURE AT VARYING DISTANCES FROM THE FRONT PROPERTY LINE, IN ORDER TO CONSTRUCT A REPLACEMENT SINGLE FAMILY RESIDENCE ON THE SUBJECT PROPERTY. THE SUBJECT PROPERTY IS LEGALLY DESCRIBED AS THE SOUTHEAST ½ OF LOT 1, RAE'S CUDA CANAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 186, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA AND THE EAST FIVE (5) FEEL OF LOT 2, AND THE WEST ½ OF LOT 1, RAE'S CUDA CANAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 186, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00483470-000000. (FILE 2021-196)

(10:07 a.m.) Ms. Devin Tolpin, Principal Planner, presented the staff report. This item is a request for a variance to the front yard setback requirements for the property located at 700 Grouper Lane in Key Largo. The language states this request is up to 18 feet and one inch from the front yard setback because the single-family residence is architecturally designed so that different portions of the structure protrude at different distances from the front yard. The property is located in the IS zoning district, with approximately 9,626 square feet of upland, composed of a full platted lot plus five feet of the adjacent lot next door, and the front yard setback is measured along the entire front yard property line. Ms Tolpin had added a red "X" to indicate the extended front property line. County Code Section 131-1 requires a 25-foot front yard setback even from the red "X." The existing structure is a nonconforming 2,500 square foot single-family residence. The applicant is proposing to demolish the nonconforming residence

and construct a new single-family residence which will be in a larger configuration. Ms. Tolpin presented the site plan with areas circled in red where the distance protruded into the setback six feet and 11 inches, being the distance of the proposed stairway and overhang. The rest of the structure has distances such as 21 and 18 feet, varying throughout the structure. The Land Development Code authorizes the Planning Commission to grant a variance to the front yard setbacks if and only if the applicant is able to demonstrate that they meet all eight of the required criteria.

Staff completed a comprehensive review of this application and determined that the applicant has failed to meet three of the eight criteria. Ms. Tolpin presented an aerial used to calculate that the property has a buildable footprint of 3,315 square feet not located within the required setbacks. The property owner also has the ability to construct multiple floors. The applicant's reasoning for good and sufficient cause is that the parcel is atypical in configuration, has boundaries of water on two sides, as an expensive parcel it justifies a structure of fair width and size, and the variance will not affect any third party. Staff concluded that since the parcel has a buildable footprint of over 3,300 square feet with the ability to construct multiple floors, there was not good and sufficient cause for the requested variance. In looking at the site plan, it appears that the foundation of the proposed structure could fit within the boundaries of the code, as it is the requested overhangs and cantilevers that extend into the setbacks. Staff also found that failure to grant the variance would not result in an exceptional hardship to the applicant. A financial difficulty or hardship does not qualify as an exceptional hardship. It is evident that a home in similar configuration could be constructed without the requested variance. Staff also did not find that the variance is the minimum necessary to provide relief. The applicant states that the cost of demolition of the existing structure and building a new structure is justified only if the configuration to fit a suitable residence can be made. Staff has found that there are other ways to achieve the proposed or similar single-family residence and the variance is not the minimum necessary to provide relief to the applicant. Staff is recommending denial of the requested variance of 18 feet and one inch from the front yard setback which would result in a minimum front yard setback of six feet and 11 inches.

Mr. Peter Morris then qualified Ms. Tolpin as an expert in Planning. Ms. Tolpin has been a principal planner for Monroe County for approximately six years, with a master's in public administration, is a certified planner through the AICP, is a certified floodplain manager, and has previously been recognized as an expert before the Planning Commission. Ms. Tolpin was so recognized by the Commission.

Commissioner Ritz asked if the single-family lot on the other side of that property line designated by the red "X" was a buildable lot. Ms. Tolpin responded that she believes a house exists there. Commissioner Demes stated that he had driven up to see this lot and completely agrees with the staff report, and believes it doesn't go far enough. Regarding a threat to public health and safety, when he drove down the road he could not turn around. Anything to allow this road to narrow sends the wrong message as it is a very tight road for emergency vehicles which would have to back out the entire street. He would add that to the list of noncompliance items, and agrees this should be denied. Chair Scarpelli then asked to hear from the applicant.

Mr. Russell Yagel, representing the applicant, called Mr. Pete Eversol with Architectural Alliance in Fort Lauderdale as a witness, appearing via Zoom. Mr. Eversol stated that Dr. Casaretto is building this house for himself and is not a developer. He had been engaged initially to see if the existing structure could be renovated but it is a legal nonconforming structure with many setback violations, so the intent is to tear the house down and comply fully with the code. The existing structure is about four-and-a-half feet from the waterway on the south-facing side, has a perpendicular boat slip with a covered boat dock, all of which is noncompliant with today's code, along with being too close to the roadway and the side property. Mr. Eversol believes that the front setback goes from the property line along the public right-of-way back 25 feet, and they are asking for a reduction to 15 feet, which will be on the second and third floor, not on the ground floor, via cantilevers. This building will be further away from the roadway lifted up off the ground. So the variance is being asked for the second and third floor. Mr. Eversol explained that the planners are putting a point at the corner with the red "X" and drawing a 25-foot radius at that corner, to enforce that setback through the vast majority of the property. Though it's not specifically stated that way in the code, that is the planner's interpretation of it, rather than treating it as a secondary side setback. For purposes of measuring the setbacks on the neighboring property it would be treated as a side setback. Mr. Eversol did not believe it was relevant to the request because it's a deck on the second floor, and is not important to the overall design. The importance is to resolve the fundamental problem of having 75-foot deep site with a 50-foot setback, leaving a 25-foot buildable footprint which is not a reasonable number to work with. The proposed reconstruction would move the ground portion of the structure further from the roadway and bring this construction into complete conformity with the code with everything except for this one variance on the roadway side. The proposed structure size is within 300 square feet of the existing structure.

Ms. Emily Schemper, Senior Director of Planning and Environmental Resources, also being qualified as an expert in Planning, made a few follow-up comments. The buildable footprint for the house if all setbacks were complied with would be 3,300 square feet, and multiple stories would be more floor area. The previous structure on this site was approximately 2,500 in footprint and nonconforming to setbacks. Some relaxation of setbacks without a variance is allowed if the nonconforming structure is being rebuilt and by coming into compliance with all the setbacks you can't build the same square footage that was there previously. In this case, even meeting all the setbacks as interpreted by Planning, there is still 3,300 square feet of footprint to build within. On this street, all of the lots are the same depth so they all have the same front yard and shoreline setbacks. Some are nonconforming, but this was also analyzed in terms of a waiver. A waiver is an option that's an alternative to a variance, and that's allowed if it meets certain criteria in terms of other structures along the street already being nonconforming to that front-yard setback, and this still did not qualify. When there is a weird corner like this, the house to the right of the red "X" has a front setback from the end of the street. If that house was set back 25 feet from the front yard, but you then allowed the house around the corner parcel to only be set back five feet at the side setback and not 25 feet, this house would be 20 feet in front of the neighboring house. Ms. Schemper stands by this interpretation as it is regularly done this way. Mr. Peter Morris confirmed that Ms. Schemper had been accepted as an expert in Planning for the Commission, and confirmed that Ms. Schemper agreed with all of Ms. Tolpin's conclusions in the staff report.

Commissioner Ritz asked if the next door neighbor on the left as you're facing the street had complied with the front setback. Ms. Schemper responded that he appeared to be about 22 feet, and the next neighbor up the street appeared to comply. The waiver requires two properties on either side to qualify for the waiver. Chair Scarpelli asked if there were any further witnesses, and Mr. Yagel indicated there were none.

Commissioner Demes asked for the actual square footage of the existing house versus the proposed house. Mr. Eversol responded that the existing house is about 3,500 square feet, and the proposed is about 4,000. Commissioner Demes confirmed that the second floor would extend out further than the first floor and asked for the distance from grade to the bottom-most element of the second floor. Mr. Eversol did not know the answer off the top of his head but estimated nine to ten feet.

Chair Scarpelli, being an architect himself, agreed it can be tough dealing with these unique sites, which also allow for unique opportunities without having to break the rules. The rules are in place for multiple reasons. The existing structure is allowed to be improved up to 50 percent of the value of the structure as another option. There would be no reason to remove a nonconforming structure to create another nonconforming structure. Mr. Eversol responded that part of the goal was to move from nonconformity to conformity and they are basically being told to perpetuate the nonconformity which does not fulfill the overall Comp Plan considerations. The applicant recognizes the request is for a nonconformity but believes it is an improvement, particularly regarding shoreline setbacks. Overall, they are moving toward policy objectives by building this structure. Chair Scarpelli noted that by using "this will make the house better" allows anyone to say that for a variance because they have a unique site, and that is a slippery slope for the County.

Commissioner Ritz stated that initially he had thought this was pretty clear to deny and that the applicant could be encouraged to keep the existing structure and not break the 50-percent rule, but the neighbors would probably like that less than tearing this structure down and having one variance instead of four variances. Chair Scarpelli stated that was possible, but there was no real hardship that he could see. With 3,500 buildable square feet, that is potentially a 7,000 square foot house. Commissioner Ritz noted that it's a bowling alley. Chair Scarpelli added that lots with 50-foot frontage get reduced down to 35, and that this is 18 foot more. Asking for five feet would be more reasonable and would allow a 30-foot-wide building. Commissioner Demes agreed this is a slippery slope, because if the Commission goes down this road, they will go down the road over and over and over again. Chair Scarpelli agreed. Commissioner Demes stated that if you build new you should come into compliance. Chair Scarpelli thought requesting a more reasonable amount would have been a better route. Commissioner Thomas stated that she sees no hardship here whatsoever and is frankly dumbfounded as to why such a huge variance would be asked for in the first place. When someone purchases a lot, they know what the lot looks like and what the house on the lot looks like. She does not think this is warranted.

Commissioner Demes moved to disapprove, and Commissioner Thomas seconded. There was a raised hand for public comment. Commissioner Demes temporarily withdrew the motion to hear public comment.

Mr. Gary Gross, a neighbor of the Casarettos, considers himself the self-appointed block captain of Grouper Lane. He had sent out an email where most neighbors responded positively, and none responded negatively. The structure the Casarettos are trying to build would be a big improvement solving three nonconforming items to have just one minor nonconforming item. This may be a slippery slope but in this case it is worth it. The adjacent neighbor was an existing nonconforming structure recently rebuilt after Irma, so if it's not totally set back as well, that's the reason.

Motion: Commissioner Demes made a motion to approve the denial. Commissioner Thomas seconded the motion.

Roll Call: Commissioner Demes, Yes; Commissioner Thomas, Yes; Commissioner Ritz, Yes; Chair Scarpelli, Yes. The motion passed unanimously.

2. CHARLES G. MILLER SR, 457 DROST DR. CUDJOE KEY, MILE MARKER 21: A PUBLIC HEARING CONCERNING A REQUEST FOR A 5COP SFS ALCOHOLIC BEVERAGE USE PERMIT, WHICH WOULD ALLOW FOR BEER, WINE, AND LIQUOR FOR SALE BY THE DRINK (CONSUMPTION ON PREMISES) AND NO PACKAGE SALES. THE SUBJECT PROPERTY IS DESCRIBED AS LOT 6 AND 7 BLOCK 14 CUDJOE GARDENS THIRD ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 7, ALL OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00174590-000000. (FILE 2021-221)

(10:39 a.m.) Ms. Liz Lustberg, Senior Planner, presented the staff report. This application is to have an alcohol beverage use permit at a restaurant, and the alcohol beverage use will be for beer, wine and liquor for sale on premises and no package sales. Ms. Lustberg presented a site plan with the property outlined in blue. This is in Suburban Commercial zoning next to the marina, surrounded by the Improved Subdivision zoning of the neighborhood. Ms. Lustberg presented a concept of what the site plan could look like as, at this time, there is no approved site plan for the property. This is a concept with the restaurant, part of the seating, with parking and access under the next door lot, all under the same ownership and part of the same plat. The floor plan matches the permit for the most recent restaurant approval. Looking at this type of application there are five things that the Planning Commission is supposed to consider; the effect of such use on surrounding properties, the suitability of the premises, demands on utilities, et cetera, and compliance with restrictions, requirements and regulations. Staff finds all to be in compliance. On number three, the access, traffic generation, road capacity and parking requirements, while there is plenty of permit history for the restaurant, there is no permit history for the parking. Planning staff has a recommendation for a condition to address the parking moving forward. Staff recommends approval with conditions. The alcohol can only be served in areas approved for seating as a restaurant, the sanitary certification, the standard conditions and number five, the permit approval for parking must be issued, the work completed and the permit closed prior to Planning staff signature on the required Florida State form. This will get that piece of the requirement into compliance prior to Planning sign off.

Commissioner Demes asked to see the site plan again and asked for the current number of parking spaces. Ms. Lustberg responded that it specifies 14 car/truck, 11 motorcycle, 10 bike, and five boat. This is preliminary and not necessarily the site plan that would get approved, but

rather a concept to see what parking could look like. At this time parking is completely nonconforming and there has never been permit approval, so this would be the start for permit approval. At this time, there is no application for site work permits. Commissioner Demes stated that he had gone by this site this morning and there were about 12 parking bumpers along the two roads not counting the parking lot in the back, which would be about 25 spaces, and asked how many parking spaces were in the conceptual plan. Ms. Lustberg responded the total was 40, including motorcycle, scooter, bicycle and boat. Chair Scarpelli asked if the applicant wished to speak.

Ms. Carolyn Butler stated they have the building permit and are working with Planning to make the parking a compliant situation. Many restaurants in the Keys are not compliant with the alcohol standards and many have parking in the right-of-way. She is trying to push forward and the architect is working on the parking right now to bring it into conformity. They are awaiting the notes from this meeting to compel a sufficient drawing. Chair Scarpelli then asked for public comment.

Ms. Catherine Winters, representing the Cudjoe Gardens Property Owners Association, stated they are in full support and have been waiting a long time for this restaurant. This should be considered because it is within walking distance of the entire Gardens. There may be some traffic issues but as a whole, there are traffic issues on Drost now and they are working with the County on ways to resolve those.

Mr. Marcus Fels of Cudjoe Gardens is opposed to liquor license for serving hard alcohol. There are safety issues with Drost Drive as it's a narrow road. The restaurant is set really far back. There is a school bus stop out at Drost and U.S. 1 for the school kids, and there is also a bus stop. The parking proposed will increase neighborhood traffic pretty substantially. During business hours, there are 40 parking stalls and there will be that much increased traffic coming and going. According to the plan, with the boat traffic, the marina, public access for launching, having extra boat parking spaces in that tight lagoon with increased traffic will be interesting to say the least. People come in fueling, launching, loading, retail sales at the marina, the environmental impact with the lagoon and any washouts, and the extra traffic for the boats. The size of the bar has 17 barstools which is a lot. It's larger than the Square Grouper and they are always packed. That is on U.S. 1 and this is in a residential area. There are more and more children in the neighborhood versus the way it used to be. Mr. Fels supports beer and wine, but cannot get onboard with the hard alcohol. There are no walking paths or sidewalks. Everyone walking around uses Drost, a tight road with lots of vegetation, and visibility is restricted to all of the side streets. He would support the 2COP with beer, wine and package sales, but not the 5COP.

Ms. Mary Fels stated she had purchased in Cudjoe Gardens in 1996. The community was completely different then, basically a little snowbird nest where people came down and stayed for the season, three or four months, and then left. She echoed her son's comments. She has managed restaurants and knows the importance of hard liquor sales. A typical drink contains 1.5 ounces of alcohol whereas beer, it takes about 15 ounces of a beer to consume the same amount of alcohol. People get drunk must faster on hard liquor than on beer or wine. For wine it takes about five ounces to have the same amount of alcohol. Drost Drive is a residential street and is the only street that accesses the 275 homes now built in the area. The increased traffic, even by

residents, because it's a straight road with no stop signs on Drost with side roads covered with vegetation, the residents speed down that road, even with the Sheriff's Substation at the end of the street. There is no walking path, no curb, no designation for a walking area so it's people with dogs, children, parents pushing strollers and walkers and joggers and bicyclists all using the same road with the increased traffic and increased size of vehicles. There are dually trucks with big boats and commotion down at the marina. From the end of November until the beginning of April it's very congested. With the size of this restaurant, and the amount of seating and serving area, it's not a small operation. When she first came down, people left their bottle at the restaurant and they poured from your own bottle. Things have changed and the situation needs to be addressed for the safety of everybody. This is an accident waiting to happen.

There was no further public comment. Public comment was closed.

Mr. Charles Miller, owner of the restaurant, stated that this restaurant ended in 2010 by fire. It has been rebuilt and the footprint is exactly the same, the seating is the same, and the parking is the same as it was in 2010 and earlier. Nothing has been changed. The traffic should be the same and he does not see any issues with parking at all. Ms. Carolyn Butler, co-owner, added that she and Mr. Miller are also residents of Cudjoe Gardens and she walks from her home to work most of the time. There are designated bike path lines on the side of the road. These are legitimate concerns, but she wants to reassure residents that they are a professionally-trained group of individuals. The owners, manager and staff will be certified and trained as safe servers. She wants the safety of the patrons as much as everyone wants the safety of the community. The food will be wonderful, the wine spectacular, and she wants to ease everyone's tensions.

Commissioner Demes asked for the expected hours of operation. Ms. Butler responded that they would open at 11:00 and the kitchen would close at 9:00. Commissioner Demes never thought the lot looked that good and he appreciates the safety concerns, but there are lanes on both sides for bicycles and it is pretty wide. He believes the restaurant is a welcome addition. Having been around since the 80s he has watched this over the years. The restaurant affords the community the ability to walk and ride bicycles to the restaurant. It is the responsibility of the people serving alcohol to ensure people are not becoming over served. He's seen people get as tanked up on beer and wine as well as alcohol in the course of the evening and he does not see the issue about drunks driving off the road. He would be more concerned with people having private parties in Cudjoe Gardens with people getting really trashed with no oversight.

Ms. Butler added that they are considering having a shuttle service to do a figure-eight through Cudjoe Key as a courtesy and to minimize traffic flow, and that there is the Sheriff's Substation at the end of the road.

Commissioner Ritz added that as to the issue raised by Ms. and Mr. Fels, having done quite a bit of personal research into how quickly one can get intoxicated on beer and wine versus alcohol, he does not think it's that big of a difference. He would make a motion to approve the variance.

Motion: Commissioner Ritz made a motion to approve. Commissioner Demes seconded the motion. The motion passed unanimously.

Item 3 was continued at applicant request due to lack of a full Planning Commission.

Items 4, 5 and 6 were read together, but require three separate votes.

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE 2030 MONROE COUNTY COMPREHENSIVE PLAN AS A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, AMENDING POLICY 107.1.7 COCO PALMS AFFORDABLE HOUSING SUBAREA TO INCREASE THE MAXIMUM NET DENSITY AND TO MODIFY THE PERMITTED AS-OF-RIGHT USES AND CONDITIONAL USES FOR PROPERTY LOCATED AT 21585 OLD STATE ROAD 4A, CUDJOE KEY, HAVING PARCEL IDENTIFICATION NUMBER 00174960-000000, AS PROPOSED BY SMITH HAWKS, PL ON BEHALF OF MOBILE HOMES HOLDINGS COCO, LLC; AND TO ACCOMPANY A PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP (FLUM) FROM MIXED USE / COMMERCIAL (MC) TO RESIDENTIAL HIGH (RH); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR INCLUSION IN THE 2030 MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2022-084)

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP AS A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FROM MIXED USE COMMERCIAL (MC) TO RESIDENTIAL HIGH (RH), FOR PROPERTY LOCATED AT 21585 OLD STATE ROAD, CUDJOE KEY, MILE MARKER 21, LEGALLY DESCRIBED AS LOT 30 SACARMA, A SUBDIVISION OF GOVERNMENT LOTS 3 AND 4 IN SECTION 29, TOWNSHIP 66 SOUTH, RANGE 28 EAST (PLAT BOOK 2, PAGE 48), MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00174960-000000; AS PROPOSED BY MOBILE HOMES HOLDINGS COCO, LLC; CONTINGENT ON ADOPTION AND EFFECTIVENESS OF AMENDMENTS TO COMPREHENSIVE PLAN POLICY 107.1.7 TO INCREASE THE MAXIMUM NET DENSITY AND TO MODIFY THE PERMITTED AS-OF-RIGHT USES AND CONDITIONAL USES ON THE SUBJECT PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2022-085)

6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM SUBURBAN COMMERCIAL (SC) TO URBAN RESIDENTIAL (UR), FOR PROPERTY LOCATED AT 21585 OLD STATE ROAD, CUDJOE KEY, MILE MARKER 21, LEGALLY DESCRIBED AS LOT 30 SACARMA, A SUBDIVISION OF GOVERNMENT LOTS 3 AND 4 IN SECTION 29, TOWNSHIP 66 SOUTH, RANGE 28 EAST (PLAT BOOK 2, PAGE 48), MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00174960-000000; AS PROPOSED BY MOBILE HOMES

HOLDINGS COCO, LLC; CONTINGENT ON ADOPTION AND EFFECTIVENESS OF AMENDMENTS TO COMPREHENSIVE PLAN POLICY 107.1.7 TO INCREASE THE MAXIMUM NET DENSITY AND TO MODIFY THE PERMITTED AS-OF-RIGHT USES AND CONDITIONAL USES ON THE SUBJECT PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2022-086)

(11:04 a.m.) Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. These three items consist of a Comprehensive Plan text amendment, a Future Land Use Map amendment, and a Land Use District Map amendment. The applicant is Mobile Homes Holdings Coco and is being represented by Bart Smith. This property currently has a Mixed Use Commercial and Residential Conservation FLUM. There is a proposal to amend that to Residential High. The existing land use is Suburban Commercial and Native Area with a proposal to amend to Urban Residential. There are 17 mobile homes on the properties and four buildings consisting of 16 units of affordable housing. This item came before the Planning Commission in 2018 and subsequently the BOCC in 2018, and that's when Policy 107.1.7 was adopted by the BOCC establishing the Coco Palms Affordable Housing Subarea. This was done as a small-scale amendment to establish the subarea and included a FLUM amendment from Residential High to Mixed Use Commercial, and a LUD amendment from Urban Residential Mobile Home to Suburban Commercial. The way that the small-scale subarea works for Comprehensive Plan text amendments that include affordable housing it can be processed as a small scale if it includes a FLUM amendment. That was done in 2019. So the parcel was actually Residential High, changed to Mixed Use Commercial, and we're back here today.

Ms. Cioffari presented the site plan reflecting the proposed FLUM designation and zoning district. The amendment to the Comp Plan is to amend Subarea Policy 107.1.7 to increase the density from 18 units per buildable acre to 25 units per buildable acre for a total of 46 units. This change in density is consistent with the proposed FLUM category and zoning category. There is also a proposed change from Mixed Use Commercial to Residential High and from Suburban Commercial to Urban Residential. The density would be consistent with the proposed zoning districts. Staff is recommending some changes to the language. One discussion point that came up in 2018 and 2019 with the development of units at that time was a concern about the requirement for conditional use. Staff is recommending to change the language that would require either detached or attached units involving more than 18 units be permitted as a major conditional use. This would allow any required conditions for the resulting development to be imposed on that development. We are recommending approval with changes as noted in the staff report for the Comp Plan text amendment, and recommending approval of the FLUM and the LUD contingent upon the approval of the amendment to 107.1.7.

Commissioner Demes stated that he had looked at the lot this morning and noticed a sign at the end that says Conservation Area which is considered native area, and asked if that would be maintained. Ms. Cioffari responded that it would. Commissioner Demes noted it was not in the crosshatch but he originally saw that as Tier III and part of it is, but part of it is submerged. Chair Scarpelli then asked if the applicant wished to speak.

Mr. Bart Smith, applicant, stated that he agrees with the changes proposed by staff, including the conditional use. The last Comp Plan amendment, at the BOCC, Commissioner Kolhage stated it should just match what's in the LDRs for the conditional uses for Suburban Commercial. When he proposed this, he just matched it to Urban Residential. But, as pointed out at the DRC, no matter what, if you're over 20 units, it must go to Planning Commission. He is fine with the conditions as proposed. Mr. Smith presented the site plan and photos, noting that this is workforce housing where residents must have 70 percent of their gainful employment in Monroe County. This property had mobile homes originally with a restaurant in front which was knocked down. Recognizing the incredible need for more housing, he tried to utilize the front space and needed to increase the density to do so and added in four four-plexes of modular construction, 180-plus wind rated, on concrete pilings over flood. The first people that asked to move in were the mechanical contractor, the electrician and the plumber. They requested the first units while they were working on them. So they got the top units which actually have view of both the Atlantic and the Bay. There also are teachers there from Sigsby Charter School. The units are stabilized and filled up realizing that if we could improve what is there with these better units, we should. There are a bunch of units that are modular built over flood, but there are also a bunch of mobile homes where every time someone moves out, there are a lot of repairs and it's a cost. There is not a cost benefit of the type that you would ever replace it and just build up, but if the density is increased then you would. After Ian, living in Key West and seeing a bunch of his friends homes flooded, he thought he should start doing this. The flood zone is AE10, Tier III, and right now is zoned Suburban Commercial. It is 2.3 acres of upland, the native area is remaining. Mr. Smith presented photos of the ground-level units that would be removed and photos of the units that would replace them. They would all be workforce housing. If he gets approval, the goal is to break ground next year and be done by the end of the year.

Chair Scarpelli confirmed that it would be deed restricted affordable workforce housing for 99 years. Mr. Smith stated he would need 13 more ROGOs, a mix of moderate, median and lows. It had been cost prohibitive to do it the first time with the power poles and vegetative planting. But now that that cost has been sunk, it makes sense to do this. Chair Scarpelli noted that he had had the density prior, it was changed to get these units, and now the applicant wants to go back to the higher density. Commissioner Demes commented about putting in the quadplexes and the access to pull in for parking as he had noticed people parking in the right-of-way of U.S. 1. Adding two more units with four dwelling units per structure and only two parking spaces under the structure, there would be no place for all of the cars. Mr. Smith explained how to make these units with four spaces and presented a drawing showing the ability to pull in from the left and right, with a lot for additional parking spaces, stating this would be part of the conditional use process. Commissioner Demes added that the water is almost up to the house at the end, and Mr. Smith responded that they were looking to add six inches of gravel. Chair Scarpelli then asked for public comment.

Mr. Mark Sweetenberg representing Sugarloaf Shores Property Owners Association stated that Stuart Schaffer had provided a letter to the Commission under public comments. Sugarloaf Shores is against the increased density for these amendments and he encourages the Commission to read the letter.

Ms. Catherine Winters, speaking on behalf of Cudjoe Gardens Property Owners Association, also opposes this and rejects the additional density. This is adding additional cars and traffic on U.S. 1. The residents are not living and working on Cudjoe, but are working in other areas, such as the teachers in Key West. Those residents are on the highways traveling back and forth. Getting out of Cudjoe Gardens during peak times is difficult at best. There is also a restaurant right at this property. Residents are parking toward the front in the right-of-way, limiting parking for the restaurant. This sets a precedent for increasing density up and down the Keys which adds to the traffic patterns especially with hurricane evacuation. She supports the workforce housing, but not the increase in density.

Mr. Jack Marshon representing Lower Density for Lower Sugarloaf and South Point Homeowners, LLC, stated that Chapter 130 of the Land Development Code, Section 51, titled Purpose of the Residential District states to provide areas appropriate for high-density residential users. This district should be established at or near employment sources. Most people are not working in Cudjoe but elsewhere. Ten years ago the Lower Liveable CommuniKeys Plan became part of the Monroe County developmental plan in 2012. The designed purpose was to maintain a rural low-density environment in the Lower Keys between mile markers 14 and 29. It is not a recommendation, it says rural, not urban, but here today we are voting to change the zoning to urban. Why adhere to the County's Land Development Code when you can just implement whatever the developers ask for. It can't be both ways. Urban and rural do not mix. If this zoning change is approved it will be clear to a lot of folks that the County's Land Development Code is of little concern. We need to explore more and better means to accommodate the workforce without ruining why most choose to live in the Lower Keys. Staff needs to work at maintaining what is special about the Keys, not what is special to the developers.

Ms. Ann Olsen representing Last Stand and Friends of the Lower Keys stated that both groups are in favor of workforce affordable housing but it should be geographically located near the employment source or within five miles of it. Otherwise commuter traffic is just being added to U.S. 1 which already has a failing level of service. The first issue is density. The Lower Keys are low density neighborhoods. It's clear that residents want it to remain that way based on the thousands of residents that turned out to speak against Goal 109 just four years ago, one of the last times density increases for the area was suggested. The Lower Keys Livable CommuniKeys Plan states that Monroe County shall manage future growth to preserve the rural or low-density community character and protect the natural environment of the Lower Keys and so forth. There are 16 brand new affordable homes on Cudjoe from Habitat, the 16 already developed at Coco Palm with the current zoning that allows for the other 17 units. Almost directly across the street is a large vacation rental complex at Sunrise Village, and while that doesn't help affordable housing, it does add to the area's density and traffic. It is only a matter of time before the old U-Haul lot across the street gets developed. There's an additional 88 units on Sugarloaf a few miles south with another 14-15 housing units on Upper and Lower Sugarloaf, so that's a lot of development for a low-density area. Opposing the rezoning from Suburban Commercial to Urban Residential sets a terrible precedent for all of unincorporated Monroe County which has Suburban Commercial all up and down U.S. 1. Suburban Commercial was initially conceived to allow local businesses to support the local islands, provide shopping and services to nearby residents, thus reducing the long commutes on U.S. 1 to Key West and Marathon. Common

sense tells us this zoning is inappropriate. Cudjoe Key is not Urban Residential much as developers might want to make it so. There is nothing urban about Cudjoe or the Lower Keys. This section also is not a good location to increase density because it's located on a curve without much visibility for egress looking either north or south, stands next to the Blimp Road entrance with Waste Management trucks constantly coming and going, and all with no stop lights and vehicles driving minimum 45 to 55 miles an hour. Please add the units that are permissible by the current zoning, but don't overdevelop the Lower Keys. Put the affordable housing near the employment centers of Key West and Marathon where there is public transportation and traffic lights and their Livable CommuniKeys plans support that level of density and development.

There was no further public comment. Public comment was closed.

Commissioner Ritz stated that he appreciates the public comments and while everyone is concerned about density, there are competing priorities. Everyone knows we need workforce housing. Obviously, the closer to the employment centers, the better. The applicant mentioned there were several trades people already renting there and he assumes they are working in the general area, and some teachers. It is something that needs to be weighed and his weight is going towards the workforce housing, so he plans to vote in favor. Commissioner Demes also appreciates all the concerns and he lives on Sugarloaf. Buried in the goals is also the Naval Air Station Key West which needs to be protected. We continue to say let's go within five miles of Key West. It looks like for some folks the answer to everything is to fill up the Air Installation Compatibility Use Zone of the military with housing. That repeatedly comes up and that's the closest place, which is a problem. Sugarloaf and Cudjoe residents historically, to those issues of this type of project, say not in my back yard. He also hears that, yes, it should be close to where you work. Not everybody thinks that way. He lives in Sugarloaf and works about as far west as you can get in Key West at the end of the pier. Commissioner Demes does not see places for the workplace being very affordable within that five-mile zone for people who actually work in Key West. When weighing the priorities, the priority of housing is huge. The maximum development would be an additional 13 units, and he does not see it as that big of an impact on traffic. Today there were eight cars in the right-of-way that were not traveling in the peak times to Key West. To clean up the trailers and as far as liability for people living in the Keys and hurricane preparedness, to have structures that withstand the storms expected here and the flooding, to get them off the ground, that is all very positive towards sustainable living in the Keys. When you pull out of this area and the restaurant, it's possible to get down Blimp Road without going on U.S. 1, and there is an acceleration/merge lane that is off of Blimp Road which allows better integration with the flowing traffic towards Key West, which is another mitigating factor. A comment was made about hurricane evacuation, and Commissioner Demes asked to what degree this would be a detriment and not meet the hurricane evacuation standards.

Ms. Schemper responded that hurricane evacuation is regulated by the ROGO allocations available. This does not increase the number of ROGO allocations within the County. They need to use existing ROGO allocations that are out there, so it would not increase cars on the road for hurricane evacuation per the current modeling and how that works. Commissioner Demes stated he is sensitive to that and wanted that addressed. Chair Scarpelli reiterated that he understands everyone's concerns about additional workforce housing moving further and further

up the Keys. He is personally involved in lots of workforce housing projects throughout the Keys and mainly in Key West, building 100 units on Stock Island and he just finished 37 units on Flagler Avenue. There are still 1,000 people on the wait list for housing, and he does not see anyone that has a second home within Cudjoe or Sugarloaf that is renting that home to workforce people for less than \$3,000 a month. So if there is anyone not wanting additional density on lots like this that have those kinds of properties, please reduce your rent and let people live there. That would be extremely helpful. The County is currently constructing additional workforce housing on Big Pine because of a mobile home park that used to be a major workforce housing location that was completely destroyed during Hurricane Irma and created substantial damage throughout that entire neighborhood because it didn't meet hurricane codes. We are all making best efforts to supply the amount of housing we need for the increase in commerce that the Keys are doing. This is a destination and the TDC makes sure we have a good number of visitors to our islands. Commissioner Thomas added that she is not one for changing the rules, believing the rules and code are for a reason. However, the workforce needs places to live that are not going to blow away in a hurricane and are not tumbling down, and that's what so many trailers are throughout the Keys. These are attractive, safe places to raise your children. Even though it means changing the code, she is in agreement with it.

Motion: Commissioner Ritz made a motion to approve Item 4 with staff's recommendations. Commissioner Thomas seconded the motion.

Roll Call: Commissioner Demes, Yes; Commissioner Thomas, Yes; Commissioner Ritz, Yes; Chair Scarpelli, Yes. The motion passed unanimously.

Motion: Commissioner Demes made a motion to approve Item 5 with staff's recommendations. Commissioner Ritz seconded the motion.

Roll Call: Commissioner Demes, Yes; Commissioner Thomas, Yes; Commissioner Ritz, Yes; Chair Scarpelli, Yes. The motion passed unanimously.

Motion: Commissioner Thomas made a motion to approve Item 6 with staff's recommendations. Commissioner Ritz seconded the motion.

Roll Call: Commissioner Demes, Yes; Commissioner Thomas, Yes; Commissioner Ritz, Yes; Chair Scarpelli, Yes. The motion passed unanimously.

Item 7 was continued at applicant request due to lack of a full Planning Commission.

BOARD DISCUSSION

None.

GROWTH MANAGEMENT COMMENTS

None.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 11:47 a.m.