

## **DEVELOPMENT REVIEW COMMITTEE**

**Monday, May 20, 2024**

### **MEETING MINUTES**

The Monroe County Development Review Committee conducted a virtual meeting on **Monday, May 20, 2024**, beginning at 1:06 p.m. via Communications Media Technology (CMT).

**CALL TO ORDER** by Emily Schemper at 1:06 p.m.

**ROLL CALL** by Debra Roberts

#### **DRC MEMBERS PRESENT**

Emily Schemper, Senior Director of Planning and Environmental Resources  
Mike Roberts, Assistant Director, Environmental Resources  
Cheryl Cioffari, Assistant Director of Planning  
Devin Tolpin, Planning & Development Review Manager  
Rey Ortiz, Assistant Building Official  
Craig Marston, Fire Marshal  
Brian Oppenheimer, Deputy Fire Marshal  
Christina Gardner, Naval Air Station Key West

#### **STAFF MEMBERS PRESENT**

Peter Morris, Assistant County Attorney  
Matt Restaino, Senior Planner  
Barbra Powell, Senior Policy Advisor  
Debra Roberts, Senior Planning Commission Coordinator

#### **APPLICANTS & PUBLIC SPEAKERS PRESENT**

Item 1:            Jess Goodall, Agent for Applicant  
                     Dottie Moses, Public

Item 2:            Barbara Mitchell, Agent for Applicant

Item 3:            David deHaas Grosseck, Agent for Applicant  
                     Donna Wilson, Applicant  
                     Dottie Moses, Public  
                     Nancy Diering, Public

Items 4 & 5:      Christine Hurley, Applicant

#### **CHANGES TO THE AGENDA**

None.

#### **MINUTES FOR APPROVAL**

Approval of the meeting minutes for Tuesday, April 23, 2024, by Emily Schemper.

## MEETING

**1. 92330 OVERSEAS HIGHWAY, LLC, 92330 OVERSEAS HIGHWAY, TAVERNIER, MILE MARKER 92:** A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT FOR PROPERTY LEGALLY DESCRIBED AS LOTS 1, 2, 3, 4, 5 AND 6, TAVERNIER BEND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE(S) 74, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00487310-000000. THE REQUESTED APPROVAL IS REQUIRED FOR THE REDEVELOPMENT OF EIGHT (8) ATTACHED MARKET RATE DWELLING UNITS INTO SEVEN (7) ATTACHED AFFORDABLE DWELLING UNITS WITHIN AN EXISTING MIXED-USE BUILDING. (FILE 2023-169)

(1:08 p.m.) Ms. Devin Tolpin, Planning and Development Review Manager, presented the staff report. This is a request for a minor conditional use permit for redevelopment of seven attached dwelling units to be designated as employee housing. This property is located within the suburban commercial land use district, designated as mixed-use commercial on the future land use map and as Tier III, and is currently developed with a mixed use building consisting of a restaurant, office and eight attached market rate dwelling units. In March of 2023, the property received approval to transfer seven of those market rate ROGO exemptions off of the property to be held in certificate and be transferred to a receiver site at a different time. A condition of that approval was that the transfers shall not become effective until the date that a County building permit is closed for demolition of the seven market rate dwelling units on the sender site and/or upon a change of use of the floor area of the seven dwelling units to another permitted use in the SC zoning district that does not require the market rate ROGO exemptions. This proposal is to convert those existing dwelling units into deed restricted affordable housing dwelling units, which requires a minor conditional use within the SC district. Ms. Tolpin presented a snapshot of the site plan reflecting very little exterior work being proposed as the site is currently developed. Staff has reviewed the proposal for consistency and compliance with the Land Development Code. Of note, the property currently has multiple structures located within the required setbacks; however, a substantial improvement of the structure is not proposed at this time so full compliance with current setbacks is not required at this time. The property is currently in compliance with the required number of parking spaces with 31 spaces adjacent to U.S. 1. A few spaces that back out onto U.S. 1 are proposed to be removed to bring the site further into compliance. Based on shared parking calculations there are 21 spaces required. The applicant is proposing 23 spaces, exceeding the required number but reducing the current number to provide better circulation on the site. Also proposed are increased buffer yards, landscaping and a loading zone area. Staff recommends approval with conditions that include a bicycle parking rack be installed. The applicant is responsible for obtaining the seven affordable ROGO allocations. Permits for the seven employee housing dwelling units will not be approved until the deed restrictions are approved and recorded, and usual conditions must also be complied with.

Ms. Schemper asked if DRC members or staff had any questions or comments. There were none. Ms. Schemper asked if the applicant wished to speak. Mr. Jess Goodall thanked staff for all of their assistance. Ms. Schemper then asked for public comment.

Ms. Dottie Moses asked who the employee housing was for. Ms. Schemper responded that it's for any tenant who qualifies. Ms. Moses clarified that this was not being created for a particular business. Ms. Schemper explained that the land use of commercial apartments is specifically tied to the non-residential use on the property, but employee housing is tied to workforce within the county who meet affordable housing income limits and earn 70 percent of their income in the county. There was no further public comment. Public comment was closed.

**2. REFRESHMENT SERVICES, INC., 5510 MACDONALD AVENUE, STOCK ISLAND, MILE MARKER 5: A PUBLIC MEETING CONCERNING A REQUEST FOR AN AMENDMENT TO A MINOR CONDITIONAL USE PERMIT FOR PROPERTY LEGALLY DESCRIBED AS LOTS ONE (1), TWO (2), THREE (3), FOUR (4), FIVE (5), SIXTEEN (16), SEVENTEEN (17), EIGHTEEN (18), NINETEEN (19) AND TWENTY (20), OF BLOCK THIRTY-SIX, ACCORDING TO GEORGE L. MACDONALD'S PLAT OF PART OF SAID STOCK ISLAND, RECORDED IN PLAT BOOK NUMBER 1, PAGE 55, MONROE COUNTY, FLORIDA, PUBLIC RECORDS, HAVING PARCEL IDENTIFICATION NUMBER 00124940-000000. THE REQUESTED APPROVAL IS REQUIRED FOR THE DEVELOPMENT OF A NEW 7,400 SQUARE FOOT WAREHOUSE ON PROPERTY WITH AN EXISTING LIGHT INDUSTRIAL USE. (FILE 2023-178)**

(1:16 p.m.) Mr. Matt Restaino, Senior Planner, presented the staff report. This is a request for an amendment to a minor conditional use permit to construct a 7,400 square foot warehouse consisting of light industrial use within the mixed-use land use district. Agents are Gary Burchfield and Barbara Mitchell. Mr. Restaino presented the site plan with the proposed warehouse circled in red, indicating that the other building is an existing warehouse. The applicant had previously applied to construct a 7,400 square foot warehouse on this same property in 2012. A previous amendment to the minor CUP was approved at that time. After that approval, the building permit application process was not completed, and the amendment expired in 2015. The parking on site is complaint to the greatest extent practicable. There are several small items to be reviewed at time of building permit such as bicycle parking, solid waste collection and ADA accessibility. No information has been provided regarding outdoor lighting or signs, which would also need to be approved at the time of building permit. Otherwise, the site plan is in compliance with the Comp Plan, Land Development Code and Liveable CommuniKeys Plan. Staff recommends approval with the six conditions listed in the staff report.

Ms. Schemper asked if DRC members or staff had any questions or comments. There were none. Ms. Schemper asked if the applicant wished to speak. Ms. Barbara Mitchell, agent for the applicant, thanked Mr. Restaino for his help with this over the past year, and asked what the effective date would be of the BOCC ordinance for the inclusionary housing reduction as her client would like to take advantage of that opportunity, and also asked if that fee would be required at the time the building permit was submitted. Ms. Schemper responded that there is 60 days for Florida Commerce to review the ordinance, and then a 21-day challenge period after the order is issued. The fee would be based on whatever ordinance is in effect at the time the application is submitted. However, if the application is submitted prior to a new ordinance going into effect, whatever is better for the applicant can still be accomplished providing the building permit has not yet been issued. Ms. Mitchell noted that there is currently a permit hanging out there that needs to be revised but it would likely not be issued until after the ordinance becomes effective.

Ms. Mitchell then asked Mr. Restaino about an engineering right-of-way permit being required for access points on the project and whether that was part of the building permit review or an independent application to the engineering department. Mr. Restaino responded that it's an independent application which typically takes place around the time of review and is more of a standard approval condition. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

**3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY TIER OVERLAY DISTRICT MAP FROM TIER I TO TIER III AS BY DAVID DEHAAS GROSSECK ON BEHALF OF DONNA J. WILSON, BRIAN C. WILSON, SHELLEY W. AVIRETT AND RICHARD T. WILSON, FOR UNDEVELOPED PROPERTY LOCATED AT NORTH OCEAN DRIVE, KEY LARGO, LEGALLY DESCRIBED AS SECTION 29 TOWNSHIP 60 RANGE 40 ISLAND OF KEY LARGO PART OF GOVERNMENT LOT 2, HAVING PARCEL ID NUMBER 00083200-000000, COUNTY ROAD 905. (FILE 2024-014)**

(1:24 p.m.) Ms. Schemper asked for applicant comments first on this item. Mr. David deHaas wanted to hear the staff report presentation first as that is the normal process, and at the end he would like to make a couple of comments. Ms. Schemper responded that it was being opened up now for the applicant to speak as there is not a normal process for this type of item and this is not a public hearing. Mr. David deHaas then stated that he does not agree with the staff report, and pointed out that something had been added into the staff report where he had been corrected regarding the owner at the time having not signed the application for clearing this property. He stated that Ms. Donna Wilson and her family wanted to comment regarding that, and as to the condition of their mother at the time this application had been signed. Ms. Donna Wilson then stated that she had not been aware at the time of this application that her mother had gotten or signed it. Her mother had dementia and a lot of things were done by her that Ms. Wilson had not been aware of during that time, and neither was her mother aware of what she was doing. Ms. Schemper confirmed that this was regarding the application for invasive exotic removal. Mr. deHaas then continued that there were a lot of ramifications from this permit. In the brief describing this application and in the staff report, it refers to this property as undeveloped property. If there is land clearing, and the foundations of the fish camp are there, and the property has been cleared several times, he does not understand by what means and at what time this went from developed to undeveloped property and asked for that to be addressed.

Mr. Peter Morris, Assistant County Attorney, interjected that he is very familiar with the DRC meeting process, which is not an adversarial or quasi-judicial proceeding, so it is not the appropriate forum to address this. Planning Commission level would be a better place to engage in the department professional status expert views. Mr. deHaas responded that he may have missed something or be unaware of something, just as he had been unaware of the signature on the permit, and asked if there was a reference that could bring him up to speed. Mr. Morris advised that to ensure predictability and uniformity of this type of proceeding for all applicants, it would be inadvisable to morph this into soft cross-examination for the department to prove

their expert views. The forum for that would be the Planning Commission. Ms. Schemper stated that she would follow that advice, and then asked for public comment.

Ms. Dottie Moses stated that the entire property from the bend at mile marker 106 to Ocean Reef is designated Tier I, and she would be very surprised to see justification for one parcel out of that entire area to be taken out of that Tier I status. This area has been set aside and was the emphasis for making the County an Area of Critical State Concern by putting all of this land into conservation. It seems unlikely that it would qualify for a tier change as the entire area was intended to be protected through programs put in place over the years.

Ms. Nancy Diersing stated she had read the staff report which supports maintaining the Tier I designation for this property, and she supports that position. All properties in this whole area, whether they had exotic vegetation or structures at the time the tier system was put in place, were classified as Tier I, including this one. Nothing has changed to justify any change in the tier designation. The property is not located near a service area so the entire area is not slated for development in keeping with the tier designation. The ecological value of the whole area has long been recognized by the State and the U.S. Fish and Wildlife Service. Even less-than-perfect properties serve an ecological function, such as this one, and can be restored to provide better habitat for wildlife. The fact that it might have exotics on it doesn't call for a tier change.

There was no further public comment. Public comment closed.

Mr. Mike Roberts, Assistant Director, Environmental Resources, then presented the staff report. This is a request for an amendment to the Tier District Map from Tier I to Tier III. The current conditions of the site are exotic vegetation in the western half of the property with mangroves along the frontage of the Atlantic Ocean, surrounded by hammock and other developed land equally. Mr. Roberts presented a diagram reflecting the property ownership of the parcels in proximity to the parcel in question. Everything green is state owned conservation land. The parcels in yellow are owned by the Monroe County Comprehensive Land Authority. The application was reviewed for consistency with the 2030 Comp Plan which outlines the criteria for designating the tier overlay districts including land designated for acquisition by public agencies for conservation and natural resource protection. This parcel is within the acquisition boundaries of the State of Florida's Florida Forever Program, North Key Largo Hammocks Project, and is a known location of threatened and endangered species. The existing conditions report received from the applicant indicates the property is a known location of at least two endangered plant species and one additional plant species considered regionally important. Lands designated as conservation, residential conservation, do not apply here. The subject parcel is adjacent to Gulfstream Shores and Knowlson Colony subdivisions which are minimally developed. As noted in the LOU, a significant portion of land area north and south of the parcel is characterized as environmentally sensitive and is not substantially developed. Only 31 percent of the 154 parcels within those two subdivisions have a structure on them. The property is not located within close proximity of established commercial areas or where a concentration of non-residential uses exists. Based on that, staff finds the appropriate tier overlay district designation in accordance with the Comprehensive Plan is Tier I.

Staff also reviewed the application for consistency with the Land Development Code Section 130-130. Section (c) of that chapter provides the tier boundary criteria and includes essentially

the same as what was in the Comprehensive Plan and in the applicant's existing conditions report. Staff has determined that the proposed tier overlay district is not consistent with the provisions and intent of Section 130-130. The project is also reviewed for consistency with the principles for guiding development and the Area of Critical State Concern, which is Statute Chapter 380.0552(7). For purposes of reviewing consistency with the land development code or any amendments, and with the principles for guiding development and any amendments to the principles, the principles shall be construed as a whole, and no specific provisions shall be construed or applied in isolation from the other provisions. These provisions are all in the staff report.

Staff finds that the proposed amendment is inconsistent with the principles for guiding development as a whole and is not necessarily inconsistent with any one principle. In accordance with County Code Chapter 102-158, the County Commission may consider the adoption of an ordinance enacting the proposed change based on specific factors such as changed projections regarding public service needs, changed assumptions regarding demographic trends, and data errors including errors in mapping vegetation types and natural features. The current tier designation of Tier I is consistent with the comp plan and the land development code and is not a drafting or data error. Lastly, there is impact on community character. The tier overlay district designation is utilized to implement and score ROGO applications to direct growth. The proposed amendment would negatively impact the minimally developed community character of the surrounding Tier 1 marsh properties. Staff recommends denial of the proposed amendment as the designated parcel satisfies the criteria for Tier I designation in accordance with the criteria of the Comp Plan and Section 130-130 of the land development code.

Ms. Schemper asked if DRC members or staff had any questions or comments. There were none. Ms. Schemper announced that on Wednesday at 5:30 there would be a community meeting at the Murray Nelson Center in Key Largo and via Zoom webinar.

**4. MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY, 30447 OLEANDER BOULEVARD, BIG PINE KEY, MILE MARKER 30.5 (SENDER SITE) AND 31562 AVENUE D, BIG PINE KEY, MILE MARKER 31 (RECEIVER SITE): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS FOR THE TRANSFER OF ONE (1) PERMANENT TRANSFERRABLE ROGO EXEMPTION (TRE) FROM THE SENDER SITE PROPERTY DESCRIBED AS LOTS 1, 2, 15, 16, AND 17, BLOCK 8, PALM VILLA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 89, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00278950-000000 TO THE RECEIVER PROPERTY DESCRIBED AS LOT 15, BLOCK 22, BIG PINE COVE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3, PAGE 131, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00308540-000100. (FILE 2024-058)**

(1:44 p.m.) Ms. Barbara Powell, Senior Policy Advisor, presented the staff report. This is a request for a minor conditional use permit to transfer one ROGO exemption or TRE for the development of one deed restricted affordable housing unit. The sender site is improved subdivision, residential medium, Tier 1, and is located in an AE9 and VE10 flood zone.

On November 17, a ROGO exemption was issued by the Planning Department and one residential dwelling unit was established on the property exempt from the ROGO permit allocation system. The receiver site has a land use designation of improved subdivision, a FLUM designation of residential medium, Tier III, is not in a velocity or CBRS zone, and is in AE8. Land Development Code Section 138-22(b) residential dwelling units and transient units may be transferred to another site in the same ROGO subarea provided the units lawfully exist and can be accounted for in the County's hurricane evacuation model. Item (c) is what applies between sites within Big Pine and No Name Key ROGO subareas. Staff recommends approval of the minor conditional use permit allowing for the transfer of one market rate TRE from the sender site to the receiver site with the conditions listed in the staff report.

Ms. Schemper asked Ms. Christine Hurley if the current structure on the site a garage was associated with a house on the adjacent parcel, and whether that house was staying. Ms. Christine Hurley responded that all of the receiver-site structures were recently demolished as they were substantially damaged by Hurricane Irma. There were three lots, one existing house, and the other buildings were storage structures. Ms. Schemper asked if DRC members or staff had any questions or comments. There were none. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

**5. MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY, 31030 AVENUE E, BIG PINE KEY, MILE MARKER 31 (SENDER SITE) AND 31574 AVENUE D, BIG PINE KEY, MILE MARKER 31 (RECEIVER SITE): A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS FOR THE TRANSFER OF ONE (1) PERMANENT TRANSFERRABLE ROGO EXEMPTION (TRE) FROM THE SENDER SITE PROPERTY DESCRIBED AS LOTS 15 AND 16, SANDS SUBDIVISION, BIG PINE KEY, AS RECORDED IN PLAT BOOK 1, PAGE 65, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00303660-000000 TO THE RECEIVER PROPERTY DESCRIBED AS LOT 17, BLOCK 22, BIG PINE COVE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3, PAGE 131, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00308540-000200. (FILE 2024-059)**

(1:51 p.m.) Ms. Barbara Powell, Senior Policy Advisor, presented the staff report. This is a request for a minor conditional use permit to transfer one ROGO exempt permanent market rate dwelling unit for the development of one affordable housing dwelling unit. Ms. Powell then presented an aerial of the sites. On December 14, 2017, a ROGO exemption letter was issued determining that one residential dwelling unit was established on the property with Lots 15 and 16 being exempt from the ROGO permit allocation system. The sender site property is improved subdivision, residential medium, Tier I, and in flood zone AE8. The receiver site has a land use designation of improved subdivision, FLUM designation of residential medium, Tier III, and is not in a velocity or CBRS zone, and is mostly in AE9. Per Land Development Code Section 138-22(b) residential dwelling units and transient units may be transferred to another site in the same ROGO subarea provided the units lawfully exist and can be accounted for in the County's hurricane evacuation model. Item (c) applies between sites within Big Pine and No Name ROGO subareas. Staff recommends approval of the minor conditional use permit allowing for the transfer of one market rate TRE from the sender site to the receiver site, both on Big Pine Key, with the conditions listed in the staff report.

Ms. Schemper asked if DRC members, staff, or Ms. Christine Hurley had any questions or comments. There were none. Ms. Schemper then asked for public comment. There was none. Public comment was closed.

**ADJOURNMENT:**

The Development Review Committee meeting was adjourned at 1:58 p.m.