

PLANNING COMMISSION

March 26, 2025

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Wednesday, March 26, 2025**, beginning at 10:00 a.m.

**CALL TO ORDER** by Chair Scarpelli

**PLEDGE OF ALLEGIANCE**

**ROLL CALL** by Jessica McKinney

**PLANNING COMMISSION MEMBERS**

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

**STAFF**

Mike Roberts, Assistant Director of Environmental Resources  
Cheryl Cioffari, Assistant Director of Planning  
Devin Tolpin, Principal Planner  
Barbara Powell, Planning Policy Advisor  
Stephanie Reed, Planner  
Peter Morris, Assistant County Attorney  
Hunter O'Connor, Planning Commission Counsel  
Jessica McKinney, Senior Planning Commission Coordinator

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

County Resolution 131-92 was read into the record by Mr. Hunter O'Connor.

**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

Ms. Jessica McKinney confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

County staff and public attendees were sworn in by Mr. Hunter O'Connor.

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

None.

## **CHANGES TO THE AGENDA**

Applicant for Item 5 requested to be heard first,

**Motion: Commissioner Demes made a motion to approve agenda change. Commissioner Neugent seconded the motion. There was no opposition. The motion passed unanimously.**

## **APPROVAL OF MINUTES**

**Motion: Commissioner Neugent made a motion to approve the February 25, 2025 meeting minutes. Commissioner Demes seconded the motion. There was no opposition. The motion passed unanimously.**

## **MEETING**

### **AGENDA ITEMS**

**5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO SUBURBAN COMMERCIAL (SC), FOR PROPERTY LOCATED AT 104001 OVERSEAS HIGHWAY, KEY LARGO, LOTS 1-8, BLOCK 7, LARGO SOUND VILLAGE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, AT PAGE 92, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, CURRENTLY HAVING PARCEL IDENTIFICATION NUMBERS 00475160-000000, 00475170-000000, 00475180-000000, 00475190-000000, 00475200-000000, 00475220-000000, AND 00475230-000000; AS PROPOSED BY GUSTAVO SOLIS; 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 NO. 2024-100)**

(10:03 a.m.) Ms. Barbara Powell, Planning Policy Advisor, presented the staff report and a map showing the seven parcels in Key Largo. They are located along U.S. 1, developed land in Flood Zone X, consisting of a little over an acre of property, 51,771 square feet, presently Gus's Toy Box. The current FLUM amendment as residential medium with mixed use commercial was already heard and passed by the Planning Commission. The Land Use District Map is improved subdivision going to suburban commercial with some adjoining suburban commercial to the property. There is no increase in the allocated density with the suburban commercial zoning applied. There is some increase in the max net density for affordable and for transient, but there is no new transient so any additional transient on the property would come from another location. The purpose stated for the land use change for both the FLUM and the zoning is to allow for a sign to be replaced that was damaged in Hurricane Irma. Under current Comp Plan and zoning land uses the sign could not be replaced. Staff is recommending approval.

There were no questions or comments from the Commission. Chair Scarpelli then asked for public comment. There was none. Public comment was closed. Chair Scarpelli then asked if the applicant wished to speak.

Mr. Ty Harris, agent for the applicant, stated that the desire was to replace the sign. There are no plans to expand the business. Chair Scarpelli stated that he thought this made a lot of sense, as there is no need to have improved subdivision on U.S. 1. Commissioner Demes stated that ordinarily he would vote against this as anything that increases any type of density is a non-starter, but understanding that the transient units would have to come from somewhere else is the mitigating factor on that. There is a lot going on with affordable housing so that's a good thing. It is unbelievable that this has to be gone through to replace a sign.

**Motion: Commissioner Demes made a motion to approve. Commissioner Thomas seconded the motion. There was no opposition. Motion passed unanimously.**

**Items 1 and 2 were read together.**

**1. AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** ADOPTING AMENDMENTS TO THE MONROE COUNTY 2030 COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT AND THE HOUSING ELEMENT TO MODIFY THE REQUIREMENTS RELATED TO THE 300 KEYS AFFORDABLE WORKFORCE HOUSING INITIATIVE EARLY EVACUATION UNIT BUILDING PERMIT ALLOCATIONS CREATED BY THE GOVERNOR OF FLORIDA, ATTORNEY GENERAL OF FLORIDA, CHIEF FINANCIAL OFFICER OF FLORIDA, AND FLORIDA AGRICULTURE COMMISSIONER ACTING IN THEIR CAPACITY AS THE FLORIDA ADMINISTRATION COMMISSION BY REMOVING THE 1-FOR-1 TAKINGS AND BERT HARRIS ACT LIABILITY REDUCTION EXCHANGE REQUIREMENT BY AMENDING, AS WELL AS CLARIFYING, POLICIES 101.2.2, 101.2.4, 101.3.1, 101.3.2, 101.3.3, 101.3.4, 101.3.10, 101.3.11, 101.3.12, 601.1, 601.1.1, 601.1.2, 601.1.8, 601.1.11, 601.5.1; 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 AND INCORPORATION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (FILE NO. 2024-213)

**2. AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE AMENDING SECTION 138-24, RESIDENTIAL ROGO ALLOCATIONS, TO MODIFY THE REQUIREMENTS RELATED TO THE 300 KEYS AFFORDABLE WORKFORCE HOUSING INITIATIVE EARLY EVACUATION UNIT BUILDING PERMIT ALLOCATIONS CREATED BY THE GOVERNOR OF FLORIDA, ATTORNEY GENERAL OF FLORIDA, CHIEF FINANCIAL OFFICER OF FLORIDA, AND FLORIDA AGRICULTURE COMMISSIONER ACTING IN THEIR CAPACITY AS THE FLORIDA ADMINISTRATION COMMISSION BY REMOVING THE 1-FOR-1 TAKINGS AND BERT HARRIS ACT LIABILITY REDUCTION EXCHANGE REQUIREMENT; 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 AND

INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE;  
PROVIDING FOR AN EFFECTIVE DATE. (FILE NO. 2024-215)

(10:10 a.m.) Ms. Cheryl Cioffari, Assistant Director of Planning, presented the staff report. The County accepted 300 early evacuation affordable ROGO allocations several years ago. Within the criteria of those early evacuation units one of the requirements was a one-for-one exchange. That means an existing allocation or affordable permit would be able to be exchanged when receiving an early evacuation affordable allocation. There has not been a strong appetite for that exchange, but there has been an appetite for some of these units. Recently, the BOCC approved a site specific policy or subarea within the Tavernier area for the Cemex project to remove that requirement for the one-for-one exchange. Following the adoption of that ordinance and during that process, on September 11, 2024, the BOCC directed staff to begin amendments to remove the exchange requirement from the remaining 214 affordable early-out evacuation allocations.

A community meeting was held on December 12, 2024, with members of the public identifying three main concerns. First was that there be enforcement of the on-site management requirements. One of the requirements is there has to be an on-site management office with one central location where if an evacuation is called, there is a clear point person/office to go to. Staff believes this can be best addressed through the declaration of restrictive covenants. The second question was whether there would be a prohibition of affordable units going into the Coastal A-Zone, similar to the Coastal V-Zone. Staff is not modifying or making any proposed changes to affordable units going into the V-Zone. The Coastal A-Zone is forthcoming with the new FEMA maps, but there is no proposal to change it at this point. That said, on March 24, 2025, there was a community meeting for separate proposed Comp Plan and LDC text amendments to make larger changes to the ROGO system and establishing a new category of market rate workforce units, and within that proposed amendment, which is forthcoming to the Planning Commission, there are proposed changes to units within the V-Zone. For today's discussion, there are no changes right now. The third concern was about the limitation of transfers of the early evacuation units between the County and the municipalities, and the municipalities and the County. That prohibition of exchange will be maintained with no proposed changes.

Most of the changes are editorial with the market rate workforce allocations idea forthcoming. These early evacuations are affordable. Where possible, staff has changed the name of Florida Department of Economic Opportunity or Florida Commerce back to the State Land Planning Agency for consistency. Ms. Cioffari pointed out the remaining editorial changes. The language stricken through in red relates directly to the one-for-one exchange and has been removed. Staff added some language in regarding when BOCC grants these early evacuations to a project or property they may place conditions on the reservation through a resolution such as establishing income categories for those allocations granted. Two different ideas were separated out, one incorporating sustaining and resilient design into the overall site design to the greatest extent possible, and that the development is using these early evacuation units in proximity and accessible to employment centers in Key West, Stock Island and Marathon. Questions as to why those were identified as employment centers came up during the community meeting. There are different theories as to why Key Largo may or may not have been included but nothing concrete

in writing. Item 2 covers the Land Development Code changes which mirror the changes in the Comprehensive Plan.

Commissioner Demes wanted clarification on the 48-hour evacuation and whether that was for any category of hurricane. Commissioner Neugent and Ms. Cioffari believed it was Category 3 and above when there is a mandatory evacuation. Commissioner Demes wanted to make very sure of that because in Cat 1 and 2 there are evacuations called in particular areas such as low-lying and mobile homes. Chair Scarpelli asked about tourists and whether they were required to leave for a Cat 2. Commissioner Demes wanted this nailed down because Naval Air Station Key West is under the umbrella of the military but there is no single person in the Florida Keys in any command that speaks for the total military. The NASKW commanding officer can close the base, and it has happened in the past, which would take care of the Navy housing units, but that does not include mandatory evacuation orders for all other commands such as the U.S. Coast Guard. There are a lot of nuances and he wants to nail down what the 48-hour population really is. Chair Scarpelli noted those are good questions but did not know how they would be addressed under the purview of this item.

Mr. Peter Morris, Assistant County Attorney, stated that staff would hunt down a reliable answer rather than shooting from the lip. Commissioner Demes stated that he would appreciate being briefed on it at a future meeting. Ms. Cioffari responded that through the Comp Plan it is clear in Policy 101.2.4, in event of a pending major hurricane, Category 3 through 5, Monroe County shall implement the following staged evacuation procedures to achieve and maintain an overall 24-hour hurricane evacuation clearance time, explaining that it goes through the times and who leaves when. Ms. Cioffari will find out if there is a difference between what the Comp Plan says and what Emergency Management may actually do. Commissioner Neugent added that he has worked under three sheriffs and every one of them has asked what they are to do with those who don't evacuate because they can't arrest them, and 30 to 40 percent of the population will not evacuate. Commissioner Demes stated that that was another question he had on the enforceability of having the on-site manager, and approving things that the Commission pretty much knows won't be enforced. Chair Scarpelli stated that laws can't be designed for the bad apples. Mr. Morris added that, realistically, it's hard to future-proof yourself. There are violations that occur in the County and prosecutorial discretion is exercised. The private property owner would have the liability attendant to one of these project sites and if there was an injury or death as a result, the liability would be headed for other planets, and that would be enough for him to hydraulically pressure his client to please make sure everyone is gone so no one dies or is injured on his watch. If someone wants to play with the fire, they may, but the County can only prevent so much. Mr. Morris added that there would probably be tort and personal injury liability vis-à-vis the private tenants, and the County would probably have a claim for some variety of injunctive relief subject to contempt penalties if breaches were to occur, and could potentially seek enjoinder of any use of the property until the requirement got more toothy. The property owner can be hit from the front and the back by the tenant and the County, and people violate the law at their own peril. There will never be perfect enforcement or compliance. The best you can do is design sufficient moats around that kind of violation to deter that kind of misconduct. Chair Scarpelli confirmed that the covenant runs with the land.

Commissioner Demes moved to approve Item 1, and Commissioner Thomas seconded the motion. However, Chair Scarpelli then asked for public comment.

Mr. Stuart Schaffer, representing SPOA, had comments regarding the on-site property management requirement. When these ROGOS first came out of the Governor's Office, all that was required was on-site property management. At the County level they added specific details as to what that means, and he is requesting a few more specifics in the Land Development Code provisions. There is a list of several requirements in (e)(2)(d) of the Land Development Code and he is asking for one more to require that the office of the on-site property manager be clearly identified as the management office. Also, there is a second provision (e)(2)(e) that has an annual property manager report, and he would like that report to include a little more information on the on-site property management itself, not just who the tenants are, and that would be information about the location of the on-site office, the identity of the on-site manager personnel, those personnel available during non-office hours, and information about actual tenant evacuations over the past year that were handled by this manager. His request is that these changes be added to the text of land development code provision.

Chair Scarpelli asked Ms. Cioffari if she had reviewed Mr. Schaffer's requests. Ms. Cioffari believes language could be added in. Chair Scarpelli believes these are good ideas that make total sense for any size workforce housing development. Mr. Morris agreed in the spirit of trust but verify from a legal perspective. Ms. Cioffari went into some of the potential language to be added. It was noted that these suggestions pertained to Item 2.

**Motion: Commissioner Demes again made a motion to approve Item 1. Commissioner Thomas again seconded the motion. There was no opposition. Motion passed unanimously.**

Mr. Morris stated that the motion for Item 2 should clarify inclusion of recommendations from the public. Commissioner Demes added clarification for on-site management for small projects and whether it had to be on site. Ms. Cioffari stated that the code requires it to be on site. There is no minimum requirement for the size. Something would need to be identified on the site plan showing the on-site management for the units. A smaller project is usually in conjunction with a new or existing commercial business that is utilizing these early-evacuation units in part because there are no non-limited affordable allocations right now. Commissioner Demes stated that when projects come their way, it should be seen on the site plans, so that's good.

Ms. Devin Tolpin, Planning and Development Review Manager, added that the reason for them to be on site is because they are early-out evacuation units that are required to evacuate within the first 48 hours of a mandatory evacuation that can come at any point in time. That is the reason the language is there for the management to enforce the tenants' evacuation consistent with this provision. Commissioner Demes stated he understands all of this is taken with grain of salt. Commissioner Neugent believes this comes under the purview of Emergency Management and the BOCC and there is really no enforcement for the general public. Some of the affordable housing has it written in to evacuate within that 48-hour period. However, he has never evacuated from the Keys nor ever had any intention. Chair Scarpelli thought that did not pertain to this item.

**Motion: Commissioner Thomas made a motion to approve Item 2 with inclusion of the input from the public. Commissioner Anderson seconded the motion. There was no opposition. Motion passed unanimously.**

**3. 99275 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 99:** A PUBLIC HEARING CONCERNING A REQUEST FOR A VARIANCE TO ACCESS STANDARDS SET FORTH IN CHAPTER 114, ARTICLE VII OF THE LAND DEVELOPMENT CODE (LDC). APPROVAL WOULD RESULT IN TWO ACCESS DRIVES TO U.S. 1 THAT ARE SPACED LESS THAN THE REQUIRED 245 FEET BETWEEN CURB CUTS. THE VARIANCE IS REQUESTED TO FACILITATE THE DEVELOPMENT OF A PRIVATE MUSEUM, AN INSTITUTIONAL USE, ON THE SUBJECT PROPERTY. THE SUBJECT PROPERTY IS DESCRIBED AS LOTS 38, 39, 40, 41, 42, 43 AND 44, SQUARE 10, SUNSET COVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00504680-000000. (FILE NO. 2024-219)

(10:42 a.m.) Ms. Stephanie Reed, Planner, presented the staff report. Ms. Reed presented a map of the subject property. The applicant is requesting approval of a variance from LDC Section 114-195 which requires that a curb cut to a segment of U.S. 1 with a Class 6 access control classification which must be spaced 245 feet from any other curb cut. Approval would allow for two access drives onto U.S. 1 spaced less than the required 245 feet, one on the southbound and one on the northbound sides of U.S. 1. The variance is requested for the redevelopment of the property with a private museum which is an institutional use. The property is located in the suburban commercial land use district and the Tier III overlay district. The surrounding area is characterized primarily by non-residential uses such as a wireless communications facility, utilities, offices, commercial retail, restaurant, hotel/motel and some hammock. Ms. Reed presented the site plan with the proposed access drives. The southbound drive will be spaced approximately 130 feet from the curb cut to the northeast and approximately 29 feet to the curb cut to the southwest. The northbound proposed access drive would be spaced approximately 135 feet from the curb cut to the northeast and approximately 61 feet to the curb cut to the southwest. Lots 38 and 39 were previously developed and an approved site plan from Building Permit Number 89302425 showed two access drives in the approximate locations as the two proposed under this redevelopment. Currently, there are two additional access drives, one on the northbound and one on the southbound side of U.S. 1. The proposed site plan will reduce the number of access drives currently on the property from four to two. Pursuant to LDC Section 102-187, the Planning Commission is authorized to grant variances to the access standards in LDC Chapter 114, Article VII, in accordance with the standards in LDC Section 102-187(d). Ms. Reed highlighted three of the standards: Number one, the applicant demonstrates a showing of good and sufficient cause. Staff has determined that the applicant has demonstrated a showing of good and sufficient cause as the property abuts U.S. 1 and the only possible road access would be by U.S. 1. Granting the requested variance would provide the necessary access to both the one-way southbound and northbound sides of U.S. 1 for ease of site access and circulation. Number two, failure to grant the variance would result in exceptional hardship to the applicant. Staff does not disagree that the failure to grant the variance would result in exceptional hardship to the applicant. Failure to grant the variance would result in an inability to access the property

and would be an exceptional hardship to the applicant. Number four, the property has unique or peculiar circumstances which apply to this property but do not apply to other properties in the same zoning district. Staff has determined that the property does have unique or peculiar circumstances which do not apply to other properties. The property is located in the median of U.S. 1 and unlike many properties in the median, it is without access to a side street or an easement as it is bordered to the north and south by developed parcels. Due to the 175-foot width of the property there is no ability for the site to achieve access to U.S. 1 without variance approval. Staff has determined that the applicant has demonstrated compliance with all requirements of Section 182-187(d).

Chair Scarpelli then asked for Commission comments or questions. Commissioner Demes stated that he had gone to the site and knows the standards are for public safety. In that particular area he would not be surprised if you shifted a 500-foot measurement that there would be three to five access points right now as they are everywhere. He understands the hardship but if they already have four, how is it the correlation that if they get two it's going to be a hardship. Ms. Reed responded that when a property is being redeveloped staff looks at the access and they would need to come into compliance with the redevelopment. Staff is merely pointing out that it is going from four which were permitted and going down to two, which is reasonable and in keeping with the goals of the access standards. The hardship is really that the location wouldn't have access to U.S. 1 if the variance was not granted, not necessarily the number of access drives. The property does need access to U.S. 1. Commissioner Demes asked if the four there were lawfully established. Ms. Reed stated she had found permit history for two, and there are two others that she could not find sufficient permit history for. Commissioner Demes asked if it was understood that the other two access drives would have the impervious surfaces removed as part of this development so they don't exist anymore. Ms. Reed responded that that can be a condition of approval. Commissioner Demes stated he would be good with that. Ms. Devin Tolpin added that they were currently not shown on the site plan which would indicate they should be removed, but it can also be added as a condition of approval. Commissioner Demes stated that he would move for that eventually. Chair Scarpelli confirmed that FDOT approval would also be required.

Chair Scarpelli then asked for public comment. There was none. Public comment was closed.

Mr. Ty Harris, agent for applicant, thanked Ms. Reed for her help. Though it seems like a simple request, dealing with four existing driveways and trying to put that on paper in a way that the request makes sense to take it down to two was more of a challenge than you can imagine. They were able to work through what was needed to get the request before the Planning Commission. The applicant will only be doing the two driveways as shown on the site plan which will reduce the number of driveways on the property. This is for a private car museum and this is one of the final steps. Knocking out two driveways makes sense.

**Motion: Commissioner Demes made a motion to approve with the understanding that the two other access drives will be removed. Commissioner Neugent seconded the motion. There was no opposition. Motion passed unanimously.**

**4. 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 REQUESTED BY BRETT BILLER FOR PROPERTY LOCATED AT 305 AVENUE 'A', BIG COPPITT, LEGALLY DESCRIBED AS BLOCK 3, LOT 6, JOHNSONVILLE PLAT BOOK 1, PAGE 53 BIG COPPITT KEY HAVING PARCEL ID NUMBER 00151350-000000; APPROXIMATE MILE MARKER 10. (FILE 2024-191)**

(10:54 a.m.) Mr. Mike Roberts, Assistant Director, Environmental Resources, presented the staff report. This item was continued from last month so he would go through the presentation quickly. The property is located at the end of Fourth Street on Big Coppitt Key on Avenue A, on the very north end of Fourth Street across from the Lower Keys Cemetery. The surrounding property use is primarily developed land. However, there is hammock, native land and salt marsh to the north, with the cemetery and developed land to the west. Historically, in 1985, the existing conditions use was hammock. It is currently zoned improved subdivision. The Florida Forever project boundaries are shown in light green and the subject property is included in the Florida Forever project list. Mr. Roberts presented the currently owned conservation lands in tan. The parcels at the very bottom in yellow are owned by the Monroe County Housing Authority. Part of the tier boundary criteria includes lands designated for acquisition by public agencies for conservation and natural resources protection and the property is currently listed within the Florida Forever project boundary. That same criteria is in Policy 205.1.1 of the Comprehensive Plan. Based on the parcel being listed within the Florida Forever project boundary, staff recommends denial for this tier map amendment.

Chair Scarpelli asked if Tier I means you can't build or that you start with negative points. Mr. Roberts responded that it reduces the points available in ROGO, but there are no negative points associated. Chair Scarpelli confirmed that it would only have ten points and then asked for public comment.

Ms. Natalie Liz, applicant, stated that she is under contract on this property and wants to build a house for her son. She believes that granting the Tier III designation and eventually building rights for this property is not only justifiable but aligns with the County's mission for responsible environmental stewardship. This lot is sandwiched between two developed parcels. Across the street is Tier III and there is one house between this lot and the first house in Tier III. There is no hammock, salt marsh or mangroves on this lot. Page ten of the report shows there are homes directly adjacent to and much closer to the hammock, marsh or mangroves than this lot is. It is located just outside 55 DNL, but is within 60 DNL of the noise contour. The home they are planning to build will exceed criteria established by permitting and building codes. It is her understanding that the intent behind Tier I is to protect environmental lands in the Florida Forever, however an impact assessment would demonstrate that it can be developed responsibly and the natural resources would not be compromised. There has also been some precedent set with properties developed before the tier mapping was established including the handful of homes photographed in the report that are on what would be Tier I, closer to the hammock and other protected areas. Ms. Liz appreciates that the staff is upholding criteria and respects that commitment, but the land use policies should also be adaptable to real world conditions, and she is willing to work with anyone to implement mitigation strategies that align with her vision for sustainable development. This will also address the balance between growth and critical need

for housing and environmental protection. She welcomes the opportunity to collaborate and thanked the Commission for their time.

Chair Scarpelli asked if there was a driveway directly behind the property. Ms. Liz responded that it comes off of Fourth Avenue to someone's house, and at one time there were other things on here that were not recorded. There were no questions for the applicant by the Commissioners. There was no further public comment. Public comment was closed.

Ms. Liz then added that a Florida Forever representative was on the Zoom earlier. This property had been listed for a year prior to the listing expiring, and the listing had been renewed for 30 days when she had put it under contract. Florida Forever had had opportunities to make an offer on the property and they didn't, and that's what they were going to comment about.

Chair Scarpelli noted that this is a tough one. Commissioner Demes stated he had gone to this site and if it was not in the Florida Forever program, he would be hands-down for this, but it is in the Florida Forever program. He understands the issue about the listing, but it is his understanding that if this remains a Tier III, there will be effort put into making an offer on this property. Also, in the MIAI it is in the 55 to 64 DNL which is on the periphery of what he considers the AICUZ critical noise level, and is also considered a buffer area. However, he is swayed by the fact that this is in the Florida Forever program and that there will be an offer made for it.

Mr. Peter Morris, Assistant County Attorney, interjected that he was going to ask Mr. Roberts to speak briefly on that point. Mr. Roberts stated that according to the Monroe County Land Authority, the potential for an offer would be made after final agency action which would be either an approval or denial at the BOCC level for final action. Ms. Devin Tolpin interjected that though public comment had previously been closed, there was someone online that was trying to raise their hand. Chair Scarpelli reopened public comment.

Mr. Brett Biller, the property owner, stated that he wanted to sell this property to a nice family and this young man is working locally. He knows there are problems with affordable housing for everyone in the Keys, but he wanted to let the Commission know that he has had the property for a long time and wants to sell this property, and would like to see it go to a good family. There is developed property on all sides of this property.

Chair Scarpelli again closed public comment. Chair Scarpelli asked if there was any record of Florida Forever trying to purchase the property. Mr. Roberts stated that he had none. Mr. Morris added that it's not typically required by law to solicit the records for that other than to see if it's on the list. Chair Scarpelli noted that just because it's on the list and not being actively pursued doesn't necessarily mean anything. Mr. Morris responded that that could be interpreted in multiple directions. Chair Scarpelli noted that it's pretty much scarified land and may be low on their list of priorities of land to purchase. Mr. Morris stated that it wasn't always scarified. Commissioner Neugent noted that it was under water at one time. Commissioner Demes stated that when it becomes Tier III it changes the game. Chair Scarpelli reiterated that Tier III means it is developable land but has less points than everyone else. Commissioner Neugent asked why there was that hurdle. Commissioner Scarpelli responded that that's the way it is, that you can

still go in and build a house on it, but you will be on the list for a while unless you purchase other lands and reduce density. On the other hand, if you can still develop on it, why not help someone out trying to build their house. Luckily, he does not have to make motions and the final decision will be up to the BOCC.

Ms. Christina Gardner, Ex-Officio Member, NASKW, stated for the record that the property is within the MIAI, specifically 55 to 64 DNL average sound level contours. To ensure any future development is compatible, all MIAI requirements would need to be followed to include noise level reducing features and perpetual notification of any future applicants.

Chair Scarpelli asked if there was a way to designate land Tier II outside of Big Pine. Mr. Roberts stated that there is not, that is only on Big Pine and No Name Keys. Commissioner Anderson asked to see the tier designation map. Mr. Roberts explained that everything in green is Tier I, and everything in brick red is Tier III. Mr. Morris reminded the Commission that they are sitting in a quasi-judicial capacity where they are to apply the law rather than formulating new policies as in a legislative capacity. So they are in the realm of law application rather than law development. Commissioner Neugent confirmed that the Commission was only recommending or agreeing with staff's position. Mr. Morris responded that their decision constitutes a recommendation, but they are still sitting in the law application mode. Chair Scarpelli noted that if the property still looked like it did in 2012, he doubts there would be a lot of questions as to what this is. Commissioner Demes stated he was ready to make a motion. Chair Scarpelli wondered how in 2018 to 2022 it had gotten there from 2012, and didn't know how that would be addressed, though it is not the purview of this conversation since, as Mr. Morris had said, it's not about creating law, it's about interpreting law.

Mr. Morris asked, although it is a bit unorthodox, for a three-minute pause to discuss a situation with the applicant. Chair Scarpelli agreed. There was a brief pause in the proceedings from 11:13 a.m. to 11:15 a.m. while the Commission continued making observations from the maps. Chair Scarpelli stated that his problem is it is located between developed lands. Commissioner Neugent agreed, and supports sending this to the BOCC. Commissioner Thomas thought the parcel looked very scarified.

Mr. Morris then stated that the applicant had received some helpful late-breaking feedback that it's possible that some Florida Forever personnel had told the applicant that they may not be interested in purchasing the property anymore. This is only hearsay to at this time, though he has no reason to doubt that that is not a thing. He had conferred with the applicant and it may be worth the candle to continue this another month so staff and he can have a conversation with DEP. If that is a case and there is just a lag in the acquisition list, then the record can be corrected. This may be helpful in consideration of this item. Chair Scarpelli stated that if it's not designated for public lands then it doesn't meet the Tier I criteria. Mr. Morris agreed, and if there is feedback from relevant State personnel, this could be continued to the next date certain rather than the applicant having to pay more fees. Commissioner Demes stated that this is extremely important to his decision making. Chair Scarpelli added that that was everyone's hang-up. Commissioner Neugent preferred not to send this to the BOCC with a negative response from the Planning Commission.

**Motion: Commissioner Demes made a motion to continue to the April 23, 2025 meeting. Commissioner Thomas seconded the motion. There was no opposition. Motion passed unanimously.**

**BOARD DISCUSSION**

Special meeting on April 1, 2025, in Key Largo was noted.

**GROWTH MANAGEMENT COMMENTS**

None.

**RESOLUTIONS FOR SIGNATURE**

None.

**ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 11:19 a.m.