

PLANNING COMMISSION
May 28, 2025

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Wednesday, May 28, 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)	Absent

STAFF

Devin Tolpin, Senior Director of Planning and Environmental Resources
Mike Roberts, Assistant Director of Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Isabella McLain, Planner
Tiffany Stankiewicz, Development Administrator
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 members and public attendees were sworn in by Mr. Hunter O'Connor.

CHANGES TO THE AGENDA

None.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Commissioner Demes had responded to some emails, but did nothing other than acknowledge seeing and reading them. He had met with Mr. Bart Smith regarding Item 4 as he wanted to understand the changes made for this meeting that were on the site plan. There was nothing new, and it would not impact his decision. Commissioner Scarpelli had communications with Mr. Bart Smith and Mr. Andrew Toppino regarding Item 4, and it would not influence his decision. Commissioner Anderson had met briefly with Mr. Smith to go over plan changes, and had a brief communication with the attorney representing the residents briefly after the meeting last month, but neither would affect his decision today.

APPROVAL OF MINUTES

Commissioner Demes noted that on the Special Meeting minutes for April 14, 2025, at page 17, it states that Commissioner Thomas made a motion to admit the report, in reference to a traffic study, which would be difficult as she was not at the meeting. That motion was made by Commissioner Demes which had died on the vine.

Motion: Commissioner Neugent made a motion to approve both the April 14, 2025 Special Hearing minutes with correction noted by Commissioner Demes, and the April 23, 2025 regular meeting minutes. Commissioner Thomas seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

AGENDA ITEMS

1. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR JANUARY 14, 2025 THROUGH APRIL 14, 2025, ROGO (Quarter 3, Year 33). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. (File 2024-140)

(10:06 a.m.) Ms. Tiffany Stankiewicz, Development Administrator, presented the staff report for the residential dwelling unit allocations for Lower and Upper Keys subareas and Big Pine and No Name Key subareas. The Planning and Environmental Resources Department is recommending approval of the following market rate rankings: Lower Keys applicants ranked 1 through 7 recommended for allocation awards; Big Pine/No Name applicant ranked 1, recommended for allocation award subject to mitigation availability at the time of permitting; Upper Keys applicants ranked 1 through 7 recommended for allocation awards. All other applications, market rate and affordable housing, roll over to the next quarter.

There were no comments or questions by the Commissioners. Chair Scarpelli then asked for public comment. There was none. Public comment was closed.

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

2. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE NON-RESIDENTIAL ALLOCATION SYSTEM FOR JANUARY 14, 2025 THROUGH APRIL 14, 2025, NROGO (Quarter 3, Year 33). ALLOCATION AWARDS WILL BE ALLOCATED FOR ALL UNINCORPORATED MONROE COUNTY. Pursuant to Monroe County Code Section 138-53(e)(13), the Planning and Environmental Resources Department is providing a notification to the general public of the NROGO account balances. (File 2024-141)

(10:08 a.m.) Ms. Tiffany Stankiewicz, Development Administrator, presented the staff report for NROGO allocations. The Planning Department is recommending approval of the 1 NROGO applicant.

There were no comments or questions by the Commissioners. Chair Scarpelli then asked for public comment. There was none. Public comment was closed.

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

3. NEW DUCK KEY MARINA, 1254 GREENBRIAR ROAD, DUCK KEY, MILE MARKER 61: A PUBLIC HEARING CONCERNING A REQUEST FOR A 2APS ALCOHOLIC BEVERAGE USE PERMIT, WHICH WOULD ALLOW FOR THE PACKAGE SALE OF BEER AND WINE IN SEALED CONTAINERS FOR OFF PREMISES CONSUMPTION, FROM A PORTION OF AN EXISTING MARINA. THE PROPERTY IS DESCRIBED AS A PARCEL OF LAND IN SECTION 21, TOWNSHIP 65 SOUTH, RANGE 34 EAST, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBER 00099140-000100. (File 2024-221)

(10:10 a.m.) Ms. Isabella McLain, Planner, presented the staff report. This is a request for a 2APS alcoholic beverage use permit. The applicant is New Duck Key Marina, LLC. The agent is Merrill Property Division Trust, LLC. Ms. McLain presented the survey submitted by the applicant. This 2APS alcoholic beverage use permit would allow for the sale of beer and wine in sealed containers for package sales for off premise consumption within the designated retail area of the existing marina. The size of the site is 37,614 square feet per the Monroe County Property Appraiser. The land use district is destination resort. The FLUM is mixed use commercial. It is Tier III, infill area, and the existing use is a marina. Ms. McLain presented relevant prior County actions. On December 29, 1969, Permit 19605 was issued to construct a 100 by 120 foot steel frame building for dry boat storage. On April 26, 1979, Permit B4216 was issued to construct an addition to the existing building including an 825 square foot retail area for the sale of parts. On January 16, 2024, a letter of understanding was issued by the Senior Director of Planning and Environmental Resources concerning the potential expansion of the marina. Through this LOU it was determined that the existing marina is lawfully nonconforming to the DR Land Use District and an expansion would not be permitted. Staff recommends approval of the requested 2APS alcoholic beverage use permit allowing for the sale of beer and wine in sealed containers for package sales for off premise consumption within the existing permitted retail area of the marina with the three standard conditions under Section 3-7 of the Monroe County Code. However, valid objections from surrounding property owners at the public hearing may lead the

Planning and Environmental Resources Department to reevaluate the recommendations or suggested conditions.

There were no questions from the Commission. Chair Scarpelli then asked for public comment. There was none. Public comment was closed.

Commissioner Demes stated that he found it interesting that this site, considering it will have off-site sales that it is the most parking challenged business he has been to in a very long time and he wishes them the best. Chair Scarpelli noted that it was mostly for the boaters.

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

4. BLACKSTONE GROUP TAVERNIER 925, L.L.C. AND VC TAVERNIER, LLC, 92501 OVERSEAS HIGHWAY, TAVERNIER, MILE MARKER 92: A PUBLIC HEARING CONCERNING A REQUEST FOR A MAJOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE PROPOSED DEVELOPMENT OF 86 ATTACHED DEED RESTRICTED AFFORDABLE WORKFORCE DWELLING UNITS, A 49,340 SQUARE FOOT NONRESIDENTIAL COMMERCIAL RETAIL STRUCTURE AND AN INSTITUTIONAL USE IN THE FORM OF 350 SQUARE FEET OF OFFICE SPACE. THE SUBJECT PROPERTY IS DESCRIBED AS PARCELS OF LAND IN SECTION 27, TOWNSHIP 62 SOUTH, RANGE 38 EAST, TAVERNIER, MONROE COUNTY, FLORIDA, HAVING PARCEL IDENTIFICATION NUMBERS 00089490-000000 AND 00490250-000000. (FILE 2022-012) (Continued from April 14th, 2025 Special Meeting.)

(10:17 a.m.) Ms. Devin Tolpin, Senior Director of Planning and Environmental Resources, presented the staff report, briefly going over details previously presented at the April 14, 2025 Special Meeting. At this special meeting the Planning Commission granted a variance to access standards at this site. Ms. Tolpin presented the proposed site plan. The Planning Commission had also heard a request for a development agreement between the developer and the County and recommended approval of that development agreement, requesting that the Board pay special attention to the need to continue the pedestrian walkway along US 1, requesting an increased buffer between Building E and the commercial retail store, additional pocket parks or green space, improved architectural features on Buildings A1 and A2, and interior pedestrian sidewalks. The BOCC considered the development agreement at a special hearing and approved that agreement including approval of the income distribution and proposed traffic mitigation for this project. Ms. Tolpin presented the revised site plan that will be reviewed for approval today by the Planning Commission, and images of all of the proposed buildings with elevation plans, including revised Buildings A1 and A2 with the improved architectural features. The property is also in the SC zoning district where more than 18 attached dwelling units require a major conditional use permit, as well as the construction of a nonresidential structure more than 10,000 square feet. There are nine applicable standards for a major conditional use permit. Staff finds that this application is consistent and compliant with all nine of the applicable standards. Ms. Tolpin pointed out that staff has added an additional recommended condition to the 19 presented. Number 20 will be that bike racks be included within 100 feet of each of the residential

structures to increase the consistency with Section 114-15. Staff recommends approval with the 20 conditions, which Ms. Tolpin read through from the report.

Commissioner Demes asked to see the slide where a provision of the Land Development Code was being added. Ms. Tolpin clarified that was Section 114-15. Commissioner Demes asked what had caused this to be added. Ms. Tolpin responded that further review seeing the interior sidewalks being added, it seemed appropriate to request additional bicycle racks be added. Commissioner Demes stated that he did not know the appropriate time to ask this question, but knowing how creep occurs with property owners and development into areas of wetlands, he asked if it would be out of the question to ask that the perimeter be fenced. Mr. Peter Morris, Assistant County Attorney, thought it was appropriate. Chair Scarpelli added that South Florida Water Management District required chain link fence, postings and gate access for clean-out in case of debris as part of the mitigation. Mr. Mike Roberts, Assistant Director, Environmental Resources, interjected that it has to be located landward of the buffer. Mr. Morris noted that the Planning Commission could impose that as a condition so as not to leave the fate of that up to the SFWMD later on. Commissioner Demes did not like leaving it with the District requirements, and wanted it put in. Ms. Tolpin added that the required buffer yard is also required to be placed under a conservation easement, and surrounding the perimeter of the wetland area. She was not sure if Commissioner Demes wanted the fence in front of the conservation easement or behind it between the easement and the wetland. Commissioner Demes stated he was good with it between the easement and the wetland. Mr. Morris stated that the applicant's attorney had indicated some consternation that there may be a conflict with County and District requirements. A way to reconcile any disharmony would be to impose that requirement of such fencing with the explicit proviso that, to the extent that there is a conflict, that the District requirements would prevail. Chair Scarpelli stated he would agree with that. Mr. Roberts stated that any included fencing needs to go on the landward side of the buffer. Commissioner Demes preferred language that the fence could be put in without conflict of the SFWMD. Mr. Morris added that the fencing would be cordoning off the buffer and the conservation easement, and to the extent that there's a conflict the District's requirements would prevail. Chair Scarpelli wanted to see the list of conditions and asked whether the fencing condition would be incorporated into an existing condition or be added as an additional condition, and it was agreed that it could be condition 21.

Mr. Bart Smith representing the applicant stated he would skip over some of his slides as a lot had previously been shown. He also was requesting two additional conditions based on input from the Planning Commission Special Meeting regarding the buffer along Building E, the one closest to the Publix, and the pocket parks added to the plans. Mr. Smith presented a site plan, 15 acres of upland, 20 acres total, with approvals of the LDR, the zoning map, the Comp Plan amendment and the development agreement providing development of up to 49,900 square feet of nonresidential floor area, the 86 attached deed restricted affordable housing dwelling units, the 49,340 square foot store with the 350 square foot institutional office to be utilized for AIDS Monroe. Mr. Smith pointed out how the sidewalk connects, the distance between the sidewalk on the south side being 12 feet and narrowing to seven feet. The front side of Buildings A1 and A2 were redesigned, and Building E was shifted back a little for a better buffer to meet all requests of the Planning Commission from the Special Meeting. The applicant is fine with the logical addition of bicycle racks in condition 20, and fine with the language for fencing landward of the wetland area to the greatest extent practical consistent with the SFWMD requirements,

noting they also require signs, access, and a whole process. The applicant is in compliance with all standards, plans a buffer of a 12-foot hedge adjacent to Building E, and asks for a condition that provides that the hedge remains at 12 feet. Additional green space was added to the residential tract including pocket parks, and the applicant asks that the pocket park areas adjacent to Building E and between Buildings C and D as depicted are required to be maintained as part of the conditions. The reason for adding these as conditions is the only way they can get changed is to go back to the Planning Commission and justify why, so those would be conditions 22 and 23 at this point. The pocket parks were expanded by moving the dumpsters. Mr. Smith pointed out the two playground parks convenient to all of the residences. Mr. Smith presented the elevations and the crosswalk not within the site triangle. Mr. Smith requests approval with the conditions of staff and those added today.

Commissioner Demes stated that part of what was discussed at the last meeting was having a five-digit number with four significant digits and using the word approximately, he thought they had agreed on a number not to exceed, and he requested that the specific number be used instead of the word approximately, which Mr. Smith agreed to do. Commissioner Demes asked what the plans were to put anything in the parks, and Mr. Smith responded there would be playground equipment optimal for the area. Commissioner Demes asked if there would be a bus stop near the area, and Mr. Smith was unaware of one. Commissioner Demes asked to see a blowup of the plan for the ingress and egress, and Mr. Smith complied, pointing out the crossing areas. Ms. Tolpin interjected that the County is currently working on a bus stop improvement plan evaluating current bus stops and the need for new stops and improvements. The initial draft has been created and she is not sure if it includes this development or not. Mr. Richard Clark would be the person to contact for those inquiries. Chair Scarpelli then asked for public comment.

Mr. Rick Buretta, President of the Tavernier Community Association, stated that this meeting represents the conclusion of a long review process, he believes three years and running, which he has participated in from the beginning. He has done his best to articulate the will of his community during all of his representations and will continue to do so. From the beginning he has argued that this proposed development will adversely affect Tavernier and that position has not changed. There is no question that this development will have an adverse impact not only on the quiet residential neighbors on the border of this proposed development but to Tavernier as a community. Reading the staff report it is undeniable that this will also adversely impact Islamorada. It has been stated as a matter of fact that the traffic generated by this development will exceed the remaining capacity of Segment 21 in Islamorada. Knowingly reducing the level of service on US 1 will adversely impact all who use the highway. The proposed mitigation will do nothing to offset that. Exceeding that capacity sounds fairly adverse to him and it should to the Commission as well. The staff report indicates that the proposed development is in compliance with the Comprehensive Plan provided that the accepted mitigation measures are implemented. What is missing is an agreement between the Village of Islamorada and the County that codifies this arrangement that they've devised. There is no such agreement. That is not surprising. It is hard to believe that Islamorada's commission would give up Segment 21's remaining capacity for an outside development. Mr. Buretta had spoken to the Village manager the other day who said he hasn't a clue about what is being talked about here, nor had anybody contacted him. Nobody in the Village government has any clue as to this arrangement. The fact that there are so many unresolved issues is very concerning. We've adopted this, build it and let

FDOT deal with all of the traffic issues later, position. Throughout this application process FDOT has stated they were not involved in the planning. Their position is if you approve the project, they will do their best to mitigate any problems that result from it. Those problems are coming. The developer's own Level 3 traffic study suggests that traffic generation levels in their own study may be larger than reported and may require a traffic signal. The turning radius is another unresolved issue. The County's own engineers have stated this may require a widening of the highway. These are but two of the traffic challenges expected to cause an adverse impact. He remembers it taking over a year just to do the engineering for the reconfiguration of the intersection at Burton Drive and US 1, and a lot longer to do the construction. Since then it has been a work in process. Undoubtedly, the community will suffer through the traffic problems that result from this development for years until solutions are implemented. That is an adverse impact. He would like the Commission to consider a reduction in the size of the supermarket. A larger store will surely attract more people and not necessarily from this planning area, but from Islamorada. A store comparable to the size in Islamorada would serve the local community, reduce traffic, and improve traffic safety. A reduction in the size of the supermarket would free up much needed space to provide adequate recreational and green space for the planned workforce housing and eliminate the need for any type of traffic mitigation. The current housing living conditions could be greatly improved if a reduction in commercial space were required. He urges the Commission to consider that recommendation and prioritize the community's quality of life by reducing the expected adverse impacts to all who call Tavernier home.

Ms. Sue Miller of Islamorada has been a full-time resident for 45 years, still living in the same house, but the house is all that's the same for her. She remembers when the people that worked here lived here. The workforce didn't have to fight the traffic to get to work from the mainland when traffic wasn't a problem. Now she is a virtual hermit just to avoid traffic. Another radical change is local government seems to cater to the big businesses at the expense of residents. Years ago people could stand at a government podium and would be heard. Their voice would make a difference. The government has residents pay for expensive traffic studies to prove what we already know, there's too much traffic. But if the study confirms there's too much traffic, it gets relegated to a shelf in the back room. The applicant's own traffic study shows their development will have 1,638 new vehicles per day to the south onto traffic Segment 21 in Plantation Key in Islamorada. This development plan is to use all remaining available trips for that Islamorada traffic segment without involving Islamorada in the process. How unfair. The Monroe County Code 126-2 addresses intergovernmental coordination. It requests that the County shall coordinate with affected jurisdictions. Islamorada is an affected jurisdiction and wasn't invited to the table. They need to be a part of a coordinated traffic plan. Plantation Key is already extremely congested where four lanes merge to two. Residents worry about getting emergency vehicles through the traffic, and getting kids and teachers safely to and from the schools there. In 2023, the County traffic study showed there was a deficit of 1,729 trips available on the traffic Segment 21 just to meet the acceptable level of service. A study not impacted by the water pipeline project, just normal traffic. That study is on the shelf and this project gets to use the four year-old 2021 numbers during a slowdown for Covid. Why should a project outside of Village boundaries utilize 100 percent of any available trips in the Village to avoid a major mitigation requirement by the developer? Islamorada needs a voice, one the County regulations seem to guarantee. Invite Islamorada to the table, please, before you add to

the already dire traffic concerns. Ms. Miller is amazed how creating 86 affordable housing units seems to allow approval of a project that will generate twice that number of workforce.

Mr. James Anderson has lived at 181 Coconut Row in Tavernier for 42 years. He has spoken before the Planning Commission about this topic before. It is very near and dear to him. He is requesting the Commission block the consideration of the major conditional use permit for the following reasons: Traffic, safety, and quality of life. As to affordable housing quality of life for their children, it's really interesting to see that during this applicant's full process they never even thought of these little kids who aren't going to have any place to play. Remember your legacy. Do you on this Board want to be known to your children and grandchildren who can identify as one of the ones who destroyed our environment? Please think of all these things and remember there are people that come forward and will take time out of their lives to drive here to talk to the Commission. Please consider, where are all the people who want this Publix? The people here are the ones coming forward to speak to all of you. Your hard work is appreciated but this applicant is inappropriate for where we live. The Planning Commission has changed their decisions on several things. Please reconsider this. Please block this.

Ms. Melissa Ptomey stated that she doesn't have much nice to say. She ran on this issue. As opposed to saying something very nasty she would read from some other people regarding this issue. First of all, the three groups had met last week about traffic which is a huge issue to a lot of people. Notably, none of the Commissioners decided it was important enough to come, although the Islamorada manager came, Steve Freeman, who they appreciated coming to that event, but traffic is a huge issue for this community and not just in the Upper Keys. The Keys Accountability project wrote, "Monroe County Commissioners are required to conduct a US 1 road study every other year at taxpayer expense. If the average speed to get from mile marker 112 to Key West is 45 miles an hour, that is awarded an acceptable C grade on a scale of A to F. If the grade falls below C, no new development other than single-family homes is permitted. Numerous studies have been conducted over the years that show US 1 is over capacity. The 2019 study awarded a D for the entire length of US 1. The County Commissioners did not approve and instead used the 2017 study, thus more development. The 2021 study awarded an acceptable C grade because nationwide Covid lockdowns significantly reduced tourism and it was approved by County Commissioners, thus more development. 2023 study awarded a D. Commissioners did not approve this study and instead used the 2021 Covid study, thus more development, Cemex Publix. The Tavernier Cemex Publix mega development approval was based in part on the 2021 Covid study and developers still fell short meeting traffic standards by 16 vehicle trips. Commissioners let developers pay a mitigation fee of \$177,000 or \$11,080 per trip to get the project approved. If the more recent 2023 road study was used the developer would have to pay mitigation for 1,700 trips totaling 19 million. That's a sweet deal." Ms. Ptomey then read from the Islamorada Community Alliance newsletter. "Developers plan to utilize all available trips on Plantation Key based on a four year-old 2021 traffic study to mitigate the added traffic. Florida law as well as Village and County Comprehensive Plans require mitigation plans across jurisdictional boundaries. They must be approved by both jurisdictions. The Village has been left out in the process." Nobody is really listening to the residents, to the cares of the people around here, the cares of the families, children and business owners. Ms. Ptomey lives on Coconut Row and wishes the Commission would listen to the people that live here and are going to be greatly affected.

Mr. Andrew Tobin first presented an exhibit showing the traffic pattern for people going through the project to get to the residential area. They have to go through the parking lot of Building A. Chair Scarpelli pointed out that that was incorrect, that it went straight through the back. Mr. Tobin continued, after 50 years of practicing law in Monroe County, he has come to read tea leaves pretty good and it looks like this project is going to get approved. So his presentation is to try to make this project the best that it can be. He served 16 years on the Key Largo Wastewater Treatment District and at his first meeting they were tasked to try to decide what type of system we should have and they were lobbied by two different companies. He called a summit and required them both to show up, and asked them to explain what was wrong with the other system to have a debate and figure it out. He is suggesting that the Planning Commission has the power to wait and know why Publix cannot have a smaller building. No one from Publix has ever appeared. There have been a lot of discussions about how Publix is a great neighbor and will do this and that during a hurricane. He permitted Publix in Islamorada and Ms. Cheryl Cioffari, now the Assistant Director of Planning, negotiated with them and got it down from 50,000 to 32,000 square feet. There is one on Fifth Street, Dade Boulevard and Surfside in Miami Beach, one on Biscayne Boulevard and 36 Street, and one in downtown Miami under a condominium that are all smaller Publix's. This is the most successful corporation in the State of Florida making millions of dollars every day. The Commission can get Publix to come here and say why they can't do business in a 32,000 square foot building, reduce the parking and give the residents who are going to live there a decent place to live. Mr. Tobin is asking the Commission to exercise their authority and then presented Section 110-65 which says the Planning Commission may deny any application that may not be appropriate within any particular area in the context of surrounding properties and neighborhoods. This project is going through and everyone knows that. The BOCC changed a lot of the rules in order to have 86 essential workforce housing units, bent over backwards and spent two years going through the process. Now, at the end of the day, we are left with a horrible place to live. He thought about getting a psychologist to come and give their expert opinion on how horrible it will be to live there, and he does not think that that's the legacy the Commission wants. The 50,000 square foot building is the average size of a Publix Supermarket. The notion that they reduced it from 70,000 to 50,000 square feet is not true. The Commission has the authority to delay this and get Publix to appear here today and explain why they must have 49,000 square feet. Reduce the parking and there is more open space. Reduce the size of the building and there is less traffic. The people on Plantation Key that might go to Islamorada now have a bigger store to go to and that will create problems. Key Largo has 20,000 customers per week. That's 40,000 trips per week, in and out. It's not going to be a pleasant place for people to live. There is no open space. They have to fight their way through, and Building E backs up to the back of the store. Planting trees is not going to make any difference. Residents will still look out of their bedroom window at the back of the store hearing cars and trucks backing up, beep-beep-beep, every morning from 5:00 a.m. to noon every day except Sunday, when there are deliveries. This is not a happy place to live. The Commission has the power to slow this thing down and get Publix to appear and explain why they need a 50,000 square foot store in a challenged area. There are ten supermarkets in the Florida Keys and none are surrounded by homes. Time was called. Mr. Tobin asked the Commission to use their power. This is going to get developed. The handwriting is on the wall. But let's do it right and do it as well as it can be done. Mr. Tobin stated that Chair Scarpelli knows that this site plan is not up to speed. The Commission spent five minutes at the last

meeting talking about a buffer. Putting up a few trees is not going to give anymore open space and it will not be a happy place to live. Chair Scarpelli asked Mr. Tobin to wrap it up. Mr. Tobin then handed out a copy of 110-65 to the Commission explaining that it is the authority the Commission has. He stated that Miles Moss, the traffic engineer, would speak in a few minutes regarding the conflict at the median strip.

Mr. Paul Ellison of Tavernier stated that site plans are nice but they're just drawings. He asked if anybody would want to live in Building E regardless of where it is. Driving behind any Publix, close your eyes and pretend there's a buffer there, and just take a deep breath and listen. See how long it takes you to get the taste out of your mouth. As Mr. Tobin said, 5:00 a.m., six days a week there is no peace and quiet there. Mr. Ellison likes reality and had asked the Commission on their drive home from the last meeting to stop by in Key Largo at the Walgreens and CVS and look at the left-hand turn lane. It will hold between eight to ten cars. Traffic in the passing lane going south is frequently stopped because there's not enough room for those cars to fit in that lane. The grass in the median is worn where cars try to get out of the way so that through traffic can proceed. Mr. Ellison asked how many of the Commissioners had driven down Orange Blossom, and stated he would leave it at that.

Mr. Chris Hoguet of 160 Orange Blossom Road stated the walk-through that leads from Orange Blossom to the proposed Publix is right in front of his house. Last meeting he addressed the quality of living. Nobody has questioned the quality of the construction and has no doubt to that. He is looking at the families that could live there and quality of life they could have. Right now the site plan is a bedroom community above carports with kitchens attached. If everyone leaves at 8:00 a.m., goes to work and comes back sometime after 5:00, they will stay inside. Mr. Hoguet is a retired lieutenant colonel of the United States Army Special Forces. He was assigned to Key West, Commander of Special Forces Underwater Operations School and previously was assigned to Homestead Air Base under Special Operations Command South. His biggest issues have always been quality of living for his service members. As part of one of those jobs he had to plan to evacuate 27,000 people out of Bolivia. The biggest issue was not security or transportation. It was the quality of their living while under his control. Every time you raise the standard by lowering the bar, Big Man Limbo is underneath it. He is incredibly agile in dealing with this. Raise the standard, lower the bar. Mr. Hoguet prefers this not be approved though he is pretty much sure this is a done deal. Make it the best as appropriate for Tavernier. Reduce the size of the parking lot and the commercial property. They have been told from the beginning this is about housing, but the majority of the property is covered by a parking lot and a commercial facility. Do the right thing and reduce this, and improve the quality of living for the people we keep saying are the center of this.

Mr. Joe Wischmeier of Plantation Key stated he is here to discuss the traffic nightmare on Plantation Key, specifically at Segment 21, mile marker 86 to 91.5. From approximately mile marker 90 to 91.5, there are two schools, two churches, many restaurants, a bar distillery with a 24-hour Seven-Eleven convenience store and gas station across Palm Avenue, many businesses along US 1, over 400 houses in Plantation Key Colony, houses near the high school, and a neighborhood surrounding the Tavernier Airport, just to name a few. All of this is within a 1.5 mile area where US 1 merges from four to two lanes. To burden this already overcrowded road with an additional 1,638 trips a day in Segment 21 on Plantation Key seems unconscionable.

There are traffic studies done every two years to determine if the level of service on US 1 could handle anymore development. 2009 revealed too much traffic, failed, not approved by County. 2021, Covid year, traffic okay, County accepted this. 2023, also failed because of too much traffic was not accepted by the County. Another traffic study is due this year. With the replacement of the water main expected to take decades, to take and use every applicable trip, those 1,622 according to the Covid year 2021 study and more, is unfair to the Village of Islamorada. Attorney Bart Smith has claimed that they will pay mitigation for the over-limit trips of \$11,080 per trip for 16 trips over twelve years. That's only \$18,104 a year. He attends all Village Council meetings and there has been no discussion of an intergovernmental coordination agreement required by code. Even so, \$18,104 a year towards freebie transportation is not even close to the \$553,400 a year that it costs and that's now. What do you think it's going to be in twelve years, or even if it will be around. The 2023 traffic study showed a deficit of 1,729 trips, failing grade on Segment 21. Just because the County chooses not to accept these traffic studies does not mean they do not exist or are incorrect. Mr. Wishmeier has no problem with the workforce housing aspect but a new mega Publix and another Publix in Islamorada, both within ten miles in either direction, there is no need for a 50,000 square foot against code Publix. Traveling on Segment 21 when schools go in or get out, traffic is a nightmare, all backed up because of the one light, so he does not believe that adding a traffic light will do any good.

Mr. Miles Moss of Miami, is a traffic engineer, safety engineer and traffic accident reconstructionist. He has a bachelor's of science degree in engineering from the University of South Carolina, a master's of science in civil engineering from the University of Miami, is a registered professional engineer in the State of Florida, and as part of the University of Miami is part of the traffic crash team who researches the causes of accidents for the National Highway Traffic Safety Administration. He has testified in civil and criminal courts on over 700 occasions, and has been doing this for over fifty years. He has personally visited the site of the development and four other supermarkets in Monroe County recently when he was traveling to Key West to testify in a trial in Key West. It is his professional opinion that this location has very serious traffic safety issues that none of the other supermarkets in the County have. The proposed development will create a hazardous condition that will result in traffic accidents occurring unless a traffic signal is installed at this site. Based upon the study conducted for the developer that there would be over 5,362 trips per day entering and exiting the facility, based upon traffic counts on US 1, there's over 31,500 trips per day, 16,000 northbound and 15,500 southbound. Looking at the median storage itself entering the facility is 128 feet going eastbound which will store six cars. Exiting the median width of 118 feet will store six cars. Any more than six cars waiting to travel across the stop sign will end up backing up into US 1 creating a hazardous condition there. The most serious situation with the stop sign there is the safe gap to enter and exit the facility. The safe gap analysis he performed for entering the facility will need a gap of traffic between 5.7 and 5.8 seconds. You have to have 53 feet of travel to enter the facility clearing the southbound lanes. At 45 miles an hour, an approaching vehicle would have to be 307 to 379 feet away, over a football field away. Exiting is a similar situation but even longer, needing a gap of 5.1 to 6.3 seconds based upon a total crossing of 65 feet. At the 45 mile-an-hour speed limit a safe gap of 342 to 419 feet will be needed. Time was called. Everyone that drives has this experience. They stop and have to estimate how much time it will take to cross the roadway, see where the closest approaching car is. Many people do not

make that estimate accurately. Chair Scarpelli asked him to wrap things up. Mr. Moss added that these are typical drawings that he would show in an accident reconstruction.

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

Mr. Bart Smith speaking for the applicant disagreed with statements that this is not going to be a great place to live. He has worked with Vestcor on every development they've done in the Keys. The idea that a newly constructed apartment of decent size and living conditions is not a good place to live is patently wrong. There is a ton of green space, access to a grocery store next door, soundproof windows and buildings, new construction standards above base flood. This is what everyone is hoping for so they don't have to commute from Miami to the Keys, can live in the Keys and be part of the community. This will be a tremendous addition. As to the traffic the statements regarding Islamorada are incorrect. Islamorada does not use a level of service for segments. They use an overall level of service D. They remain in compliance with the level of service as adopted by Islamorada. As to the size, the Commission has paused this twice. This started as a 70,000 square foot facility, and this is the size arrived at and looked at by the BOCC. It's an over 22 percent reduction in size. The difference between the 32,000 and 49,000 square foot Publix is the width of the aisles, the height you need to reach up to get something, and less products. He has provided advanced studies that show that this will take traffic off of those impacted segments and actually reduce trips. Mr. Smith has Mr. Carl Peterson, his traffic consultant, present if needed, but the numbers used by Mr. Moss were incorrect. He believes those were based on the 70,000 square foot original store. Mr. Smith requests approval with the added conditions 20, 21, 22 and 23.

Chair Scarpelli asked about the turning radius issues and where that ended up. Mr. Smith responded that there are turning lanes in and out, and he does not believe there are turning radius issues. Ms. Tolpin responded that there were and that was the purpose for the recommended condition requiring approval by FDOT of the final site plan and any potential road widening or improvements needed in that median would need FDOT approval prior to certificate of occupancy. This is the issue where FDOT will not give the notice of intent to permit until Monroe County has issued the building permits. The turning radius is within FDOT right-of-way, not Monroe County maintained right-of-way. Chair Scarpelli confirmed with Mr. Smith that this was run through the fire department as far as DRC, and will be done again for permitting. Chair Scarpelli then asked about having no agreement with Islamorada and the freebie ride share scenario. Mr. Peter Morris stated he confirmed by looking in the Village's website that in September 2024, the Village Council had had an opportunity to consider opposition to the project, which was titled Resolution of the Village Council of Islamorada, Village of Islands, Florida, expressing opposition to the development currently being proposed on a portion of property located at 92501 Overseas Highway, Key Largo, et cetera, and it is his recollection that the traffic impacts in question at the time were not exceptionally different. Mr. Morris could not recall if it was rejected or failed to be voted on for lack of a motion, but either way, it failed to be adopted. That was in September of 2024. The Village regulates traffic based upon overall US 1 and specifically excludes looking at day-to-day traffic segment-by-segment as the County does. This still has to go through final concurrency review at the building permit stage. Mr. Morris pointed to the specific citation to the operative Village Comp Plan requirement that regulates traffic concurrency by overall capacity which is Policy 2-1.2.4. The

key takeaway phrase is, “as measured on an overall Countywide basis, not depending on any single US 1 segment, unless the impacts of the proposed development can be mitigated for its proportionate share required transportation concurrency improvements pursuant to Florida Statute Section 163.3180.” The Village had an opportunity to give voice to its view on the subject project and chose not to. Mr. Morris understands that there have been a few changes to the manager positions over the last several years. In the context of considering a major conditional use permit application, the Commission is required to apply the law as it exists, not as they might wish it to be. There is a process to amend the law. The proper remedy is to file an application for a text amendment to the code or comp plan to meet what that person or entity believes should be the best policy for the County. In this posture the Commission is sitting in a review capacity, not in a quasi-legislative capacity, and manacled by the law as it exists. This development is subject to final concurrency review if there is any change in the data. Chair Scarpelli asked for the anticipated date for the 2025 traffic study. Ms. Tolpin responded that they had not seen a draft yet, but the last one that was presented came in September. Chair Scarpelli asked if the updated traffic study will be based on 2021 numbers. Ms. Tolpin responded that it will be based on the numbers that exist at the time of building permit submittal.

Mr. Smith interjected that there was another project with a building permit issue that has been expired for two and-a-half years that puts over a 120 additional trips on Segment 21. It was going to be a dispensary at mile marker 92. That never went forward and the building permit has expired. Ms. Tolpin clarified that it has not been fully reviewed and determined if that permit is actually expired or eligible for those extensions through the emergency order, so it may very well be an active permit. Mr. Smith added that the interesting thing is the property is now utilized by a different tenant, so it’s highly unlikely that should be counted. Mr. Smith believes that will reduce what the impact is. Ms. Tolpin interjected regarding the arterial traffic time and delay study, it is anticipated in August of this year. Mr. Morris stated that as to the permit referenced by Mr. Smith, he does not think those assumptions should be predicated upon for decisions. His observation is he has not seen a lack of competent substantial evidence to sustain the proposed project and he is of one mind with the professional staff’s recommendation.

Chair Scarpelli asked if the freebie ride share was a Village service or a County service. Ms. Tolpin responded that it is within the Village. Chair Scarpelli asked if there was confirmation that the Village would accept this funding proposed. Mr. Smith stated that the County subsidizes it and the applicant is paying it to the County. Ms. Tolpin stated that the mitigation proposed has been discussed and there has been an arrangement made with the transportation department to apply those funds to the ride share program. Mr. Morris added that he believes that vehicle to be sufficient.

Commissioner Demes confirmed with Mr. Morris that what had failed for lack of a second at the Village was opposition to the project. Commissioner Demes appreciates the traffic at Segment 21 because he’s been stuck there coming north for no apparent reason. He had tuned in to the meeting on traffic referred to by Ms. Ptomey, and from what he could discern, it was legal counsel in the County that cautioned Commissioners from attending that meeting due to it not being properly advertised to allow their attendance. That doesn’t mean they weren’t watching on Zoom. He appreciates the number of management turnovers with the Village and how things can get lost, and Mr. Ron Saunders is a newbie to that position. Regarding the comment on quality

of life for children, different people appreciate different things, but the pocket parks are something, and the smaller you are the bigger things appear. Mr. Smith's point about the quality of housing being provided is something to be noted. What he doesn't appreciate, and he hopes it turns out better than his worst nightmare, is paying money into a pot for mitigation. That is just a slush fund with no guaranteed results down the pike. If the average rider on a ride share is one person it's not taking any traffic off the road. Traffic is the issue for Commissioner Demes and to depend on FDOT makes him uneasy. He's seen some of their work such as the pedestrian crosswalks. He is hoping for a better result than he's seen elsewhere but hope is not a strategy. Commissioner Demes appreciates everyone's comments and that everyone is going to be impacted both positively and negatively. Everyone gets used to a property being undeveloped, but it was approved through the Comp Plan and FLUM elements that allowed it.

Commissioner Thomas thanked the community members for attending all of these long meetings. She is all for workforce housing, but finds it interesting that when a project like this comes up and it doesn't go well in the beginning, workforce housing then gets thrown in and everyone gets on the bandwagon and thinks it's a wonderful idea. Secondly, a 77,000 square foot Publix is a normal store. They weren't looking for 77,000, they were looking for something less than that, but they asked for a lot and now everyone is thrilled with the 49,000 square foot Publix. That seems strange, nothing up your sleeve. Commissioner Thomas lives around the corner from a Publix. Yes, you can hear the beeping at 5:00 o'clock in the morning, and very often she drives around the Publix in Marathon and the back side is disgusting, there is junk and crap everywhere. Every now and then they clean it up but most of the time it's disgusting. She is not a fan of this project and hasn't been from the very beginning. Workforce housing, a smaller Publix, all of that she believes is bull and cover up but, as Mr. Morris said, we have to go with the law as it exists, and all of the issues have been met so the Commission is in a very difficult position at this point. The door has been opened and she is not so sure they can go back.

Chair Scarpelli stated that he had just gone behind the Publix in Marathon and was shocked at how clean it was. Commissioner Thomas responded that that was because they took the huge dumpster away and cleaned it up last week. Chair Scarpelli stated that he was just surprised that it was so clean, and noticed that they don't actually take their trash outside. It goes through a chute through an interior connection. Commissioner Thomas added that that may be true, but there was a huge dumpster back there, and in the front there are three homeless people who are now encamped on the lawn in the front of Publix.

Commissioner Neugent stated that many of the comments were accurate, and the comments from the Commissioners here. There are smart and dumb times to travel on the highway. You don't travel at 5:00 o'clock, noon or when the buses are going down the road. It only takes him an hour and 15 minutes when he travels at the smart times. He believes staff and the BOCC have researched this, and he has listened intently to the residents. He is optimistic about the improvements FDOT is doing now and traveling is a lot easier between Marathon to Key West, and Marathon to Key Largo. If you go through Plantation when schools are let out, it backs up big time. At one point in time the 70,000 square foot building that Publix was requesting included a viable plan for that large of a building, and that was to bring in a lot of supplies when a potential hurricane interrupted things, and getting back online to resupply the stores for people still here and returning from evacuation. Then it got reduced to 50,000 square feet based upon

requests by the BOCC. It's important to get back online as quickly as possible. The biggest impact he's seen in the 40 years he's lived here is by the State and Tallahassee preempting the County from doing anything about vacation rentals, which are a negative aspect to this County with just a small amount of benefit. That's why there is no housing. A lot of the housing that was residential either got sold or turned into a vacation rental or second home. Based on staff's research and all of the input, and this was an industrial site that's going to get cleaned up, he supports this project.

Commissioner Anderson asked how many structures in Tavernier were over 10,000 square feet. Ms. Tolpin responded there is Tavernier Towne, Mariner's Hospital, FKEC, Tavernier Commercial Center, the old Bank of America building and the Vaughn Building. Commissioner Anderson stated he is familiar with those buildings and does not believe there is much housing surrounding those properties. FKEC and the hospital are necessary. Putting this in a neighborhood with this size of a Publix he cannot see doing that to the neighborhood.

Chair Scarpelli asked Ms. Tolpin to go through the conditions before the Commission votes. Ms. Tolpin stated there were the 19 conditions in the staff report, and went through the added conditions 20 through 23. Chair Scarpelli asked about shade areas and landscaping around the park-play areas. Mr. Smith responded that currently there is not a plan. His hesitation is once you put a tree in, you can't do anything else. Chair Scarpelli thought shading should be included. Mr. Smith liked the idea of shade structures. Ms. Tolpin interjected that adding a canopy decreases open space and that would be something that would need to be reviewed for. Mr. Smith thought it would be provided simply as an amenity, to provide reasonable efforts to supply shade area. Ms. Tolpin stated that could be added. Ms. Tolpin then read the condition regarding the fencing barrier with SFWMD controlling, adding that bollards would be the preferred barrier per Mr. Roberts. Chair Scarpelli added that he had seen ADA compliance, but he would like to add Fair Housing Act compliance. Mr. Smith agreed to add it in. Chair Scarpelli confirmed that Publix had agreed to dim the lights after store hours. Mr. Smith indicated that that was correct but he didn't know about the correct dimming. Ms. Tolpin stated that condition could be added but would be a difficult one for staff to enforce. Mr. Morris thought there was something to be said about having a foothold to be able to ask. Mr. Smith suggested the supermarket shall use commercially reasonable efforts to reduce lighting in the parking lot areas after store hours. Chair Scarpelli stated he really wanted to add that in there and wanted to see best efforts. Ms. Tolpin suggested the minimum lighting requirements in the photometric light plan, bearing in mind best efforts could be subjective. Commissioner Demes mentioned security lighting, but he appreciates the attempt. Ms. Tolpin suggested, the supermarket shall make commercially reasonable efforts to reduce lighting during non-business hours. Mr. Morris added that at least that makes lighting relevant. Mr. Smith asked for a motion to approve with the additional conditions.

Commissioner Demes mentioned comments by Ms. Linda Norman who was concerned about transiting to get to the gym, and that's what they have tried to show today with the ingress-egress plan. Ms. Norman had mentioned being a government by the people, for the people, and Commissioner Demes noted that this Board is here to enforce the law, not change the law. He is aligned with Commissioner Thomas's feeling about this project, but they are here to follow the law and that's where he's coming from. Commissioner Demes asked about Provision 16 and

prior to the issuance of the certificate of occupancy for any of the proposed dwelling units, all site work must be completed and pass final inspections. He believes this is overly restrictive and asked what leeway they had. Ms. Tolpin clarified that temporary certificates of occupancy were being allowed on the residential units. This condition provides for a requirement that all of the other site components must be completed prior to closing out and finalizing the permits.

Ms. Tolpin also clarified regarding the lighting topic that the County Code does not regulate ownership, only use. So she had revised the last condition to state the commercial retail use. Mr. Smith agreed that was fine. Commissioner Demes asked if it included the institutional office. Ms. Tolpin stated that that could be added. Chair Scarpelli thought it should remain consistent with the housing area.

Commissioner Neugent made a motion to approve with staff recommendations, amendments and input provided. There was no second. The motion failed. Commissioner Demes stated that for reconsideration, he would second it. Mr. Morris went through the Rules of Procedure, which allow reconsidering a prior decision but, in an abundance of caution, it would be safer to first have a motion to reconsider and have a roll call vote.

Motion: Commissioner Demes made a motion to reconsider. Commissioner Neugent seconded the motion.

Roll Call: Commissioner Demes, Yes; Commissioner Thomas, Yes; Commissioner Neugent, Yes; Commissioner Anderson, Yes; Chair Scarpelli, Yes. Motion passed unanimously.

Motion: Commissioner Neugent made a motion to approve with conditions provided. Commissioner Demes seconded the motion.

Roll Call: Commissioner Demes, Yes; Commissioner Thomas, Yes; Commissioner Neugent, Yes; Commissioner Anderson, No; Chair Scarpelli, Yes. Motion passed 4 to 1.

BOARD DISCUSSION

None.

GROWTH MANAGEMENT COMMENTS

None.

RESOLUTIONS FOR SIGNATURE

None.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 12:16 p.m.