

PLANNING COMMISSION
October 22, 2025

Meeting Minutes

The Planning Commission of Monroe County conducted a hybrid virtual and in-person meeting on **Wednesday, October 22, 2025**, beginning at 10:00 a.m.

CALL TO ORDER by Vice Chair Demes

PLEDGE OF ALLEGIANCE

ROLL CALL by Jessica McKinney

PLANNING COMMISSION MEMBERS

Joe Scarpelli, Chair	Absent
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
Barbara Powell, Senior Policy Advisor
Peter Morris, Assistant County Attorney
Dirk Smits, 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. Dirk Smits.

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. Dirk Smits.

CHANGES TO THE AGENDA

None.

DISCLOSURE OF EX PARTE COMMUNICATIONS

None.

APPROVAL OF MINUTES

Motion: Commissioner Thomas made a motion to approve the September 24, 2025 meeting minutes. Commissioner Neugent seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

AGENDA ITEMS

Items 1 and 2 were read together.

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO COMMERCIAL (COMM), FOR PROPERTY LOCATED AT 106261, 106271, AND 106281 OVERSEAS HIGHWAY, KEY LARGO, DESCRIBED AS LOTS 18-20, BLOCK 3, OCEAN ISLE ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 14, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, CURRENTLY HAVING PARCEL IDENTIFICATION NUMBERS 00538800-000000, 00538810-000000, AND 00538820-000000; AS PROPOSED BY FLO-GROWN HOME BUYERS, LLC; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE NO. 2025-069)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM IMPROVED SUBDIVISION (IS) TO COMMERCIAL-1 (C1), FOR PROPERTY LOCATED AT 106261, 106271, AND 106281 OVERSEAS HIGHWAY, KEY LARGO, DESCRIBED AS LOTS 18-20, BLOCK 3, OCEAN ISLE ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 14, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, CURRENTLY HAVING PARCEL IDENTIFICATION NUMBERS 00538800-000000, 00538810-000000, AND 00538820-000000; AS PROPOSED BY FLO-GROWN HOME BUYERS, LLC; 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 (LUD) MAP; PROVIDING FOR AN EFFECTIVE DATE. (FILE NO. 2025-070)

(10:04 a.m.) Ms. Barbara Powell, Senior Policy Advisor, presented the staff report. This is a request for an amendment to the future land use map and the land use district map from residential medium to commercial and from approved subdivision to commercial one. The subject property is located on U.S. 1, has a Tier III designation, and consists of three combined parcels of 23,292 square feet. It is currently vacant. The habitat is hammock. Adjacent land uses include residential, transient residential, commercial and public uses. Ms. Powell presented the location map located at mile marker 106, surrounded by public lands, single family homes

and commercial development. The habitat map reflects Tier III with Tier 1 across Sandrose Road, not across U.S. 1 as indicated in the staff report. Currently, the residential medium allows for one dwelling unit per lot or a total of three dwelling units. By changing this to commercial it removes the allocated density of residential to zero, so this would be a reduction with no need for mitigation. It would increase the non-residential uses to 11,646 square feet, but with this being hammock that could be tempered quite a bit because of clearing limits. Staff recommends approval of the proposed FLUM amendment and the Land Use District Zoning Map change.

There were no questions or comments from the Commissioners. Vice Chair Deems then asked for public comment. There was none. Public comment was closed.

Mr. Don Horton, agent for the applicant, along with Ty Harris, attorney for the applicant were present and available for any questions and thanked staff for the hard work they had done to grant this approval.

Commissioner Demes stated that he had driven by this location and he noted that this was probably one of the most densely vegetated lots he'd ever been on. It was also the most well marked County agenda item he had ever seen. Mr. Horton stated that he always tries to post well. Commissioner Demes noticed that there is what appears to be a County right-of-way running between the two roads which could serve as a buffer and he hopes that would be maintained. That right-of-way would give flexibility, if maintained, to give access to the two access roads to U.S. 1 on either end, noting that the northern part may have been encroached upon. Commissioner Demes also wanted to clarify that as a commercial property this could be developed as affordable housing with much higher density than one unit per lot. Ms. Devin Tolpin, Senior Director of Planning and Environmental Resources, confirmed that to be correct through what is referred to as the Live Local Act, which is a State Statute that allows affordable development for parcels that meet the criteria such as commercial zoning to develop at the highest allowed maximum density which is 25 units per buildable acre. Buildable acre is the total upland area of a property minus the required open space. For this property it would be the total area minus 20 percent. Commissioner Demes wanted people to understand that this would have the capability of going from the three market rate dwelling units to the 25 per acre, and this is roughly more than a half an acre, plus all of the other setbacks and deductions.

Motion: Commissioner Neugent moved to approve Item 1. Commissioner Anderson seconded the motion. There was no opposition. Motion passed unanimously.

Motion: Commissioner Anderson moved to approve Item 2. Commissioner Neugent seconded the motion. There was no opposition. Motion passed unanimously.

Items 3 and 4 were read together.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.5.30, 101.5.31, 101.5.32, 101.5.33, 101.5.34 AND THE GLOSSARY OF THE MONROE COUNTY 2030 COMPREHENSIVE PLAN TO INCREASE THE MAXIMUM HEIGHT OF RESIDENTIAL STRUCTURES FROM 35 FEET TO 42 FEET, AMEND THE DEFINITIONS OF GRADE AND HEIGHT, REVISE THE

STRUCTURES THAT ARE LISTED AS EXCEPTIONS TO THE MAXIMUM HEIGHT RESTRICTION, AND ALLOW FOR ADDITIONAL HEIGHT RELATED TO AIRPORTS AS APPROVED BY THE FAA AND IN ACCORDANCE WITH THE ADOPTED AIRPORT MASTER PLAN, AS REQUESTED BY THE BOCC AT THEIR JUNE 18, 2025, REGULAR COMMISSION MEETING; 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. 2025-080)

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTIONS 101-1 AND 131-2 OF THE MONROE COUNTY LAND DEVELOPMENT CODE, TO CLARIFY APPLICABILITY, AMEND THE DEFINITIONS OF GRADE AND HEIGHT; TO INCREASE THE MAXIMUM HEIGHT OF RESIDENTIAL STRUCTURES FROM 35 FEET TO 42 FEET; TO REVISE THE STRUCTURES THAT ARE LISTED AS EXCEPTIONS TO THE MAXIMUM HEIGHT RESTRICTION, AND ALLOW FOR ADDITIONAL HEIGHT RELATED TO AIRPORTS AS APPROVED BY THE FAA AND IN ACCORDANCE WITH THE ADOPTED AIRPORT MASTER PLAN, AS REQUESTED BY THE BOCC AT THEIR JUNE 18, 2025, REGULAR COMMISSION MEETING; 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. 2025-081)

(10:17 a.m.) Ms. Barbara Powell, Senior Policy Advisor, presented the staff report. This is a change to the Comprehensive Plan and Land Development Code to amend the height regulations. The current regulations have a measuring point for grade as preconstruction natural grade or crown or curb of the road. The exceptions list chimneys, spires and steeples. Non-residential structure limit is 35 feet. Single-family, multi-family and duplex is 35 feet with some exceptions; limits to two habitable floors, existing multi-family already exceeding 35 feet. There are exceptions for residential structures to over 40 feet for portions of the structures for meeting flood elevation, and up to a 40-foot retrofit for existing buildings. There are lots of exceptions to get to a little bit higher. The BOCC charged staff with coming up with a couple of options to help streamline and simplify the process and bring the height restrictions on par with those of the municipalities. The Board chose Option 2 which would allow up to 42 feet and must meet minimum flood elevation requirements. Anything above 42 feet for existing multi-family would be allowed with BOCC approval. Measuring grade was simplified by measuring from the crown or curb of the road and adding mechanical equipment and elevator shafts to the exceptions. To begin, the grade was simplified to eliminate the highest natural elevation or crown or curb of the road nearest or directly adjacent to the structure.

Ms. Devin Tolpin, Senior Director of Planning and Environmental Resources, summarized that following the drafting of the staff report, recent conversations with Commerce and reading the tea leaves and interpretations of SB-180, and a prohibition on local governments enacting

ordinances that are considered more restrictive or burdensome, which does not have a definition of how it's being interpreted by the State but from what is being seen at the moment, staff will be recommending that no changes be made grade at this time in order to preserve the integrity of the rest of the ordinance. Staff is recommending that the definition of grade in both the Comp Plan and the Development Code not be amended at this time, that it continue to be able to be measured from either the crown or curb of road, or the natural grade on site next to the walls of a proposed structure.

Ms. Powell then continued, going further into the Comprehensive Plan Glossary, height was modified to include mechanical equipment, elevator shafts and equipment to the exclusions to the definition of height so those would not count towards height. Staff did add that any guards be installed no more than three feet from any roof-mounted mechanical equipment as required by the Florida Building Code, and to include an exception for those items around the airports that would be required to be approved by the FAA. Policy 101-530 mirrors the definition of height and removes the 35-foot height limit. There is an exception in Ocean Reef that would also include non-resident and transient buildings. Much of the language related to flood exceptions has been removed and other exceptions. There has been some renumbering. The 40 feet was changed to 42 throughout, and that is the bulk of the changes for the Comp Plan.

The Land Development Code is similar with the same ruling on more burdensome and restrictive as applies to the Comp Plan. Here, the grade is simplified to be crown or curb of the road. That may change at the transmittal hearing. The height definition adds in exceptions for mechanical and elevator shafts and equipment, the guards, and with the FAA approval exceptions. Maximum height, again, has exceptions. Ocean Reef has additional language. The integrity of the original language was kept about may exceed the 35 feet with the exceptions built in where it says shall have a maximum height of 42 feet, and then renumbered, relettered, and the seven foot added for flood, eliminating the five foot, increasing it so it brings it to 42. A policy was written in for Key West and Marathon Airports with the FAA and Airport Master Plan. The estimated time line at this point is a December 10 transmittal hearing, and March or April for Comp Plan and Land Development Code adoption.

Vice Chair Demes stated he had a few questions but would wait to hear public comment. Vice Chair Demes then asked for public comment.

Mr. Stuart Schaffer of Summerland Key, speaking on his own behalf, stated that he is not here to talk about height but about the third floor being allowed. At first when he looked at this he thought, so what, as long as you come within the new height limit, adding a third floor, what's the difference. But then he started thinking about the huge houses he's seeing built throughout the Keys such as Summerland, Key Haven and the Middle Keys. Huge vacation rented houses are being built. He's sure in most cases they are legally vacation rented and there are different exceptions and zoning rules that allow it, but allowing a third floor allows more square footage of living space, more bedrooms and bathrooms. This means more vacation rentals. The last thing needed in the Keys is more vacation rentals. We need more affordable workforce housing in the Keys. Whether it's legal or illegal, vacation rentals are taking away from the affordable workforce housing. It's had a horrible, perhaps the worst impact on that problem except for affordability. More square footage also has an impact on the strained infrastructure. You get

one ROGO for some huge three-story house with eight bedrooms and eight bathrooms, but it uses more water, more wastewater strain, more electric power, and is incompatible with the ROGO system. That said, he does support adding a third floor for multi-family properties that are deed restricted for affordable workforce housing which would allow, from a financial perspective, more efficient development, particularly on small lots on the highway that can be developed for affordable workforce housing but that aren't being developed because they're just too small to efficiently develop the properties. Allowing a third floor within the height limit could make a project financially viable that otherwise would not be. If they are deed restricted affordable workforce housing they cannot legally be vacation rented, so that goes along with it. Mr. Schaffer is requesting the Commission to vote to recommend no third floor for residential structures unless they are deed restricted for multi-family affordable workforce housing.

Mr. Tim Swanson of Sugarloaf Key was glad there was finally 42 feet on the table, but had questions regarding what the amendment looks like. Wording was added to allow guards which he is assuming will be a parapet or something around the equipment, and it doesn't define how high or wide or what that structure is. Commissioner Demes interjected that he normally would just take comments but his interpretation is that it has to be three feet out from the equipment. Mr. Swanson asked how high and how wide. Ms. Devin Tolpin responded that it is whatever is required by the Florida Building Code. These are the guards that are allowed to surround mechanical equipment or the structures that are exempt from the definition of height. So there isn't, through this definition and what is proposed, there is not an implicit height requirement, but it is stated that it is exempt from the definition of height, so it is exempt from being included in that 42 feet provided it is what is required by the Florida Building Code in order to access the mechanical equipment being put on the roof of the building. Mr. Swanson asked if that would be 36 inches as defined in the Building Code. Ms. Tolpin stated she believes it is 36 inches though that is not her area of expertise. Mr. Swanson added that he loves the fact of being able to go to 42 feet, but he would ask that there be access to that rooftop equipment. Without allowing a railing system, stairs can't be built to the roof to access the rooftop. Allowing the railing allows adding stairs. Mr. Swanson added that if a parapet or guards were already being added, he would like to have the option to allow railing around the top of the roof for 36 inches for full rooftop access. That would make it safe and accessible for those needing to access the equipment. Mr. Swanson also seconded Mr. Stuart Schaffer's comments, stating that he was in full agreement. Ms. Tolpin clarified that the purpose of the statement that says the guards are allowed up to three feet from the mechanical equipment is to serve the exact purpose of allowing safe access and maintenance of equipment.

Ms. Jordan Mannix-Lachner speaking for Last Stand stated they have no issue with the height increase as it is helpful to build structures above flood. However, they also have a concern with the three stories for all residential structures. Last Stand supports it for deed-restricted workforce affordable housing because smaller footprints are better for the environment, and they support policies that facilitate the development of sustainable affordable housing. However, they are concerned about allowing three, theoretically four, stories for single-family or market rate structures. These structures are generally pretty big, expensive, and do end up getting used for vacation rentals having much higher occupancies, especially compared to what's accounted for in the hurricane evacuation model which is roughly two people. A three-story structure being used for a 12-person family vacation can really put the functional population out of whack in a

way that is not necessarily able to be captured. Given the already increasing demand on aging infrastructure and demand in potable water in the last year, they are concerned on how this would have an anticipated impact on the population and infrastructure.

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

Commissioner Anderson asked Ms. Tolpin for her insight as to the grade on one and two, and whether the same issue would be restricted for a third story. Ms. Tolpin responded that they very likely would, though it is difficult to tell. The definition or interpretation of the restrictive and burdensome language is not defined, so it's very difficult to make that determination at this juncture. She could see an argument either way based on what the current code says. The current code does limit structures to two habitable floors in order to go up to 38 feet from the 35 foot height restriction, but she does not know if others would agree or not.

Mr. Peter Morris, Assistant County Attorney, added that this ventures more into the legal world, and there is a cauldron of controversy right now concerning the State's appropriation of that more restrictive and burdensome language in Senate Bill 180; hence the State has been sued by roughly 20 to 30 local governments, counties and cities alike, in addition to the not-for-profit Thousand Friends of Florida. Right now, it's a bit like trying to discern a black hat in a coal cellar, where the appropriate reach of that language ends, at least inasmuch as the State's flexing of its muscle as of late is concerned. In Mr. Morris's view, cognizant that the question of the legitimate terminus of the reach of what is more restrictive or burdensome is ultimately going to be resolved by the courts because there is litigation concerning the meaning and application of it, or those lawsuits will be mooted out potentially by amendments in this upcoming legislative session. Right now, given the way the State has appropriated that language, it's hard to make extraordinarily informed predictive judgments about what will the State say about this or that. Acknowledging that, more restrictive and burdensome, you have to evaluate relative to the baseline of the status quo ante, and this is not a perfect forecast of what may come because predicting what the State's going to do these days, you probably have as much luck winning roulette. That said, given that a lot of the amendments to the text of the provisions within this proposal don't restrict things that were previously regulated more permissibly but rather more fully articulate what you can and can't do in areas that weren't really explicitly addressed in the code, what's before the Planning Commission today isn't objectively more restrictive and burdensome relative to the status quo ante, relative to the code as it exists today. In Mr. Morris' view, this amendment appropriately attempts to thread the needle of not enacting regulations that are more restrictive than what exist today, but rather opens up the code to address matters more explicitly, with the caveat that we really don't know what's going on at the State right now. From legal, he would endorse the amendments as proposed and endorsed by the professional staff of the department.

Vice Chair Demes asked Ms. Tolpin what limits the number of floors right now. Ms. Tolpin responded that right now there is not a plain limitation on the number of floors, but there are other restrictions. One is the current maximum height up to 35 feet. There is a current exception for residential structures that voluntarily elevate above the minimum base flood or design flood elevation up to three feet, you get a bonus on top of your structure. You can increase your maximum height currently up to 38 feet. However, structures that utilize that exception are

limited to only two habitable floors. Flood requirements also inherently limit the number of habitable floors when paired with existing height restrictions. Vice Chair Demes commented that on the roof access, he has twin air conditioners on his roof and when he redid part of the house he actually added a steel hatchway to access the roof, but he has zero rails so he doesn't go up in high winds. He uses a ladder so it doesn't take up the space in the house until he has to work on it. Commissioner Neugent confirmed he accessed that internally. Vice Chair Demes stated that the community plans and liaison officer was not present today, but understanding the furlough is ongoing and she is probably in the category of non-exempted employee which means you don't come to work and you don't get paid. An exempted employee would mean you don't get paid but you do come to work. The third category which a few civilians are in is exempt which means you come to work and you do get paid. But, because Ms. Christina Gardner is not present, he was wondering under the Principles for Guiding Development, paragraph H3, protect the public investments like Naval Air Station Key West is probably H4. Under the airport criteria, he knows Marathon and Key West are protected, but the Naval Air Station Key West does not have, that he recalls, waiver setbacks which would be per Class B runway, seven-to-one slopes on the side, and they have to step out 300 feet from the threshold of a runway at a 50-to-one slope. That's pretty far, but something within the Principles for Guiding Development has been excluded that is to be protected, and off the top of his head he doesn't know whether those are restrictions of a house. The only place he could really see that possibility being on Old Boca Chica Road there's a few houses there, and to the north he thinks the distance is far enough. Vice Chair Demes asked if there was any consideration given to making NASKW applicable as well for other type of structures that may not be necessarily buildings, but also speaking to antennas and other things. And also, is consideration given to areas like Summerland Key Airport, if there's any problem with that, and should they go beyond the two airports that are listed.

Ms. Tolpin responded that the two airports listed have existing approved master development plans by the BOCC that do include structures that may be up to the 45 feet. The language states the maximum height for these structures may only be exceeded if required by the FAA and if it's within the properties included in the adopted airport master plans. Aside from that, Ms. Tolpin has no additional information related to the Summerland Key airstrip or any other airports.

Vice Chair Demes added that the NASKW accept the AICUZ which has its two main criteria dealt with here which are the actual transitional surfaces like clear zones, the accident potential zones, as well as the high noise areas. They are codified in the document itself of what they are and the criteria followed for those. He is extremely protective of the Naval Air Station. In lieu of them not being explicitly called out in this, he would envision that the days when the NASKW community plans liaison officer would address the BOCC in the future on projects that they are embraced as far as public safety and safety of flight because they are not being called out here in this. Vice Chair Demes also asked if there was a limitation on the spires being not more than five feet above the roofline in the proposed documents because he doesn't think they should be endless when talking about them being exempt from the height limitation. Ms. Tolpin responded that she does not believe there is a height limitation there. Vice Chair Demes asked Ms. Tolpin if, in her professional opinion, they should be. Ms. Tolpin stated that in her experiencing working in the Planning Department in Monroe County, she is not aware of an issue that has

arisen from a spire or steeple. Vice Chair Demes stated he would take that as no further action on that line item.

Vice Chair Demes then stated that he would like to be perfectly clear when moving to act on this that the definitions of grade and height are understood by the Commissioners. In looking at grade, would they basically undo all of the strike throughs. Ms. Tolpin stated that that was correct. If the Commission agrees with the staff recommendation stated on the record today, the motion would be a recommendation of approval of the amendment without the proposed changes to grade. Vice Chair Demes asked about the height with the mechanical equipment strike throughs. Ms. Tolpin responded that staff is not changing their recommendation to the amendments of the definition of height. Vice Chair Demes then asked for a motion to approve Item 3.

Commissioner Neugent had a question. Going back under the existing height limits, it had been brought up back when developing Stock Island with affordable housing Ed Swift had said if they just had four more feet another floor could have been added. With what is being proposed now, would it be restricted to just two stories. Ms. Tolpin responded that it would not be, and this proposed amendment adds seven feet from the existing 35 foot height restriction for residential structures. So it would be from 35 feet to 42 feet without a limitation on the number of habitable floors. Vice Chair Demes confirmed that if someone opted for the three feet for flood that would bring on the restriction for only two floors. Ms. Tolpin confirmed that to be correct. Staff is attempting to simplify the language to the best of their ability.

Commissioner Neugent asked if the deed restriction for workforce housing would restrict requests for some of the allocations that they are going to be getting to all of this or a lot of this when it's addressing the affordable side of this, will all of those allocations be deed restricted. Ms. Tolpin responded that the language proposed right now increases the height of residential structures and does not require them to be deed restricted. It will increase the height for market rate or affordable residential structures. Staff is not recommending at this time adding a requirement that the structures be deed restricted as affordable in order to have a height up to 42 feet. Commissioner Neugent asked if the allocations being received now, other than what the County has in their administrative relief pool, are restricted to be used on single-family lots and he had hoped they could change some of that. Ms. Tolpin responded that SB-180 included a provision that the 900 additional ROGOs that will be distributed throughout Monroe County will be restricted to one unit per lot. That is concerning ROGOs independent of the text amendments here that are increasing or changing the height restrictions for residential structures. The reason SB-180 was brought into the conversation here was because there's an additional sentence in that law that prohibits local governments from adopting an ordinance that is considered more restrictive or burdensome. Commissioner Neugent asked if those allocations could be used for market rate also.

Mr. Morris then interjected that he was going beyond the scope of the item. Commissioner Neugent stated that he was trying to get some clarification on what they would be dealing with in the future as far as how those allocations are used. Ms. Tolpin added that the Board had directed to process an amendment that included two options regarding new or anticipated ROGO allocations. One of the options included 588, which is the anticipated number of ROGO

allocations, to come from SB-180, and it included a distribution of those that had the majority of them in a new market rate workforce category with a certain portion saved for market rate units that are unrestricted. There was another option that includes moving some of the allocations over from administrative relief for up to a year, but that is independent of the amendments being discussed today. Mr. Morris added that it's not just an academic concern but for purposes of the Sunshine Law because there's no item that's been advertised or noticed to fulsomely discuss this. Let's try and stay in this lane so we don't look like we're legally illiterate when it comes to core due process issues.

Commissioner Thomas asked if the motion can't be changed to include deed restrictive. Mr. Morris responded he would caution against it because of the way that the State is unpredictably appropriating that more restrictive and burdensome language in SB-180. To the extent we're making a strategic decision, discretion is the better part of valor. And trying to, to the best of our ability in an uncertain political environment vis-à-vis the State, do our best to perform the functions of the County as directed by the BOCC without also pouring lighter fluid on what already is a conflagration that has prompted 20 to 30 lawsuits against the State from other local governments in Florida.

Mr. Stuart Schaffer asked to speak. Vice Chair Demes responded that public comment was closed and he was a stickler on that. Commissioner Neugent added that anybody who had watched or attended the last BOCC meeting, they had extensive discussion on that and concerns about doing anything that could put us back to square one on the drawing board.

Motion: Commissioner Neugent moved to approve Item 3 without the changes to the definition of grade. Commissioner Anderson seconded the motion. There was no opposition. Motion passed unanimously.

Motion: Commissioner Neugent moved to approve Item 4 without the changes to the definition of grade. Commissioner Anderson seconded the motion. There was no opposition. Motion passed unanimously.

BOARD DISCUSSION

None.

GROWTH MANAGEMENT COMMENTS

None.

RESOLUTIONS FOR SIGNATURE

None.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 11:00 a.m.