



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Development Review Committee
Emily Schemper, CFM, AICP, Senior Director of Planning & Environmental Resources

From: Brad Stein, AICP, Planning and Development Review Manager

Date: October 4, 2022

Subject: *Request for a Minor Conditional Use Permit. The requested approval is for the transfer of twenty-three (23) transient Transferrable Rate of Growth Ordinance (ROGO) Exemptions (TREs), that were held in certificate pursuant a Settlement Agreement dated March 21, 2007, between Monroe County and the Eager Family Limited Partnership, L.P., the former sender site property is described as a parcel of land in Section 28, Township 61 South, Range 39 East, Key Largo, Monroe County, Florida, having Parcel ID Number 00541810-000100, to the receiver site described as a parcel of land in Sections 36, Township 67 South, Range 25 East, Stock Island, Monroe County, Florida, having Parcel ID Number 00127480-000000. (File 2022-123)*

Meeting: October 25, 2022

I REQUEST:

The applicant is requesting approval of a minor conditional use permit in order to transfer twenty-three (23) transient TREs. The TREs (28 in total) were held in certificate pursuant a Settlement Agreement dated March 21, 2007, between Monroe County and the Eager Family Limited Partnership, L.P. The 23 TREs to be transferred were conveyed to One of One RE Holdings, LLC, through a Deed for Conveyance of Transient ROGO Exemptions, recorded in the Monroe County, Florida Official Records in Book 3184, Page 281. The former sender site property is 325 Calusa Street, Key Largo, having Parcel Identification Number 00541810-000100. The receiver site is located at 6000 Peninsular Avenue, Stock Island, with Parcel Identification Number 00127480-000000.

II BACKGROUND INFORMATION:

Former Sender Site (ROGO Exemptions Held in Certificate):

Location: Key Largo, Mile Marker 101

Address: 325 Calusa Street, Key Largo

Property Description: A parcel of land in Section 28, Township 61 South, Range 39 East, Key Largo, Monroe County, Florida

Parcel ID Number: 00541810-000100

Sender Certificates Holder:

Property Owner/Applicant: One of One RE Holdings, LLC.

Agent: Bart Smith & Jess Goodall/Smith Hawks

Receiver Site

Location: Stock Island, Mile Marker 5.5

Address: 6000 Peninsular Avenue

Property Description: The subject property is described as a parcel of land in Section 36, Township 67 East, Range 25 South, Stock Island, Monroe County, Florida

Parcel ID Number: 00127480-000000

Property Owner/Applicant: SH Marinas 6000, LLC

Agent: Bart Smith & Jess Goodall/Smith Hawks

Size of Site: 13.14 acres of upland and 18.9 acres of submerged land.

Land Use District: Destination Resort (DR)

Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)

Tier Designation: III Infill Area

Existing Use: Marina, light industrial, commercial retail, residential and boat storage

Existing Vegetation / Habitat: Predominately developed and scarified, with mangrove fringe along water on outer perimeter shorelines

Community Character of Immediate Vicinity: The property is surrounded with a mix of uses including marina, commercial retail, commercial fishing, industrial use and residential dwellings

Flood Zone: AE 9 and AE 10

III RELEVANT PRIOR COUNTY ACTIONS:

Former Sender Site (ROGO Exemptions Held in Certificate):

A Settlement Agreement dated March 21, 2007, between Monroe County and the Eager Family Limited Partnership, L.P., allowed twenty-eight (28) transient TREs to be held in certificate to be transferred to any planning area in Monroe County.

The 23 TREs to be transferred were conveyed from the Eager Family Limited Partnership, L.P. to One of One RE Holdings, LLC, through a Deed for Conveyance of Transient ROGO Exemptions, recorded in the Monroe County, Florida Official Records in Book 3184, Page 281.

Receiver Site (6000 Peninsular Ave, Stock Island):

On December 1, 2006, the Planning & Environmental Resources Department issued a Letter of Development Rights Determination (LDRD) providing the amount of lawfully-established nonresidential floor area and dwelling units on the subject property. (Planning Department File #26112)

Lawfully-Established Non-residential Floor Area:

<i>Building</i>	<i>RE Number</i>	<i>Existing Floor Area</i>	<i>Exempt Floor Area</i>
Two-Story CBS Building	00127470.000000	3,000 ft ²	3,000 ft ²
Attached Metal Buildings	00127480.000000	5,303 ft ²	5,303 ft ²
One-Story CBS Shed	00127480.000000	1,023 ft ²	1,023 ft ²
CBS Fish House	00127480.000000	4,813 ft ²	4,813 ft ²
Utility Shed	00127480.000000	240 ft ²	240 ft ²
Utility Shed	00127480.000000	240 ft ²	240 ft ²
Utility Shed	00127480.000000	216 ft ²	216 ft ²
Utility Shed	00127480.000000	336 ft ²	336 ft ²
Utility Shed	00127480.000000	200 ft ²	200 ft ²
Canopy	00127480.000000	966 ft ² (footprint)	0 ft ^{2*}
Canopy	00127480.000000	2,809 ft ² (footprint)	0 ft ^{2*}
total		19,146 ft²	15,371 ft²

* Pursuant to Administrative Interpretation No. 03-123 and MCC Sec. 9.5-124.2(d), canopies permitted before the adoption of NROGO may not be enclosed or converted to nonresidential floor area without a NROGO allocation. The 966 ft² and 2,809 ft² canopies may be replaced by new canopies, but not enclosed or converted to nonresidential floor area without a NROGO allocation.

Lawfully-Established Residential Dwelling Units:

<i>Building</i>	<i>RE Number</i>	<i>Existing Dwelling Units</i>	<i>Exempt Dwelling Units</i>
Two-Story CBS Residence	00127470.000100	2 units	2 units
One-Story CBS Residence	00127470.000100	1 unit	1 unit
Mobile Home	00127480.000000	1 unit	1 unit
Mobile Home	00127480.000000	1 unit	1 unit
total		5 units	5 units
Live-Aboard Vessels	n/a	n/a	50 vessels*
total		n/a	50 vessels

* Live-aboard vessels are considered as dwelling units for density purposes. A live-aboard vessel may be deemed permanent or transient, depending on the nature of how the live-aboard vessel's wet slip has been lawfully used. However, a live-aboard vessel may only be replaced by another live-aboard vessel and thereby cannot be transferred upland.

In 2007, Key West Marina Investments received approval for an amendment to the property's major conditional use permit in order to redevelop the existing marina. The approval was memorialized in Planning Commission in Resolution #P11-07, recorded in the official records of Monroe County on May 25, 2007. (Planning Department File #26093)

In addition, in 2007, Key West Marina Investments concurrently received approval for a variance to the off-street parking requirements in order to carry out the scope of work for the major conditional use permit. The approval was memorialized in Planning Commission Resolution #P10-07. (Planning Department File #27009)

On September 13, 2007, a minor deviation to the major conditional use permit was approved revising the architectural details and expanding the footprint of the ship store approved under Resolution #P11-07. The deviation increased the total nonresidential floor area of the ship store by 1,809 SF to a total floor area of 3,051 SF. The ship store was completed under Building Permit #071-1987 and received its Certificate of Occupancy on June 20, 2008.

On April 21, 2008, a minor deviation to the major conditional use permit was approved revising the site plan to install a swimming pool between the attached market rate dwelling units and the clubhouse building. This swimming pool was completed under Building Permit #081-1336.

On September 15, 2008, a minor deviation to the major conditional use permit was approved revising the site plan to include a private 400 SF tiki hut/bar, a 355 SF bathroom facility building, and associated improvements at the end of the jetty in the southern portion of the parcel. The tiki bar and bathroom facilities were permitted under Building Permit #081-2671. (Planning Department File #28078)

On December 29, 2008, a minor deviation to the major conditional use was approved revising the site plan to include 3,000 SF of automobile storage in an area previously approved for two tiki structures under Resolution #P11-07 which were permitted but never built (Building Permit #071-2103); and a pergola connecting the approved clubhouse building to the attached market rate dwelling units, which would serve as a covered walkway on the ground level and a 580 SF covered balcony outdoor seating area for the clubhouse on the second level. A building permit associated with the pergola was applied for, Building Permit Application #081-3730, but it was never issued (void) and the pergola was never constructed. It is unknown if the 3,000 SF area approved for automobile storage continues to be used as such at this time. (Planning Department File #28096)

On April 30, 2014, the Planning Commission considered a proposed major conditional use application to develop a new hotel building consisting of 74 transient residential units, a rooftop pool, 2,500 square feet of hotel office space, 2,000 square feet of conference/meeting space, a 50-seat rooftop poolside bar and modification to the clubhouse building. The Planning Commission voted to approve the conditional use permit, with conditions that needed to be addressed before the approval resolution was signed; however, the applicant at the time failed to comply with the conditions imposed. Therefore, no development order or Planning Commission resolution was issued.

On February 16, 2022 the BOCC adopted the Land Use District (LUD) Amendment from Mixed Use (MU) to Destination Resort (DR), Ordinance 003-2022 becoming effective March 30, 2022.

On February 16, 2022 the BOCC voted to approve a Development Agreement between SH Marinas 6000, LLC and Monroe County BOCC Resolution 076-2022, recorded on April 21, 2022. (File 2020-147)

At a regularly scheduled meeting by the Planning Commission on May 25, 2022, the Major Conditional Use Permit was reviewed and approved by the Planning Commission, with the condition that prior to signing the Resolution, corrections were required and have since been addressed with the Resolution signed on June 15, 2022. (File 2021-195)

IV REVIEW OF APPLICATION:

Pursuant to Monroe County Land Development Code Sec.138-22(b), the following criteria must be met to transfer permanent market rate ROGO exemptions:

(b) Transfer off-site. Residential dwelling units and transient units may be transferred to another site in the same ROGO subarea, provided that the units lawfully exist and can be accounted for in the County's hurricane evacuation model.

(1) ROGO exemptions may be transferred as follows:

- a. between sites within the Upper Keys ROGO subarea;
- b. between sites within the Lower Keys ROGO subarea;
- c. between sites within the Big Pine Key and No Name Key ROGO subarea;
- d. from the Big Pine Key and No Name Key ROGO subarea to the Lower Keys ROGO subarea.

In Compliance. Settlement Agreement allows transfer to any planning area in Monroe County.

(2) No sender units may be transferred to an area where there are inadequate facilities and services.

In Compliance. There are adequate facilities and services available.

(3) Transfer off-site shall consist of either the demolition of a dwelling unit on a sender site or a change of use of the floor area of dwelling unit on a sender site to another permitted use in the applicable land use (zoning) district that does not require the ROGO exemption and the development of a new dwelling unit, transient unit or affordable housing unit on a receiver site.

In Compliance. The ROGO Exemptions are held in certificate as per the Settlement Agreement.

(4) Transfer of Lawfully Established Unit Types:

- a. *Transfer of a transient unit. A lawfully established hotel room, motel room, campground space, or recreational vehicle space may be transferred off-site to another hotel, motel, campground or recreational vehicle park*

...

In Compliance. The ROGO exemptions are being transferred to a receiver site that has an approved Major Conditional Use Permit for a resort, Planning Commission Resolution number P19-22.

(5) Sender Site Criteria:

- a. Contains a documented lawfully-established sender dwelling unit pursuant to subsection (a) and recognized by the County; and

In Compliance. Settlement Agreement recognized 28 transient ROGO exemptions.

- b. Located in a Tier I, II, III-A, or III designated area; including any tier within the County's Military Installation Area of Impact (MIAI) Overlay.

In Compliance. Settlement Agreement.

(6) Receiver Site Criteria:

- a. The Future Land Use category and Land Use (Zoning) District must allow the requested use;
- b. Must meet the adopted density standards;
- c. Includes all infrastructure (potable water, adequate wastewater treatment and disposal wastewater meeting adopted LOS, paved roads, etc.);
- d. Located within a Tier III designated area; and
- e. Structures are not located in a velocity (V) zone or within a CBRS unit.

In Compliance. The current zoning of Destination Resort allows the requested use, receiver site that has an approved Major Conditional Use Permit for a resort, Planning Commission Resolution number P19-22. The density standards are not exceeded with this transfer. All infrastructure including potable water, adequate wastewater treatment and disposal wastewater meeting adopted LOS, paved roads will be met with the completion of the approved development. The site is located within Tier III. The residential and transient structures are not proposed to be located within in a velocity (V) zone or within a CBRS unit.

V RECOMMENDATION:

Staff recommends APPROVAL to the Director of Planning & Environmental Resources of a minor conditional use permit to transfer twenty-three (23) transient ROGO exemptions, to the receiver site located at 6000 Peninsular Avenue, Stock Island, with Parcel Identification Number 00127480-000000, subject to the following condition:

1. This Minor CUP approval does not, in any way, bind or obligate Monroe County to approve any future building permits.
2. Building permit approval is required for the construction of the dwelling units.