



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 eighty (80) permanent market rate (TRE Identifier #M-0001 through M-0080) and eighteen (18) transient Transferrable Rate of Growth Ordinance (ROGO) Exemptions (TREs) (TRE Identifier #T-410 through T-427) previously lifted by Development Order 03-21, from the sender site property, described as a parcel of land in Section 35, Township 67 South, Range 25 East, Stock Island, Monroe County, Florida, having Parcel ID Number 00124540-000000, 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.*

Meeting: October 25, 2022

I REQUEST:

The applicant is requesting approval of a minor conditional use permit in order to transfer eighty (80) permanent market rate and eighteen (18) transient Market Rate of Growth Ordinance (ROGO) exemptions – known as a TREs from the sender site that are being held in paper certificate form as approved by Development Order 03-21. The sender site is located at 6125 Second St. Stock Island, having Parcel Identification Number 00124540-000000, The sender site was approved to transfer the subject TREs by a Development Agreement between Monroe County and Wreckers Cay Apartments at Stock Island, LLC that has an effective date of August 19, 2020. The receiver site is located at 6000 Peninsular Avenue, Stock Island, with Parcel Identification Number 00127480-000000.

In addition, the permanent market rate TREs cannot be transferred to a receiver site until development of an equivalent amount of affordable dwelling units associated with the sender site have commenced construction of the units and passed the first structural inspection pursuant to Section II. Purpose, D. through I. of the Development Agreement (clip of sections below).

- D. Wrecker's Cay desires to transfer the TREs associated with Tropic Palms attributable to fifteen (15) lawfully-established and recognized market-rate, permanent residential dwelling units (the "Tropic Palms Market Rate TREs") and ten (10) lawfully-established and recognized transient residential dwelling units (the "Tropic Palms Transient TREs") from Tropic Palms to Wrecker's Cay for future transfer to and development upon an eligible receiver site(s). The Parties hereto recognize that no transfer to a receiver site(s) or development of the TREs may occur until fifteen (15) affordable residential dwelling units have commenced development including, at a passing the first structural inspection.
- E. This Agreement will allow for a reasonable use of Tropic Palms by allowing the transfer of market rate TREs and transient TREs to an eligible receiver site(s), while assuring preservation on the Wrecker's Cay Property of a number of residential dwelling units equivalent to the number of Tropic Palms Market Rate TREs as employee housing.
- F. Wrecker's Cay desires to transfer the TREs associated with Water's Edge attributable to fifty-three (53) lawfully-established and recognized market-rate, permanent residential dwelling units (the "Water's Edge Market Rate TREs"), eight (8) lawfully-established and recognized transient residential dwelling units (the "Water's Edge Transient TREs") to an eligible receiver site. The Parties hereto recognize that no transfer to a receiver site(s) or development of the Water's Edge Market Rate TREs may occur until fifty-three (53) affordable residential dwelling units have commenced development including, at a passing the first structural inspection. Water's Edge six hundred seventy-two (672) NROGO-exempt square feet (the "Water's Edge NROGO") from Water's Edge shall be held by Wrecker's Cay for future transfer to and development upon eligible receiver site(s). Transfer of the Water's Edge NROGO shall be governed by Monroe County Code Section 138-50(j).
- G. This Agreement will allow for a reasonable use of Water's Edge by allowing the transfer of market-rate TREs, transient TREs, and NROGO to eligible receiver site(s), while assuring preservation on the Wrecker's Cay Property of a number of residential dwelling units equivalent to the number of Water's Edge Market Rate TREs as employee housing.
- H. Wrecker's Cay desires to transfer the TREs attributable to twelve (12) lawfully-established and recognized market-rate, permanent residential dwelling units from Woodson to an eligible receiver site. The Parties hereto recognize that no transfer to a receiver site(s) or development of the TREs or TDRs may occur until twelve (12) affordable residential dwelling units have commenced development including, at a passing the first structural inspection.
- I. This Agreement will allow for a reasonable use of Woodson by allowing the transfer of market-rate TREs to an eligible receiver site, while assuring preservation on the Wrecker's Cay Property of an equivalent number of residential dwelling units as affordable housing.

The property is and has been under construction thorough the following permit numbers:

20103440	Multi-Family-Affordable Housing
20103441	Multi-Family-Affordable Housing
20103442	Multi-Family-Affordable Housing
20103443	Multi-Family-Affordable Housing
20103444	Multi-Family-Affordable Housing
20103445	Multi-Family-Affordable Housing
20103446	Multi-Family-Affordable Housing
20103447	Multi-Family-Affordable Housing
20103439	Site Work

The sender site has received several inspections for all 8 of the residential buildings proposed.

II BACKGROUND INFORMATION:

Sender Site (6125 Second Street, Stock Island) held on certificate through Development Order 03-21:

Location: Stock Island, Mile Marker 5

Address: 6125 Second St.

Description: Section 35, Township 67 South, Range 25 East, Stock Island, Monroe County, Florida.

Sender Parcel ID Numbers: 00124540-000000

Owner/Applicant: Wrecker's ROGOCO, LLC

Agent: Jess Goodall, Esq./Smith Hawks

Size of Site: 9.1 acres

Land Use District (LUD): Urban Residential (UR)

Future Land Use Map (FLUM) Designation: Residential High (RH)

Tier Designation: III Infill Area

Flood Zone: AE 9 and AE 10

Existing Use: Affordable Housing Development

Existing Vegetation / Habitat: Predominately developed and scarified, with mangroves fringe along water to the east

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:

Sender Site (6125 Second Street, Stock Island):

At a regularly scheduled meeting of the BOCC on January 22, 2020, the BOCC adopted Ordinance 002-2020 that amended Comprehensive Plan Policy 101.5.25 to allow for a density bonus for site-specific policies, created Goal 111 and Objective 111.1 to incentivize affordable housing on Stock Island, creating Policy 111.1.1 Stock Island Workforce Subarea 1; established the boundary of the Stock Island Workforce Subarea 1; limited the permitted uses of the subarea to deed restricted affordable housing dwelling units; established the maximum net density for affordable housing, height and off-street parking requirements in the subarea; and eliminated allocated density and floor area ratio for properties located at 6325 First Street, 6125 Second Street and 5700 Laurel Avenue on Stock Island as proposed by Wreckers Cay Apartments at Stock Island, LLC.

At a regularly scheduled meeting of the BOCC on January 22, 202, the BOCC adopted Ordinance 003-2020 that amended Section 130-157 of the Land Development Code to allow for increased density for properties with UR zoning districts within Stock Island that apply for an receive a site specific subarea policy as established in the Comprehensive Plan.

At a regularly scheduled meeting of the BOCC on January 22, 2020, the BOCC adopted Ordinance 004-2020, an amendment to the Official Zoning Map for a portion of the Property from Urban Residential Mobile Home (URM) to Urban Residential (UR).

At a regularly scheduled meeting of the BOCC on January 22, 2020, the BOCC adopted Resolution 031A-2020 approving a **Development Agreement** between Monroe County and Wreckers Cay Apartments at Stock Island, LLC; **and became effective August 19, 2020.**

At a regularly scheduled meeting of the BOCC on January 22, 2020, The BOCC adopted Resolution 031-2020 to reserve 280 ROGO affordable units consisting of seventy (70) low income, ninety-eight (98) median and one hundred twelve (112) moderate income Affordable housing allocations pursuant to Monroe County Code Section 138-24(b)4, for the Property.

At a regularly scheduled meeting of the BOCC on July 15, 2020, the BOCC approved two road abandonment requests: a portion of Laurel Avenue (File 2010-130); and portions of Macdonald Avenue and First Street (File 2018-179).

At a regularly scheduled meeting by the Development Review Committee (DRC) on May 25, 2021, the DRC approved the lifting of the eighty (80) permanent market rate) (TRE Identifier #M-0001 through M-0080) and eighteen (18) transient TREs (TRE Identifier #T-410 through T-427) to be held in certificate by Development Order 03-21 (File 2019-149)

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. The sender and receiver sites are located within the Lower Keys ROGO Subarea.

(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. All demolition permits (# 19103137, 19103139 and 19103138) have been issued, closed and all structures removed on the sender sites. The redevelopment of the site will utilize affordable ROGO allocations granted to the sender site owner on January 22, 2020, by the BOCC (Resolution 031-2020).

(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.

...

- c. *Transfer of a market rate unit.* A lawfully established permanent market rate dwelling unit may be transferred to a receiver site and developed as a single family detached market rate dwelling unit, subject to the following:
1. The transfer of market rate ROGO exemptions may be allowed provided that one of the following is satisfied:
 - i. A 99 year deed-restricted affordable housing unit, pursuant to Sections 101-1 and 139-1, is retained or redeveloped on the sender site. If the existing dwelling unit is proposed as the deed-restricted affordable housing unit, the unit shall pass a life safety inspection conducted in a manner prescribed by the Monroe County Building Department, comply with hurricane standards established by the Florida Building Code, and habitability standards established under the Florida Landlord and Tenant Act; or
 - ii. The sender site is dedicated to Monroe County for the development of affordable housing and an in-lieu fee per unit, based on the current maximum sales price for a one-bedroom affordable unit as established under Section 139-1(a), is paid to the affordable housing trust fund; or
 - iii. A 99 year deed-restricted affordable housing unit, pursuant to Sections 101-1 and 139-1, is developed on a Tier III property (single-family residential lots or parcels) and the dwelling unit on the sender site is demolished and the sender site is restored.
 2. The receiver site for the market rate ROGO exemption must meet the criteria of subsection (6) and the following:
 - i. Receiver site is a legally platted lot; and
 - ii. Receiver site is within the Improved Subdivision (IS) Land Use District or the Urban Residential Mobile Home (URM) Land Use District; and
 - iii. Receiver site is located within the same ROGO subarea as the sender site, except exemptions may be transferred from the Big Pine Key and No Name Key ROGO subarea to the Lower Keys ROGO subarea; and
 - iv. Receiver site property is not a recreational and commercial working waterfront.

In Compliance, subject to the approved Monroe County Development Agreements. The receiver and sender sites are part of BOCC approved Development Agreements allowing the transfer of the ROGO Exemptions to multifamily development and recreational and commercial working waterfront. The affordable housing component is being meet through the redevelopment of the sender site with 280 multi-family affordable dwelling units.

(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. On February 21, 2008, the Acting Monroe County Senior Director of Planning and Environmental Resources issued a Letter of Development Rights Determination providing that Tropic Palms located at 6125 Second Street, Stock Island, Florida, with Parcel Id 00124560-000000. Tropic Palms is lawfully recognized with fifteen (15) permanent residential units in the form of mobile homes, and ten (10) transient residential ROGO exemptions.

On September 12, 2016, the Monroe County Senior Director of Planning and Environmental Resources issued a Letter of Development Rights Determination providing that Water's Edge property located at 5700 Laurel Avenue, Stock Island, Florida, with Parcel Id 00124540-000000 is entitled to fifty-three (53) market rate residential ROGO exemptions; eight (8) transient ROGO exemptions, and six hundred seventy-two (672) square feet of NROGO exempt nonresidential floor area.

On March 13, 2012, the Monroe County Director of Planning and Environmental Resources issued a Letter of Understanding providing that the Woodson Property, located at 6325 First Street, Stock Island, Florida, with Parcel Id 00124550-000000 is entitled to twelve (12) 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. The properties are located within a Tier III designated area and within the County's Military Installation Area of Impact (MIAI) Overlay.

(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.

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 market rate and transient residential structures are not proposed to be located within in a velocity (V) zone or within a CBRS unit. Additionally the receiver and sender sites are part of BOCC approved Development Agreements, BOCC Resolution 031A-2020 for Wrecker's Cay Apartments at Stock Island, LLC and Resolution 076-2022 for SH Marinas 6000, LLC, allowing the transfer of the ROGO Exemptions.

V RECOMMENDATION:

Staff recommends APPROVAL to the Director of Planning & Environmental Resources of a minor conditional use permit to transfer eighty (80) permanent market rate and eighteen (18) transient ROGO exemptions from the sender site currently held in certificate by Development Order 03-21, 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.