



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 5, 2022

Subject: *Request for a Minor Conditional Use Permit. The requested approval is for the transfer of thirty-six and eight tenths (36.8) Transferrable Development Rights (TDRs), from a sender site property described as a parcel of land in Section 22, Township 61 South, Range 39 East, Key Largo, Monroe County, Florida, having Parcel Identification Number 00086680-000000, 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.(File 2022-121)*

Meeting: October 25, 2022

I REQUEST:

The applicant is requesting approval of a minor conditional use permit in order to transfer 36.8 TDRs. The sender site property is vacant property between Jeffery Drive & Samson Drive, East of US-1/Overseas, Key Largo, mile marker 101.5, having Parcel Identification Number 00086680-000000. The receiver site is located at 6000 Peninsular Avenue, Stock Island, with Parcel Identification Number 00127480-000000.

II BACKGROUND INFORMATION:

Sender Site:

Location: Key Largo, Mile Marker 101.5

Address: vacant property between Jeffery Dr & Samson Dr, East of US-1/Overseas Hwy

Property Description: A parcel of land in Section 22, Township 61 South, Range 39 East, Key Largo, Monroe County, Florida

Parcel ID Number: 00086680-000000

Property Owner/Applicant: One of One Bartlum Yards, LLC.

Agent: Bart Smith & Jess Goodall/Smith Hawks

Size of Site: 6.14 acres

Land Use District: Urban Commercial (UC) & Urban Residential (UR)

Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC) & Residential High (RH)

Tier Designation: I

Existing Use: Vacant

Existing Vegetation/Habitat: Hammock

Community Character of Immediate Vicinity: The property is surrounded with a mix of uses including commercial retail and a mix of residential dwelling types.

Flood Zone: X and AE 8

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:

No relevant prior County actions.

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 Land Development Code (LDC) Section 130-160, all residential development rights allocated or established in sections 130-157 and 130-162 (allocated density for permanent residential dwelling units or transient units) are transferable from one parcel of land to another parcel of land, provided that the sender and receiver sites meet all of the following criteria:

(1) A sender site is the land area from which the development right(s) to be transferred is derived. In the event an applicant intends to only use part of a greater property for a transferable development right application, the additional land area not required to amass the transferable development right(s) shall not be considered part of the sender site and not subject to conservation as required in subsection (8). As part of the application required in subsection (b)(2), the applicant shall provide a boundary survey and legal description that identify the boundaries of the sender site within the greater property.

A sender site shall meet the following criteria:

a. 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; and

In Compliance. Located in Tier I.

b. Property has development rights to transfer.

In Compliance. The property is 6.14 acres according to a Boundary Survey provided by Reece & Associates, signed by Robert E. Reece, dated January 3, 2022.

(2) The maximum net densities set forth in sections 130-157 and 130-162 shall not be exceeded and new development on a receiver site shall be developed in compliance with each and every requirement of this Land Development Code.

In Compliance. The receiver site has an approved Major Conditional Use Permit for a resort, Planning Commission Resolution number P19-22. Meeting the density requirement of the LDC.

(3) The maximum net densities set forth for the applicable future land use category in the Comprehensive Plan shall not be exceeded and new development on a receiver site shall be developed in compliance with each and every requirement of the Comprehensive Plan and the Land Development Code.

In Compliance. The receiver site has an approved Major Conditional Use Permit for a resort, Planning Commission Resolution number P19-22. Meeting the density requirement of the Comprehensive Plan.

(4) A receiver site shall meet the following criteria:

- a. The Future Land Use category and Land Use (Zoning) District must allow the requested use;
- b. Must have an adopted maximum net density standard;
- 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. Is not located within a designated 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 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 site has a BOCC approved Development Agreement, BOCC Resolution 076-2022 for SH Marinas 6000, LLC.

(5) The assignment of transferable development rights to receiver sites on Big Pine Key, No Name Key, and North Key Largo from other areas of the County shall be prohibited, excluding the assignments of transferable development rights a) from sender sites on Big Pine Key to receiver sites on Big Pine Key; b) from sender sites on No Name Key to receivers sites on No Name Key, c) from sender sites on No Name Key to Big Pine Key and d) from sender sites within North Key Largo to receiver sites within North Key Largo.

In Compliance. The assignment of development rights is from Key Largo to Stock Island.

(6) The assignment of transferable development rights to receiver sites within Land Use (Zoning) Districts that do not have a maximum net densities is prohibited (including, but not limited to, Improved Subdivision (IS, IS-D, IS-M, or IS-V), Urban Residential Mobile Home (URM or URM-limited), Sparsely Settled (SS), Native Area (NA), Offshore Island (OS), and Mainland Native (MN).

In Compliance. The current zoning is Destination Resort (DR) which has a maximum net density allowance of 18 dwelling units per buildable acre.

(7) A development right may be transferred in part, provided it is rounded to the nearest tenth (i.e. if a sender site is designated Native Area (NA) and consists only of two acres of upland, the property owner may transfer the fractional 0.50 transferable development right). However, in accordance with subsection (8), in no event shall a property owner utilize part of a sender site's acreage for a transferable development right and maintain the right to develop that acreage as the land use intensity shall be exhausted.

In Compliance. The entirety of the development rights of the sender site are being transferred.

(8) Prior to application for a building permit authorizing the development of a dwelling unit on a receiver site requiring a transferable development right, the sender site(s) shall be a) dedicated to the county or b) placed in a conservation easement prohibiting its future development. A conservation easement shall be reviewed and approved by the planning and environmental resources department prior to its recording in the official records of the county.

In Compliance. At this time, the applicant has not expressed which option (a or b) they are using. Prior to application for a building permit authorizing the development of a dwelling unit on a receiver site requiring a transferable development right, the sender site(s) shall be a) dedicated to the county or b) placed in a conservation easement prohibiting its future development.

V RECOMMENDATION:

Staff recommends APPROVAL to the Director of Planning & Environmental Resources of a minor conditional use permit allowing the transfer of 36.8 TDRs, to the receiver site located at 6000 Peninsular Avenue, Stock Island, with Parcel Identification Number 00127480-000000, subject to the following condition:

1. Prior to issuance of a building permit authorizing the development of a dwelling unit, all or a part of which is derived from a transferred development right, a deed of transfer shall be recorded in the chain of title of the sender site (transferor parcel) containing a restrictive covenant prohibiting the development that would require use of any of the allocated density that was transferred from the parcel.
2. Prior to application for a building permit authorizing the development of a dwelling unit on a receiver site requiring a transferable development right, the sender site(s) shall be a) dedicated to the county or b) placed in a conservation easement prohibiting its future development.