

DEVELOPMENT REVIEW COMMITTEE

Tuesday, April 24, 2012

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, April 24, 2012**, beginning at 1:10 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Gail Creech

DRC MEMBERS

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present
Mitch Harvey, Comprehensive Plan Manager	Present

STAFF

Steven Biel, Planner	Present
Rey Ortiz, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

Townsley Schwab approved the minutes from the March 27, 2012 meeting.

MEETING

NEW ITEMS:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-160, TRANSFERABLE DEVELOPMENT RIGHTS, TO REVISE THE LAND DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH POLICY 101.13.4 OF THE MONROE COUNTY COMPREHENSIVE PLAN, 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 CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-035)

(1:11 p.m.) Steven Biel presented the staff report. Mr. Biel reported that this ordinance is to provide consistency between the land development code and the comprehensive plan. What staff

is proposing to add is a new Subsection B called Sender Sites, basically pulling out of the comprehensive plan the land use districts and the habitats that are designated as sender sites. Mr. Biel added that a subsection under Procedure was added that explains that prior to transfer of development rights an application for a minor conditional use permit, as established in Section 110-69, shall be submitted to the Planning Director in the form provided by the Planning Department. Another subsection was added for the process of recording TDRs.

Mr. Haberman stated that the code needs to be changed to clearly state that the development order needs to be recorded with both the sender and receiver site and the Clerk of Court's records, not just in the Planning Department's records. Mr. Roberts pointed out that the Bonus section references that the transfer is entitled to a bonus of hotel rooms, and questioned leaving that language in light of the fact that there is a perennial renewing moratorium on transient use units.

Mr. Haberman requested that Section D be removed. After discussion of different ways to track and record TDRs, Mr. Haberman concluded that since minor conditional use permits have been used to track TDRs for 25 years, this was not important enough to change. Mr. Haberman also believes TDRs should be decided at the DRC meetings because Mr. Roberts and the planners are present and it would be a good place to vet the issues. Mr. Haberman then asked Mitch Harvey to have Keith & Schnars look at the existing program to make sure it is still relevant. Mr. Haberman and Mr. Roberts discussed the different ways the market might be driving the TDRs currently.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 110-144, UNLAWFUL USES AND/OR DEVELOPMENT, TO CREATE A REGULATION DIRECTING GROWTH MANAGEMENT DIVISION STAFF ON HOW TO REVIEW BUILDING PERMIT APPLICATIONS FOR A SITE WITH A KNOWN UNLAWFUL USE AND/OR DEVELOPMENT THAT IS CAPABLE OF CODE ENFORCEMENT PROSECUTION UNDER MONROE COUNTY CODE CHAPTER 8, 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 CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-038)

(1:27 p.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that this ordinance is being driven by the fact that the Building Official has decided to delete Section 6107 from his chapter of the Monroe County Code. 6107 was one of the more often cited sections that a planner or biologist would use when they noticed that there was an unlawful use on a property. The Building Official feels that he cannot enforce this section because it is derived primarily from flood plain and there have been a lot of changes in the flood plain inspection program. Christine Hurley has stated to staff that it can be moved into the land development code, where it should probably belong anyway.

Mr. Haberman further reported that as a result staff is creating a completely new section of code that uses the old section as a base with some changes. First, the effective date as being on the date that this ordinance was derived has been deleted. The second thing is it is being kept to an unlawful use, which is the least restrictive.

Mr. Roberts pointed out that the language “that is capable of code enforcement prosecution” still exists, and suggested changing it to say “is thereby subject to code enforcement prosecution.” Mr. Haberman agreed that if it is capable of code enforcement it implies it is within the four-year statute of limitations and one of the things staff is trying to do is capture old violations that are beyond the ability to prosecute. Mr. Roberts suggested the language “any use that has not received a permit or other official approval from the Division of Growth Management and is not in compliance with current land development codes and regulations.” Mr. Haberman agreed.

Mr. Haberman then reported that the public health and safety language was left in. After discussion it was determined that the language “after consultation with the fire marshal and/or building official, if necessary” would be included.

Mr. Haberman sought guidance on using the term “unlawful uses” only or “unlawful uses and structures”. Currently the code reads “unlawful uses and improvements,” which the term “improvements” is an undefined term in the land development code. Mr. Roberts suggested using “unlawful uses and structures.” Mr. Haberman then requested Ms. Creech to update the ad, as these changes being made will change the title of this section.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-28, EVALUATION CRITERIA, AND 138-55, EVALUATION CRITERIA (NROGO); TO ADJUST THE ROGO AND NROGO POINT VALUES TO BE CONSISTENT WITH THE MONROE COUNTY COMPREHENSIVE PLAN, 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 CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE. (File 2012-033)

(1:40 p.m.) Mr. Schwab noted that there was no staff report currently. Mr. Haberman added that there are two staff reports associated with the comprehensive plan amendment that is requiring this ordinance.

Rey Ortiz reported that there are two ordinances that have been approved to transmit to the DEO. The two ordinances affect the same section of code. This amendment would make this section of the LDRs consistent with the comprehensive plan. The first ordinance is amending Policies 101.5.4 and 101.5.5 to revise permit allocation scoring systems for ROGO/NROGO to assign negative points to Tier III parcels that contain submerged land and/or wetlands requiring 100 percent open space pursuant to Policies 102.1.1 and 204.2.1 and are located adjacent to or contiguous to Tier I properties. The second ordinance is amending Policies 101.4.5 and 101.5.5 to assign points from the ROGO/NROGO for the dedication of parcels that contain wetlands and for the dedication of parcels designated as Tier IIIA, Special Protection Area.

Mr. Roberts pointed out that this references a comprehensive plan policy that is likely to cease to exist in the next comprehensive plan and suggested specifying that the 2010 comprehensive plan is being referenced. Mr. Haberman stated that he would prefer not referencing the year and just reference “Monroe County Comprehensive Plan,” as there is no requirement to specify the version. Mr. Harvey agreed that the policy numbers cited in the 2010 plan will be completely different in the 2030 plan. Mr. Schwab stated that the comprehensive plan will need to include a matrix that shows a current policy number and what the number was in the previous comprehensive plan. Mr. Harvey confirmed that he will point that out and discuss it with Keith & Schnars.

Mr. Haberman suggested that this ordinance be included in the next Planning Commission meeting so as to line up with Mr. Harvey’s presentation to the Planning Commission.

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-19, RATE OF GROWTH ORDINANCE (ROGO), 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, 138-52, APPLICATION PROCEDURES FOR NROGO; TO ESTABLISH A REQUIREMENT THAT A BUILDING PERMIT APPLICATION THAT IS SUBMITTED TO THE BUILDING PERMIT BE REVISED FOLLOWING RECEIPT OF ITS REQUIRED ROGO/NROGO ALLOCATION(S) AND PRIOR TO BUILDING PERMIT ISSUANCE TO MEET ALL BUILDING CODES IN EFFECT AT THE TIME OF BUILDING PERMIT ISSUANCE; 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 CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-037)

(1:49 p.m.) Mr. Haberman first noted that there is an error in the ordinance title and therefore a new ad needs to be submitted to Ms. Creech before the Planning Commission starts. The language “a building permit application that is submitted to the building permit” should read “submitted to the building department.”

Mr. Haberman then presented the staff report. Mr. Haberman reported that the reverse ROGO has for now been tabled. The initial intent was to have only site plans approved before entering ROGO and full building plans would not be reviewed. One of the side effects of that is it facilitated a very strong concern by the Building Official and Fire Marshal that they were being forced to issue permits that were no longer compliant with their codes because of the time an application could stay in ROGO. What this current ordinance does is takes the noncontroversial parts of reverse ROGO and moves ahead with them, the biggest being a requirement that, if the building code or fire code changes while in the system, a property owner is going to be required to come in within 180 days of their ROGO allocation award and submit new plans. This will be a requirement in the code. The second thing this ordinance does is fix some of the language and numbering in the previous version of the code.

Mr. Haberman stated that he is going to move ahead and still codify the requirements of a ROGO application. Mr. Roberts assured Mr. Schwab that this was advertised. Mr. Haberman added that the ROGO site plan approval was taken to the Planning Commission and approved and reviewed by the DRC. This checklist only codifies what is required for people that need a ROGO or NROGO allocation. Mr. Haberman guessed that this will also go to the Planning Commission in May.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 1:58 p.m.