

DEVELOPMENT REVIEW COMMITTEE

-
Tuesday, June 26, 2012

-
AGENDA

-
The Monroe County Development Review Committee will conduct a meeting on Tuesday, June 26, 2012, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

DRC MEMBERS:

Townsley Schwab, Senior Director of Planning and Environmental Resources
Mike Roberts, Sr. Administrator, Environmental Resources
Joe Haberman, Planning & Development Review Manager
DOT Representative
Steve Zavalney, Captain, Fire Prevention
Public Works Department Representative

STAFF MEMBERS

Christine Hurley, Growth Management Division Director
Jerry Smith, Assistant Building Official
Mitch Harvey, Comprehensive Plan Manager
Mayte Santamaria, Assistant Planning Director
Rey Ortiz, Planner
Gail Creech, Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL

MEETING

-
Continued Item:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING MONROE COUNTY CODE SECTION 130-102, HORSES AND OTHER LIVESTOCK, TO ESTABLISH REGULATIONS RELATED TO THE KEEPING OF HORSES AND OTHER LIVESTOCK IN MONROE COUNTY, 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 2012-036)

[2012-036 SR DRC 6.26.12.PDF](#)

New Items:

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY

CODE SECTIONS 118-9, OPEN SPACE REQUIREMENTS; TO ADDRESS THE CLEARING OF UPLAND NATIVE VEGETATION 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 2012-032)

[2012-032 SR DRC 6.26.12.PDF](#)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-51, NROGO ALLOCATIONS, TO REVISE THE REGULATIONS TO INCREASE THE NUMBER OF ALLOCATION PERIODS IN A GIVEN YEAR FROM TWO ALLOCATION PERIODS TO FOUR ALLOCATION PERIODS, 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 2012-013)

[2012-013 SR DRC 6.26.12.PDF](#)

ADJOURNMENT

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Steven Biel, Senior Planner
Joseph Haberman, AICP, Planning & Development Review Manager

Date: June 19, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING MONROE COUNTY CODE SECTION 130-102, HORSES AND OTHER LIVESTOCK, TO ESTABLISH REGULATIONS RELATED TO THE KEEPING OF HORSES AND OTHER LIVESTOCK IN MONROE COUNTY, 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.*

Meeting: June 26, 2012

1
2 I REQUEST

3
4 The Planning & Environmental Resources Department is proposing an amendment to the
5 Monroe County Code by establishing §130-102 of the Monroe County Code, which would
6 establish regulations related to the keeping of horses and other livestock on property in
7 unincorporated Monroe County.
8

9 II RELEVANT PRIOR COUNTY ACTIONS:

10
11 None.
12

13 III REVIEW

14
15 The Planning & Environmental Resources Department regularly receive inquiries related to
16 horses. The most common inquiries are from property owners who want to keep their
17 personal horses on their properties. Other inquiries are from property owners who want to
18 establish commercial stables on their properties.
19

20 Currently, the Land Development Code and Comprehensive Plan do not contain any
21 provisions directly related horses and livestock. Horses have been allowed or prohibited by
22 administrative interpretations of planning directors.
23

1
2 Horses are a type of animal defined within the definitions of animal and livestock in MCC
3 §4-1:
4

5 *Animal* means any living dumb creature, including any mammal, bird, fish, reptile, ferret,
6 turtle, horse, mollusk, crustacean, or any other vertebrate other than a human being.
7

8 *Livestock* means horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls,
9 bullocks, steers, heifers, cows, calves, mules, jacks, jennies, burros, goats, kids, swine,
10 and any other fur-bearing animals being raised in captivity, including those other animals
11 recognized by the department of agriculture as being within the jurisdiction of its
12 department.
13

14 However, MCC §4-76, which pertains to the keeping of wild animals and livestock, does not
15 specifically address horses and does not directly explain where such animals may be kept.
16 MCC §4-76(a) states:
17

18 *Zoning.* No livestock, such as cows, goats, sheep or pigs, barnyard animals such as
19 chickens, ducks, rabbits or geese, shall be kept either penned or loose in any zone where
20 not otherwise permitted in the county. Animals considered wild shall not be kept in any
21 residential zone in the county
22

23 Although this subsection implies that zoning should allow livestock, it states that they should
24 only be allowed in an appropriate zone. No such zones have been established in the Land
25 Development Code.
26

27 Many jurisdictions consider livestock and agriculture synonymous. However, as defined in
28 MCC §101-1, *agriculture* means mariculture, beekeeping, animal husbandry, groves and
29 nurseries, but does not mean row crops. The definition does not directly include the keeping
30 or livestock not related to animal husbandry.
31

32 The purpose of this amendment is to clarify where horses and other livestock may be
33 permitted in Monroe County.
34

35 Therefore, staff recommends the following changes (deletions are ~~stricken through~~ and
36 additions are underlined):
37

38 **Sec. 130-102. Horses and Other Livestock.**
39

40 (a) Definition of livestock. Livestock means horses, stallions, colts, geldings, mares, sheep,
41 rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennies, burros,
42 goats, kids, swine, and any other fur-bearing animals being raised in captivity, including
43 those other animals recognized by the department of agriculture as being within the
44 jurisdiction of its department.
45

1 (b) Keeping of livestock. Excluding horses for personal use as allowed in subsection (c), the
2 keeping of livestock may be permitted on parcels of land that have a land use (zoning)
3 district designation that allows agriculture as a permitted use and/or are designated within
4 an agricultural/aquacultural use overlay as set forth in section 130-120.
5

6 (c) Keeping of a horse for personal use. Horses may be kept on residentially developed
7 parcels of land as an accessory use if the following standards are met:

8 (1) For parcels of land containing one acre of upland or less, one or two horses may be
9 maintained thereon, provided that:

10 (i) There shall be a lawful residential dwelling unit on the same parcel of land upon
11 which the horse(s) is kept; and

12 (ii) The owner of the horse(s) shall occupy the residential dwelling unit on the same
13 parcel of land; and

14 (iii) The horse(s) shall be for personal use only. Under no circumstance shall the
15 property be used for commercial purposes, such as a commercial stable or
16 commercial riding ground; and

17 (iv) The portion of the parcel of land upon which the horse(s) is kept must be entirely
18 fenced or enclosed by an appropriate structure to contain the horse(s); and

19 (v) Any fenced areas or enclosures used for the containment of the horse(s) must be
20 at least 50 feet from any residential dwelling unit.

21 (2) For parcels of land containing over one acre of upland, an additional horse may be
22 maintained for each additional one-half (1/2) acre of land.
23

24 IV RECOMMENDATION

25
26 Staff has found that the proposed text amendment would be consistent with the provisions of
27 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
28 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
29 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
30 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
31 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
32 the proposed text amendments are necessary due to a recognition of a need for additional
33 detail or comprehensiveness.
34

35 Staff recommends that the Board of County Commissioners amend the Monroe County Code
36 as stated in the text of this staff report.



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Reynaldo Ortiz, Assoc. AIA, AICP, Planner

Date: June 11, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 118-9, OPEN SPACE REQUIREMENTS; TO ADDRESS THE CLEARING OF UPLAND NATIVE VEGETATION 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.*

Meeting: June 26, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §118-9 of the Monroe County Code (MCC) in order to revise the regulations pertaining to
6 the clearing of upland native vegetation and implement the recommendations of the
7 Administration Commission and the state land planning agency (Department of Economic
8 Opportunity) pursuant to Policies of the Monroe County Comprehensive Plan.
9

10 II RELEVANT PRIOR COUNTY ACTIONS:
11

12 At their February 13, 2012 meeting, the BOCC passed Resolution #020-2012 to transmit
13 Comprehensive Plan text amendment to the State of Florida Department of Economic
14 Opportunity (DEO) to adopt clearing limits for high quality and moderate quality tropical
15 hammocks and to strengthen the protection of hardwood hammocks.
16

17 III REVIEW
18

19 If the text amendments provided in Resolution #020-2012 is ultimately approved, the Land
20 development Code must be updated to be consistent with the superseding Comprehensive
21 Plan.
22

1 The regulations within MCC §118-9 would become obsolete upon approval of the
 2 aforementioned Comprehensive Plan amendments. Although the amendments set forth in
 3 Resolution #020-2012 has only been transmitted to DEO and are yet to be adopted, staff has
 4 opted to begin the process of amend the Land Development code so that the Land
 5 Development Code amendments may be adopted at the same BOCC meeting as the
 6 Comprehensive Plan amendments.

7
 8 Therefore, staff recommends the following changes (deletions are ~~stricken through~~ and
 9 additions are underlined):

10
 11 **Sec. 118-9. Open space requirements.**

12
 13 (a) *Purpose.* It is the purpose of this section to provide for open space as a part of a
 14 development plan in order to ensure the continued existence of natural wildlife habitat
 15 and to provide open green areas for the movement, aesthetics, and safety of the
 16 human population utilizing the development. Native plant communities within
 17 required open space areas shall not be cleared or otherwise disturbed, including
 18 ground cover, understory, midstory, and canopy vegetation. All such areas shall be
 19 maintained in their natural condition.

20
 21 (b) *Percentage of clearing.* Clearing of upland native vegetation communities in tiers I,
 22 II, III, and III-A shall be limited to the following percentages:

Tier	<i>Permitted Clearing*</i>
I	<p>20 percent <u>or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet</u> of upland native vegetation*.</p> <p><u>The clearing of parcels in Tier I shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the planning director. The proposed driveway design shall minimize fragmentation; avoid specimen trees; and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 20 percent of the entire site.</u></p>
II	<p>40 percent <u>or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet</u> of upland native vegetation (Big Pine Key and No Name Key only).</p>
III	<p>40 percent of upland native vegetation or 3,000 square feet, whichever is greater; however, the maximum amount of clearing shall be no more than 7,500 square feet, regardless of the amount of upland native vegetative area.</p>

	<p><u>The clearing of parcels in Tier III shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the planning director. The proposed driveway design shall minimize fragmentation; avoid specimen trees; and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 20 percent of the entire site.</u></p>
<p><u>III-A Special Protection Area</u></p>	<p><u>40% or 3,000 square feet, whichever is greater; however, clearing shall not exceed 7,500 square feet of upland native vegetation.</u></p> <p><u>The clearing of parcels in Tier III-A shall be limited to 7,500 square feet per parcel. For parcels greater than 30,000 square feet, with the exception of parcels on Big Pine Key and No Name Key, clearing for one driveway of reasonable configuration up to 18 feet in width is permitted to provide reasonable access to the property for each parcel and shall be exempt from maximum clearing limit of 7,500 square feet. Clearing for a driveway shall be recommended by a County biologist and approved by the planning director. The proposed driveway design shall minimize fragmentation; avoid specimen trees; and take the shortest reasonable route. In no case shall clearing, including the driveway, exceed 20 percent of the entire site.</u></p>
<p>*Palm or cactus hammock is limited to only ten percent.</p>	

- (c) *Site baseline conditions.* The legal conditions of land existing as of February 28, 1986, and as depicted on the December 1985 Habitat Classification Aerial Photographs, shall be used as a baseline to determine the clearing that may be permitted on a site. The 1985 maps shall be supplemented by recent aerial photography and existing site analysis to determine any increases in the amount of upland native vegetated areas. Upland native vegetated areas cleared between 1986 and the time of permit application shall be considered to still include upland native vegetation for purposes of determining the amount of open space and clearing permitted.
- (d) *Ocean Reef Club clearing.* For the purpose of this section, upland native vegetated areas in Ocean Reef Club shall be limited to clearing of 40 percent of the upland native vegetated areas.
- (e) *Lot aggregation and clearing.* For ROGO applications that receive points for lot aggregation under section 138-28(3), permitted clearing of vegetation shall be limited to the percentage of the property indicated in subsection (b) of this section or 5,000

1 square feet, whichever is less, except that all applications received after September
2 27, 2005 shall not receive points for lot aggregation if located within an area
3 proposed for acquisition by public agencies for the purpose of resource protection,
4 and applications receiving points for aggregation cannot exceed the limits outlined in
5 subsection (b) of this section or 5,000 square feet, whichever is less, pursuant to the
6 mandate of the Florida Administrative Commission by Rule Nos. 28-20.110 and 28-
7 20.120, effective September 27, 2005.
8

9 (f) *Vesting provisions.* Notwithstanding the clearing provisions of subsections (b), (c),
10 and (d) of this section, the following vesting provisions shall apply upon the effective
11 date of the ordinance from which this section is derived:

12 (1) Except as provided in subsection (f)(2) of this section, any building permit
13 application requiring an allocation award in the ROGO/NROGO system prior to
14 the effective date of the ordinance from which this ~~chapter~~ Land Development
15 Code is derived shall comply with the extent of clearing authorized in the
16 approved building permit application, except that all applications received after
17 September 27, 2005, within tier I shall not clear more than 5,000 square feet and
18 shall not receive points for lot aggregation if within an area proposed for
19 acquisition by public agencies for the purpose of resource protection pursuant to
20 the mandate of the Florida Administrative Commission by Rule Nos. 28-20.110
21 and 28-20.120, effective September 27, 2005.

22 (2) Any building permit issued pursuant to an active conditional use permit
23 development order approved by the planning director or planning commission
24 prior to March 15, 2006, and authorized by a ROGO/NROGO allocation award or
25 granting of the transfer of development rights from off-site under sections ~~138-22~~
26 138-28(9) and 138-55(a)(10) shall comply with the extent of clearing authorized
27 in the approved conditional use permit development order.

28 (3) Any revisions to the extent of clearing approved by the permits or conditional use
29 permit development orders vested pursuant to subsections (f)(1) and (f)(2) of this
30 section shall be required to comply with the clearing limits in this ~~chapter~~ Land
31 Development Code.
32

33 IV RECOMMENDATION

34
35 Staff has found that the proposed text amendment would be consistent with the provisions of
36 MCC §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from
37 those on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
38 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
39 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
40 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
41 the proposed text amendments are necessary due to recognition of a need for additional detail
42 or comprehensiveness.
43

44 Staff recommends that the Board of County Commissioners amend the Monroe County Code
45 as stated in the text of this staff report.



**MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 020 - 2012**

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.4.22, 101.4.24, 101.4.25 AND 205.2.7 OF THE MONROE COUNTY 2010 COMPREHENSIVE PLAN AND CREATING POLICY 101.4.23 OF THE MONROE COUNTY 2010 COMPREHENSIVE PLAN TO ADDRESS THE CLEARING OF UPLAND NATIVE VEGETATION.

WHEREAS, the Monroe County Board of County Commissioners conducted a public hearing for the purpose of considering the transmittal to the State Land Planning Agency a proposed amendment to the Monroe County 2010 Comprehensive Plan as described above; and

WHEREAS, the Monroe County Planning Commission and the Monroe County Board of County Commissioners support the requested text amendment; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1: The Board of County Commissioners does hereby adopt the recommendation of the Planning Commission to transmit the draft ordinance for adoption of the proposed text amendment.

Section 2: The Board of County Commissioners does hereby transmit the proposed amendment as part of a set of comprehensive plan amendments for 2012 to the State Land Planning Agency for review and comment in accordance with the State Coordinated Review process pursuant to Section 163.3184(4), Florida Statutes.

Section 3. The Monroe County staff is given authority to prepare and submit the required transmittal letter and supporting documents for the proposed amendment.

Section 4. The Clerk of the Board is hereby directed to forward a certified copy of this resolution to the Director of Planning.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a special meeting held on the 13th day of February, 2012.

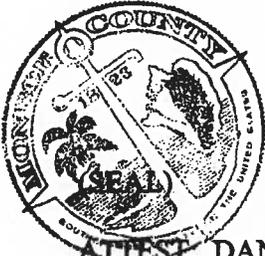
Mayor David Rice	<u>Yes</u>
Mayor <i>pro tem</i> Kim Wigington	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY



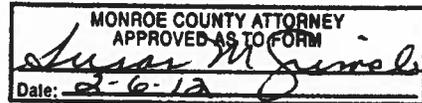
Mayor David Rice



ATTEST: DANNY L. KOLHAGE, CLERK



DEPUTY CLERK



FILED FOR RECORD
2012 FEB 22 PM 1:46
DANNY L. KOLHAGE
DEPUTY CLERK
MONROE COUNTY, FLORIDA



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee &
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Planning & Development Review Manager

Date: June 19, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-51, NROGO ALLOCATIONS, TO REVISE THE REGULATIONS TO INCREASE THE NUMBER OF ALLOCATION PERIODS IN A GIVEN YEAR FROM TWO ALLOCATION PERIODS TO FOUR ALLOCATION PERIODS, 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.*

Meeting: June 26, 2012

1
2 I REQUEST

3
4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §138-51 of the Monroe County Code (MCC) in order to increase the number of allocation
6 periods in a given year from two allocation periods to four allocation periods. In addition,
7 the proposed amendment clarifies some other existing language in the sections.
8

9 II RELEVANT PRIOR COUNTY ACTIONS:

10
11 The NROGO was carried out as required by Monroe County Comprehensive Plan Policy
12 101.3.1.
13

14 The NROGO was first adopted in 2001 by Ordinance #032-2001. It has been effective from
15 July 2001 to present. In order to carry out several miscellaneous amendments, MCC Chapter
16 138, Article III, NROGO has been amended several times from its adoption to present date.
17 Of these amendments, it is important to note that in order to implement the tier scoring
18 system, the NROGO regulations were amended in 2006 by Ordinance #011-2006.
19

20 III REVIEW

21
22 As set forth in MCC §138-47(b), the purposes and intent of the NROGO are: 1) to facilitate
23 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating
24 to maintaining a balance between residential and nonresidential growth; 2) to maintain a ratio

1 of approximately 239 square feet of nonresidential floor area for each new residential permit
2 issued through the ROGO; 3) to promote the upgrading and expansion of existing small-size
3 businesses and to retain the predominately small scale character of nonresidential
4 development in the Florida Keys; 4) to regulate the rate and location of nonresidential
5 development in order to eliminate potential land use conflicts; and 5) to allocate the
6 nonresidential floor area annually hereunder, based on the goals, objectives and policies of
7 the Comprehensive Plan and the Livable CommuniKeys master plans.
8

9 Comprehensive Plan Policy 101.3.1, which addresses the NROGO permit allocation system,
10 states:
11

12 Monroe County shall maintain a balance between residential and non-residential growth
13 by limiting the square footage of non-residential development to maintain a ratio of
14 approximately 239 square feet of new non-residential development for each new
15 residential unit permitted through the Residential Permit Allocation System. This ratio
16 may be modified from time to time through amendments to the land development
17 regulations based upon market and other relevant studies as required by policy 101.3.5.
18 The commercial allocation allowed by this policy shall be uniformly distributed on an
19 annual basis, consistent with the Residential Permit Allocation System as set forth in
20 Policy 101.2.1.
21

22 The Comprehensive Plan does not require the County to award NROGO allocations a
23 specific number of times within a given NROGO year. It only requires the County to limit
24 the total square footage awarded in a given NROGO year to 239 SF of new nonresidential
25 development per each new residential unit permitted through the ROGO permit allocation
26 system. The Monroe County Code requires the County to award NROGO allocations on a
27 semi-annual basis within a given NROGO year.
28

29 The proposed amendments do not affect the total amount of nonresidential floor area
30 awarded via the NROGO permit allocation system in a given NROGO year (239 square feet
31 of nonresidential floor area per each dwelling unit). The proposed amendments only allow
32 the County to award the total annual NROGO allocation on a quarterly basis rather than a
33 semi-annual basis.
34

35 The proposed amendment would allow applicants to receive NROGO allocations needed for
36 projects in a timelier manner when the nonresidential floor area for such NROGO allocations
37 is readily available. Following an evaluation of the NROGO permit allocation system, staff
38 has determined that rarely is there competition that requires the County to award all of the
39 nonresidential floor area that is available each allocation period. Therefore, in most cases,
40 applicants are able to receive the full amount (typically 2,500 SF per allocation period) in
41 which they are entitled to receive. However, administratively, the applicants must wait for
42 each date-certain allocation period to collect the nonresidential floor area.
43

44 *Small Projects:*
45

1 In the case of small projects of less than 2,500 SF, applicants often have to wait over six
2 months after they apply for building permits to receive their building permits - regardless of
3 competition. The system is designed to be competitive, where applications that receive lesser
4 scores have to wait longer in the event several competing applications with higher scores are
5 also active. However, many applicants wait several months for administrative purposes only.
6

7 For example, currently, NROGO allocations are awarded in and around January and July of
8 each year. If a building permit application for a 1 SF to 2,500 SF structure is submitted in
9 August 2012, the applicant will have to wait until January 2013 at the earliest to receive a
10 NROGO allocation – even if the applicant is the only applicant requesting a NROGO
11 allocation during that timeframe. As a result of this delay, many businesses are dissatisfied
12 with the process and some opt to not carry out the improvements. The community is not
13 served as the total amount nonresidential floor area made available for the County was
14 expected to be utilized to maintain the 1:239 ratio and often remains unused.
15

16 The proposed amendments would establish four allocations periods rather than two allocation
17 periods per year. As a result, when there is no competition, applicants for small projects
18 would have to wait up to four months (approximately) after application submittal rather than
19 wait up to six months (approximately).
20

21 *Large Projects:*
22

23 In the case of large projects of greater than 2,500 SF, applicant often have to wait years after
24 they apply for building permits to receive their building permits - regardless of competition.
25 In addition to the issues associated with small projects, unless in an area where large
26 allocations are available, an applicant for a large project must cumulatively acquire all
27 necessary nonresidential floor area for the project in 2,500 SF shares. Many applicants wait
28 several months for administrative purposes only.
29

30 For example, currently, NROGO allocations are awarded in and around January and July of
31 each year. If a building permit application for a 10,000 SF structure is submitted in August
32 2012, the applicant will have to wait until July 2014 at the earliest to receive a NROGO
33 allocation – even if the applicant is the only applicant requesting a NROGO allocation during
34 that timeframe. Again, as a result of this delay, many businesses are dissatisfied with the
35 process and some opt to not carry out the improvements. The community is not served as the
36 total amount nonresidential floor area made available for the County was expected to be
37 utilized to maintain the 1:239 ratio and often remains unused
38

39 The proposed amendments would establish four allocations periods rather than two allocation
40 periods per year. As a result, when there is no competition, applicants for large projects
41 would be able to acquire their 2,500 SF shares four times a year rather than two times a year
42 – thus cutting their time in the system by half.
43

44 Note: The following two definitions are being added to MCC as part of a concurrent text
45 amendment to MCC §138-47 (file #2012-037):
46

1 *Quarterly nonresidential ROGO allocation period* means any one of the four, three-
2 month periods within an annual allocation period.

3
4 *Quarterly nonresidential ROGO allocation* means the maximum number of amount of
5 nonresidential floor area square footage for which building permits may be issued in a
6 quarterly allocation period.
7

8 Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and
9 additions are underlined. Text to remain the same is in black):

10
11 **Sec. 138-51. NROGO allocations.**

12
13 (a) *Maximum amount of available floor area for the annual nonresidential ROGO*
14 *allocations.* The maximum amount of floor area available for allocation under NROGO
15 shall be determined by multiplying the number of residential permits available for the
16 annual residential allocation period year by 239 square feet and rounding the product to
17 the nearest 100 square feet. The maximum amount of available floor area for annual
18 allocations shall be computed separately for Big Pine Key and No Name Key in
19 accordance with subsection (j) of this section ~~and for the remainder of the unincorporated~~
20 ~~county~~. This maximum total may be adjusted as provided in section 138-53(a). Except for
21 Big Pine Key and No Name Key, for the first annual allocation period, the maximum
22 amount of floor area that may be made available for allocation is to be based upon the
23 number of permits issued under ROGO, starting with the third quarter, ROGO year 1
24 (starting April 14, 1993) through ROGO year 9 (ending July 13, 2001) and number of
25 ROGO allocations to be made in ROGO year 10, reduced by the amount of
26 nonresidential floor area approved in permits, issued after the adoption of the
27 comprehensive plan on April 15, 1993. Any remaining part of the maximum annual
28 allocation not made available for allocation in an annual allocation period by the board of
29 county commissioners in subsection (g) of this section shall be carried over to the next
30 annual allocation period.
31

32 (b) *Maximum allocation of nonresidential floor area by site* per each allocation period. The
33 amount of nonresidential floor area to be allocated shall be limited to a maximum share
34 of 2,500 square feet for any one site per each allocation period, except for sites located
35 within a designated community center overlay area. For sites located within a community
36 center overlay area, the maximum allocation shall only be limited by the maximum floor
37 area per structure in subsection (c) of this section.
38

39 (c) *Maximum floor area per structure.* ~~An existing~~ A structure shall not receive an allocation
40 that expands the structure to more than 10,000 square feet of nonresidential floor area,
41 except ~~that nonresidential floor area of structures~~ a structure in the ~~urban commercial~~
42 Urban Commercial (UC) land use district may receive an allocation that expands the
43 structure ~~be expanded~~ to not more than 50,000 square feet.
44

45 (d) *Large and small size allocations.* A minimum of 75 percent of the available
46 nonresidential floor area to be allocated in any annual allocation period shall be for

1 applications requesting floor area of 2,500 square feet or less. The remaining 25 percent
2 may be allocated to applications requesting nonresidential floor area of more than 2,500
3 square feet.
4

5 (e) *Annual allocation period and ~~semiannual~~ quarterly nonresidential ROGO allocation*
6 *periods.* The maximum annual amount of nonresidential floor area which may be made
7 available for allocation and the distribution between small (2,500 square feet or less) and
8 large (more than 2,500 square feet) allocations shall be established by the board of county
9 commissioners consistent with the provisions of subsections (a) and (d) of this section
10 upon the recommendation of the planning commission and planning director as set forth
11 in subsection (g) of this section. The allocation shall be made available on a countywide
12 basis. The amount of nonresidential floor area which may be made available for each
13 allocation period, as determined in subsection (g) of this section, may be available for
14 allocation awards after the first allocation date of that year. Any nonresidential floor area
15 not allocated in this first allocation or nonresidential floor area that becomes available
16 later in the current allocation period under provisions of section 138-53(a) may be made
17 available for allocation awards after a ~~second~~ subsequent allocation date of that year.
18

19 (f) *Allocation dates.* To be considered for an allocation award, all NROGO applications
20 must be submitted to the planning department and deemed complete by the planning
21 director, or his or her designee, by no later than 4:00 p.m. on the specified allocation date.
22 The first allocation date of a NROGO annual allocation period shall be the last day of the
23 fourth quarter ROGO allocation period, ~~except that for the first NROGO annual~~
24 ~~allocation period, the allocation date shall be January 1, 2001.~~ The second allocation date
25 for the current NROGO annual allocation period, if necessary, shall be the last day of the
26 ~~second~~ first quarter ROGO allocation period. The third allocation date for the current
27 NROGO annual allocation period, if necessary, shall be the last day of the second quarter
28 ROGO allocation period. The fourth allocation date for the current NROGO annual
29 allocation period, if necessary, shall be the last day of the third quarter ROGO allocation
30 period.
31

32 (g) *Board of county commissioners action required.* The board of county commissioners
33 shall adopt, by resolution, the total amount of nonresidential floor area which may be
34 made available for the annual nonresidential ROGO allocation and the distribution of this
35 allocation between small and large size allocations after receiving recommendations from
36 the planning commission and planning director. The planning commission shall make its
37 allocation recommendations to the board of county commissioners at least 90 days prior
38 to the annual nonresidential ROGO allocation date. The board of county commissioners
39 shall establish the annual maximum allocation, the allocation to be made available for the
40 first allocation period, and the distribution between small and large size allocations by no
41 later than 60 days prior to the allocation date.
42

43 (h) *Annual nonresidential ROGO allocation.* The board of county commissioners may make
44 available for allocation all or part of the maximum annual allocation. This annual
45 allocation may be distributed between the ~~two~~ four allocation dates for a given annual
46 nonresidential ROGO allocation.

1
2 (i) *First allocations for Big Pine Key and No Name Key.* For the first allocation period
3 (starting ROGO year 15, quarter 1), the maximum amount of floor area available for
4 allocation shall be based on the number of permits issued under the 200 allocations
5 authorized by the Big Pine Key and No Name Key Community Master Plan and the
6 number of ROGO allocations to be made available in the ROGO year 15, beginning July
7 14, 2006.

8
9 (j) *Separate allocations for Big Pine Key and No Name Key.* Allocations for Big Pine Key
10 and No Name Key shall be administered and awarded separately from those for the
11 remainder of the unincorporated county.

12
13 * * * * *

14
15 **IV RECOMMENDATION**

16
17 Staff has found that the proposed text amendment would be consistent with the provisions of
18 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
19 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
20 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
21 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
22 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
23 the proposed text amendments are necessary due to new issues and a recognition of a need
24 for additional detail or comprehensiveness.

25
26 Staff recommends that the Board of County Commissioners amend the Monroe County Code
27 as stated in the text of this staff report.