

AGENDA

PLANNING COMMISSION
MONROE COUNTY
September 26, 2012
10:00 A.M.

MARATHON GOV'T CENTER
2798 OVERSEAS HIGHWAY
MARATHON, FL 33050

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMISSION:

Denise Werling, Chairman
Randy Wall, Vice Chairman
Jeb Hale
Elizabeth Lustberg
William Wiatt

STAFF:

Townsley Schwab, Senior Director of Planning and Environmental Resources
Susan Grimsley, Ass't County Attorney
John Wolfe, Planning Commission Counsel
Mayte Santamaria, Assistant Director of Planning and Environmental Resources
Joe Haberman, Planning & Development Review Manager
Mitch Harvey, Comp Plan Manager
Steven Biel, Sr. Planner
Rey Ortiz, Planner
Emily Schemper, Planner
Barbara Bauman, Planner
Timothy Finn, Planner
Gail Creech, Planning Commission Coordinator

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

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SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

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SWEARING OF COUNTY STAFF

CHANGES TO THE AGENDA

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APPROVAL OF MINUTES

-

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MEETING

New Items:

1. Non-Residential Floor Area Allocation: The Planning Director is requesting recommendations from the Planning Commission, to the Board of County Commissioners, for the amount of commercial floor area to be available for the annual NROGO allocation for Year 21, beginning July 13, 2012 and ending July 12, 2013.

File 2012-108

[2012-108 SR PC 9.26.12.PDF](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 AND CREATING POLICY 101.4.26 TO ESTABLISH A COMMERCIAL FUTURE LAND USE CATEGORY; AND REVISE THE "FUTURE LAND USE DENSITIES AND INTENSITIES" TABLE TO INCLUDE A COMMERCIAL (COMM) FUTURE LAND USE CATEGORY, CORRESPONDING ZONING CATEGORIES, AND ESTABLISH THE DENSITY AND INTENSITY STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

File 2012-120

[2012-120 SR PC 09.26.12.PDF](#)

[2012-120 Draft Resolution.PDF](#)

[2012-120 Draft Ordinance.PDF](#)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE CHAPTER 102, ADMINISTRATION, ARTICLE III, NONCONFORMITIES, TO ADDRESS NONCONFORMITY OF WATER-DEPENDENT AND WATER-RELATED COMMERCIAL USES AND STRUCTURES AS A PRIMARY SOURCE OF ECONOMIC SUSTAINABILITY AS ADDRESSED IN THE KEY LARGO AND TAVERNIER COMMUNIKEYS PLANS, TO UPDATE THE PROVISION RELATED TO THE REGISTRATION OF NONCONFORMING USES AND STRUCTURES, 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 2012-114

[2012-114 SR PC 09.26.12.PDF](#)

Pursuant to Section 286.0105 Florida Statutes and Monroe County Resolution 131-1992, if a person decides to appeal any decision of the Planning Commission, he or she shall provide a transcript of the hearing before the Planning Commission, prepared by a certified court reporter at the appellant's expense. For such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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".

BOARD DISCUSSION

GROWTH MANAGEMENT COMMENTS

- Update from Mayte Santamaria on Keith & Schnars progress

RESOLUTIONS FOR SIGNATURE

ADJOURNMENT



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Planning Commission

Through: Townsley Schwab, Sr. Director of Planning & Environmental Resources *TS*

From: Tiffany Stankiewicz, Development Administrator

Date: September 17, 2012

Subject: Non-Residential Floor Area Evaluation Report Year 21 (July 13, 2012-July 12, 2013)

1 **Meeting Date:** September 26, 2012

2

3 **BACKGROUND**

4

5 Monroe County Comprehensive Plan provides Goals, Objectives and Policies to manage future
6 growth and establish systems for regulating and distributing growth within the County. Objective
7 101.3 establishes the non-residential permit allocation system (NROGO) and directs the County to
8 regulate non-residential development to maintain a balance of land uses to serve the needs of the
9 future population of Monroe County. Policy 101.3.1 further requires a balance between residential
10 and non-residential development by maintaining a ratio of approximately 239 square feet of new
11 non-residential development for each new residential unit permitted through the Residential
12 Permit Allocation System.

13

14 The Monroe County Code implements the Comprehensive Plan and provides specific provisions
15 for regulating non-residential development.

16

17 Section 138-47(b) provides the purpose and intent of the Non-Residential Rate of Growth
18 Ordinance (NROGO):

- 19
- 20
- 21
- 22
- 23
- 24
1. To facilitate implementation of goals, objectives and policies set forth in the comprehensive plan relating to maintaining a balance between residential and non-residential growth.
 2. To maintain a ratio of approximately 239 square feet of nonresidential floor area for each new residential permit issued through the residential rate of growth ordinance (ROGO).

- 1 3. To promote the upgrading and expansion of existing small-size businesses and to retain the
- 2 predominantly small scale character of nonresidential development in the Florida Keys.
- 3 4. To regulate the rate and location of nonresidential development in order to eliminate
- 4 potential land use conflicts.
- 5 5. To allocate the non-residential floor area annually hereunder, based on the goals,
- 6 objectives and policies of the comprehensive plan and the Livable CommuniKeys master
- 7 plans.
- 8

9 As mentioned above, non-residential growth is tied to residential growth by maintaining a ratio of
10 approximately 239 square feet of new non-residential development for each new residential unit.
11 Monroe County Code Section 138-24(a) and Rule 28-20.140, F.A.C. states the available annual
12 allocation is 197 residential allocations. Big Pine Key/No Name Key subarea is allotted 10
13 allocations from this total and the remaining area outside of Big Pine Key/No Name Key subarea
14 is allotted 187 allocations.

15
16 Monroe County Code Section 138-47(a) provides the definition for NROGO. The “annual
17 nonresidential ROGO allocation” is the maximum floor area for which building permits may be
18 issued during an annual allocation period. The “annual allocation period” is the 12-month period
19 beginning on July 14, 2001, and subsequent one-year periods that is used to determine the amount
20 of nonresidential floor area to be allocated *based on the number of ROGO allocations to be issued*
21 *in the upcoming ROGO year.*

22
23 As described above, maximum annual allocation is determined by multiplying the number of
24 available residential allocations for the residential allocation period year by 239 square feet, and
25 then rounding the product to the nearest 100 square feet (for example: 197 X 239). The Board of
26 County Commissioners, upon the recommendations of the Planning Director and the Planning
27 Commission, determines the maximum amount of floor area and its distribution between two
28 allocation dates.

29
30 Section 138-51 of the Monroe County Code, establishes the procedure for allocating the non-
31 residential floor area distribution based upon the second and fourth ROGO quarter closure dates.
32 The ROGO closure dates for the second quarter is January 12th and for the fourth quarter is July
33 12. Therefore, the NROGO closure dates for the first period is January 12th and for the second
34 period is July 12th.

35
36 Additionally, Section 138-51(b) limits a maximum of 2,500 square feet for any one site, except for
37 sites located within a designated community center overlay area. For sites located in a community
38 center overlay area, the maximum allocation shall only be limited by the maximum floor area per
39 structure in Section 138-51(c). Section 138-51(d) states, “A minimum of 75 percent of the
40 available floor area to be allocated in any annual allocation period shall be for applications
41 requesting floor area of 2,500 square feet or less. The remaining 25 percent may be allocated to
42 applications requesting floor area of more than 2,500 square feet.”

43
44 CONSIDERATIONS

1 When determining the amount of non-residential floor area that can be allocated annually, the following
2 items are reviewed and considered.

- 3
- 4 1. The number of potential applicants for an upcoming year is unknown. Most applicants who have
5 applied for NROGO are not located in a designated Community Center.
- 6 2. In the past ten years there has been limited competition for the available non-residential floor area.
7 The average square footage made available annually in the last eleven NROGO years has been
8 23,532 square feet while the average square footage allocated in the eleven NROGO years has been
9 11,881 square feet. The exception is Year 12 where the demand for square footage exceeded the
10 amount of available square footage.
- 11 3. Areas for allocations greater than 2,500 square feet are identified in a Livable CommuniKeys Master
12 Plan.
- 13 4. The non-residential allocations are based on prior years of residential ROGO. Each ROGO allocation
14 is multiplied by 239 square feet to determine the NROGO allocation bank. The Lower & Upper Keys
15 sub-areas have a separate bank from the Big Pine/No Name Key sub-area.
- 16

17 The following is a summary of the square footage of non-residential floor area made available
18 and the amount of square footage awarded for NROGO Years 10 through 20.

<u>YEAR</u>	<u>AMOUNT AVAILABLE</u>	<u>ALLOCATIONS AWARDED</u>
21 Year 10	22,150 square feet	18,222 square feet
22 Year 11	16,000 square feet	5,300 square feet
23 Year 12	16,000 square feet	15,689 square feet
24 Year 13	16,000 square feet	10,925 square feet
25 Year 14	16,000 square feet	12,594 square feet
26 Year 15	18,000 square feet	12,500 square feet
27 Year 16	35,000 square feet	17,938 square feet
28 Year 17	30,000 square feet	13,056 square feet
29 Year 18	22,500 square feet	6,355 square feet
30 Year 19	22,500 square feet	10,788 square feet
31 Year 20	44,700 square feet	7,324 square feet

32

33

34 **Additional background specific to the Tier System:**

35

36 On March 15, 2006, the Board of County Commissioners adopted Ordinance 011-2006 to
37 implement the Tier System for NROGO. Subsequently, the ordinance was challenged by Florida
38 Keys Citizens Coalition, Inc. and Protect Key West and the Florida Keys, Inc., d/b/a Last Stand.
39 A final order was issued by the Department of Community Affairs on September 26, 2007, which
40 was not appealed by the parties.

41

42 The addition of the Tier System to NROGO, created separate districts for allocation distribution,
43 the basis of scoring applications, and the administrative relief process. The new districts are as
44 follows: A) Lower Keys & Upper Keys and B) Big Pine/No Name Key are the subareas for
45 NROGO.

46

47 **Additional background specific to the Big Pine/No Name Key Sub-area:**

- 1
2 1) In 1998, the Florida Department of Transportation, Monroe County, the Florida
3 Department of Community Affairs, the U.S. Fish and Wildlife Service and the Florida
4 Fish and Wildlife Conservation Commission signed a Memorandum of Agreement to
5 develop a Habitat Conservation Plan (HCP) for the Key Deer and other protected species
6 in the project area.
7
8 2) The Livable Communikeys Program (LCP), Master Plan, for Future Development of Big
9 Pine Key and No Name Key was adopted on August 18, 2004 under Ordinance 029-2004.
10 The LCP envisioned 47,800 square feet of non-residential floor area to be allocated over
11 twenty years to be used for infill and expansion of existing businesses. The LCP limits
12 non-residential development to Tier III disturbed and scarified uplands. Based on the non-
13 residential area square footage envisioned to be released over the twenty year horizon,
14 approximately 2,390 square feet of floor area can be made available each year.
15
16 3) The following is a summary of the square footage of non-residential floor area that was
17 allocated on Big Pine/No Name Key Subarea from 2003 to July 2012.
18

<u>YEAR</u>	<u>No. Applicants Applied</u>	<u>Total Sq. Ft. Allocated</u>
Year 13	1	2,181
Year 15	2	5,000
Year 16	2	3,809
Year 17	0	0
Year 18	0	0
Year 19	1	384
Year 20	3	<u>7,500</u>
		18,874 Total

28
29 **CALCULATIONS FOR YEAR 21 AND FLOOR AREA TO BE MADE AVAILABLE**
30

31 A. Lower/Upper Keys:
32

33 187 ROGO Allocations are available for Year 21

34 Square Footage for Year 21 ROGO (187 ROGO x 239 Square Feet) **44,693**

35 Pursuant to MCC Section 138-51, there are 44,700 square feet to be distributed into small
36 (2,500 square feet or less) and large (more 2,500 square feet) allocations.
37

Unincorporated Monroe County excluding Big Pine/No Name Key Subarea			
	44,700 square feet available for Year		
Allocation Application Limit	Period 1	Period 2	Total for Year
small (2,500 square feet or less)	33,525*	0	33,525
large (more than 2,500 square feet)	11,175*	0	11,175
Total	44,700*	0	44,700

*Note if any of the square footage is unused after the allocation of Period 1 the unused balance will rollover to Period 2.

B. Big Pine/No Name Keys:

NROGO Square Footage according to LCP 47,800

Big Pine/No Name Key Subarea Calculations to Determine NROGO Year 21 SF Availability	
9,082	Total NROGO SF available Q3Y11 to Year 15 (MCC Sec 138-51(i))
+ 11,950	Total NROGO SF available Years 16-20
21,032	Total NROGO SF available Quarter 3 Year 11 thru Year 20
- 16,693	Total NROGO Allocated Years 15 thru 20)
4,339	Total NROGO SF unused at the end of NROGO Year 20 to rollover to Year 21
+ 2,390	New NROGO SF (10 ROGO x 239 SF)
6,729	NROGO Year 21 available SF balance

Additional background specific to the Tier System:

The application of the Tier System to NROGO created separate districts for allocation distribution, the basis for scoring applications, and a new administrative relief process. The new districts are as follows: A) Lower Keys (Middle Keys now included in the Lower Keys) & Upper Keys and B) Big Pine/No Name Key are the subareas for NROGO.

Additional background specific to the Big Pine/No Name Key Sub-area:

- 4) In 1998, the Florida Department of Transportation, Monroe County, the Florida Department of Community Affairs, the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission signed a Memorandum of Agreement to develop a Habitat Conservation Plan (HCP) for the Key Deer and other protected species in the project area.

- 1 5) The Livable Communikeys Program (LCP), Master Plan for Future Development of Big
2 Pine Key and No Name Key was adopted on August 18, 2004 under Ordinance 029-2004.
3 The LCP envisioned 47,800 square feet of non-residential floor area over the next twenty
4 years to be used for infill and expansion of existing businesses. The LCP limits non-
5 residential development to Tier III disturbed and scarified uplands. Based on the non-
6 residential area square footage envisioned to be released over the twenty year horizon,
7 approximately 2,390 square feet of floor area can be made available per year.
8
- 9 6) Monroe County Code Section First 138-51(i) states that for the first allocations for the
10 Big Pine Key and No Name Key subarea (starting ROGO year 15, quarter 1), the
11 maximum amount of floor area available for allocation shall be based on the number of
12 permits issued under the 200 allocations authorized by the Big Pine Key and No Name
13 Key Community Master Plan and the number of ROGO allocations to be made available
14 in the ROGO year 15, beginning July 14, 2006.
15
- 16 7) Approximately 18,874 SF of NROGO has been allocated in the Big Pine/No Name Key
17 Subarea from year 15 thru 20.
18

19 **RECOMMENDATION**

20
21 The Planning & Environmental Resources Director recommends 51,429 square feet is the
22 maximum amount of available non-residential floor area for the annual NROGO allocation for
23 Year 21, to be distributed as follows:
24

25 **Lower & Upper Keys Subarea:**

- 26
- 27 1. The maximum amount of available non-residential floor area for the annual NROGO
28 allocation for Year 21 of the Lower & Upper Keys subarea shall be 44,700 square
29 feet.
30
 - 31 2. Year Twenty-one (21) begins July 13, 2012 and ends on July 12, 2013, the first
32 allocation period ended on January 12, 2012 and the second allocation period will end
33 on July 12, 2012.
34
 - 35 3. The first allocation period shall have 33,525 square feet for small (2,500 square feet
36 or less) allocations and 11,175 for large (more than 2,500 square feet) allocations.
37 The unused balance from the first allocation period shall be held in reserve for the
38 second allocation period in their respective categories.
39

40 **Big Pine/No Name Key Subarea:**

- 41
- 42 1. The maximum amount of available non-residential floor area for the annual NROGO
43 allocation for Year 21 of the Big Pine/No Name Keys subarea shall be 6,729 square
44 feet.

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2. Year Twenty-one (21) begins July 13, 2012 and ends on July 12, 2013, the first allocation period ended on January 12, 2012 and the second allocation period will end on July 12, 2012.
3. The first allocation period shall have 6,729 square feet for small (2,500 square feet or less) allocations. The unused balance from the first allocation period shall be held in reserve for the second allocation period.



Item #2 Commercial Land Use Density & Intensity Staff Report

MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT
We strive to be caring, professional and fair

To: Monroe County Planning Commission

Through: Townsley Schwab, Senior Director of Planning & Environmental Resources

From: Mayté Santamaria, Assistant Director of Planning *MS*
Emily Schemper, Planner *ES*

Date: September 14, 2012

Subject: Request for an amendment to the Monroe County 2010 Comprehensive Plan to amend Policies 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 and create Policy 101.4.26 to establish a Commercial future land use category; and revise the “Future Land Use Densities and Intensities” table to include a Commercial (COMM) future land use category, corresponding zoning categories and establish the density and intensity standards.

Meeting: September 26, 2012

I REQUEST

This is a request to amend Policies 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 and create Policy 101.4.26 to establish a Commercial future land use map category; and revise the “Future Land Use Densities and Intensities” table to include a Commercial (COMM) future land use category, corresponding zoning categories and establish the density and intensity standards.

II BACKGROUND INFORMATION & ANALYSIS

Currently, the County does not have an exclusive commercial future land use category. The two existing future land use map categories that allow commercial are: Mixed Use/Commercial (MC) and Mixed Use/Commercial Fishing (MCF). Both of these categories include a residential component. As the County has undertaken the tasks outlined in Rule 28-20.140, Florida Administrative Code (F.A.C.) and the evaluation of the 2010 Comprehensive Plan, several issues have been highlighted that indicate the need for an exclusive commercial category.

Rule & Hurricane Evacuation

The County and the other jurisdictions in the Keys regulate new residential growth through permit allocation systems. The basis for the permit allocation rate and distribution is based upon our ability to maintain 24-hour evacuation clearance time. Monroe County Rule 28-20.140, F.A.C. (ratified by the Legislature in 2011), includes Work Program Tasks which

1 require a Memorandum of Understanding (MOU), with the Division of Emergency
 2 Management, Monroe County, City of Marathon, Village of Islamorada, City of Key West,
 3 City of Key Colony Beach, and City of Layton regarding hurricane evacuation. The MOU
 4 addresses the input variables and assumptions to depict hurricane evacuation clearance times
 5 for the population of the Florida Keys. Based on the work completed to develop the MOU,
 6 including the model inputs and the most recent U.S. Census data, DEO has completed its
 7 analysis of maximum build-out capacity and determined the remaining allocations and
 8 distribution of the remaining development potential among the Florida Keys' jurisdictions,
 9 while allowing the permanent population to evacuate within 24 hours.

10
 11 Pursuant to the work conducted to review this data, develop the MOU, and complete numerous
 12 evacuation modeling scenarios, DEO has determined that 3,540 additional allocations could be
 13 distributed among the Florida Keys' jurisdictions over the next ten years. This includes 1,970
 14 allocations for unincorporated Monroe County from July 2013 to July 2023. Note, DEO will
 15 provide recommendations to the Administration Commission on the allocation rates and
 16 distributions to the Florida Keys. The Administration Commission will authorize and confirm
 17 the official residential allocation rate and distribution in the Fall of 2012.

18
 19 While the County anticipates 1,970 allocations over the next 10 years, the County must still
 20 develop strategies to ensure that the 24-hour clearance time is not exceeded while balancing
 21 private property rights. This is significant, as there are approximately 8,800 vacant parcels
 22 (see excerpt below from the 2010 Evaluation and Appraisal Report).

Vacant Land by Tier and Planning Area

	I	II	III	III-A	0 ²	Vacant acres in Tier	Total Parcels and Acres
Lower Keys							
Vacant Parcels	3,288	411	1,724	31	17	N/A	5,471
Acres	6,338.7	78.1	573.7	11.5	52.2	7,002.0	7,054.2
Percent Vacant Acres	89.9%	1.1%	8.1%	0.2%	0.7%	N/A	N/A
Middle Keys							
Vacant Parcels	20	0	284	0	N/A	N/A	304
Acres	147.6	0.0	63.6	0.0	0.0	211.2	211.2
Percent Vacant Acres	69.9%	0.0%	30.1%	0.0%	N/A	N/A	N/A
Upper Keys							
Vacant Parcels	835	0	1,658	265	225	N/A	2,983
Acres	1,501.1	0.0	316.3	79.9	261.3	1,897.3	2,158.6
Percent Vacant Acres	69.5%	0.0%	14.7%	3.7%	12.1%	N/A	N/A
Total Parcels	4,143	411	3,666	296	242	N/A	8,758
Total Acres	7,987.4	78.1	953.6	91.4	313.5	9,110.5	9,424.0
Percentage of Tier	84.8%	0.8%	10.1%	1.0%	3.3%	N/A	100%

Note: Percentage of Tier - slight differences due to rounding.

Source: Monroe County Growth Management, 2011, Geographic Information System file "MC_ELU_511"; Monroe County Growth Management, 2011, Geographic Information System file "MC_FLUM_511"; Monroe County Growth Management, 2011, Geographic Information System file "Tier_0110"

Tiers are:

I = Tier I - Natural Areas

II = Tier II (Big Pine Key and No Name Keys in the Lower Keys Planning Area only)

III = Tier III - InRI Areas

III-A = Special Protection Area (SPA)

0 = Property does not have a Tier designation. Most of these occur in the Upper Keys and some are right-of-way parcels. Some lots were not originally designated because of mapping errors; the majority of which are currently being reviewed by the Tier Designation Review Committee and will be designated at a later date.

Tier 0 is used for illustration purposes only and is not part of the analysis.

Vacant acres in all tiers after subtracting Tier 0.

1 In addition, Florida Statutes require that amendments to the comprehensive plan be consistent
2 with efforts to ensure public health, safety, and welfare, including safe and timely hurricane
3 evacuation. Further, the County's 2010 Comprehensive Plan requires the maintenance of a 24
4 hour clearance time.

- 5
- 6 - 163.3178(8)(a), F.S., A proposed comprehensive plan amendment shall be found in
7 compliance with state coastal high-hazard provisions if:
 - 8 1. The adopted level of service for out-of-county hurricane evacuation is maintained for a
9 category 5 storm event as measured on the Saffir-Simpson scale; or
 - 10 2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as
11 measured on the Saffir-Simpson scale and shelter space reasonably expected to
12 accommodate the residents of the development contemplated by a proposed
13 comprehensive plan amendment is available; or
 - 14 3. Appropriate mitigation is provided that will satisfy subparagraph 1. or subparagraph 2.
15 Appropriate mitigation shall include, without limitation, payment of money, contribution
16 of land, and construction of hurricane shelters and transportation facilities. Required
17 mitigation may not exceed the amount required for a developer to accommodate impacts
18 reasonably attributable to development. A local government and a developer shall enter
19 into a binding agreement to memorialize the mitigation plan.
 - 20 - 163.3177(6)(b)2.c., F. S., The capability to evacuate the coastal population before an
21 impending natural disaster.
 - 22 - 380.0552 (2)(j), F. S., states as an intent of the Legislature to ensure that the population of
23 the Florida Keys can be safely evacuated;
 - 24 - 380.0552 (7)(n), F. S., states that any plan amendments must protect the public health,
25 safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a
26 unique Florida resource;
 - 27 - 380.0552 (9)(a)2., F.S., requires amendments to local comprehensive plans in the Florida
28 Keys Area to be compliant with goals, objectives, and policies to protect public safety and
29 welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance
30 time for permanent residents of no more than 24 hours. The hurricane evacuation clearance
31 time shall be determined by a hurricane evacuation study conducted in accordance with a
32 professionally accepted methodology and approved by the state land planning agency.

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37
38 The creation of an exclusive Commercial Future Land Use Map (FLUM) category can provide
39 alternative uses of private property that do not include a residential component, and, therefore,
40 do not contribute to increases in hurricane evacuation times.

41
42 Additionally, the proposed Commercial FLUM category can assist the County in implementing
43 other necessary planning projects, such as enhancing economic sustainability (see Evaluation
44 and Appraisal Report example below) and addressing nonconformities. Note, when the County
45 was developing its major issues for the Evaluation and Appraisal Report, DEO sent a letter to
46 the County on October 29, 2010, encouraging the County to consider the establishment of a
47 commercial land use designation (see Exhibit 3).

48
49 When the Monroe County 2010 Comprehensive Plan and Future Land Use Maps were adopted
50 and determined to be in compliance with Florida Statutes in 1997 as well as with the adoption

1 of the official zoning maps in 1992, multiple properties with existing commercial/office uses
2 became nonconforming due to the adopted maps. Members of the community have brought up
3 the issue of nonconformities over the years and the County has highlighted this issue in the
4 Evaluation and Appraisal Report (EAR) of the Comprehensive Plan (see Evaluation and
5 Appraisal Report example below). Additionally, the County has adopted action items as part
6 of the Livable CommuniKeys Plans (see Key Largo Community Master Plan examples below)
7 as well as the fee resolution (see Resolution 172-2012 below) to address these
8 nonconformities.
9

10 **Evaluation and Appraisal Report**

11 On May 22, 2012, the BOCC adopted the final Evaluation and Appraisal Report (EAR), which
12 evaluates the existing goals, objectives, and policies of the existing Comprehensive Plan and gauges
13 their compatibility with state and regional policies, plans and regulatory requirements.
14

15 The EAR's Assessment of Comprehensive Plan Elements (Chapter 3) included the following
16 recommendation:
17

18 **A. Future Land Use Element**

19 Objective 101.4 and the associated polices establish the Future Land Use Map categories and the
20 density and intensity standards for each category. These policies should be evaluated to determine if: 1)
21 the existing density and intensity standards recognize and encourage the unique
22 development/redevelopment patterns within the County; 2) if the floor area ratio maximums promote
23 compatibility in each of the Future Land Use categories; 3) if the density standards under maximum net
24 density should be modified or eliminated; and 4) if open space ratios should be adopted into the
25 Comprehensive Plan. Additionally, the County should review and clarify the uses permitted under the
26 Conservation category, consider the creation of a Preservation category for publically owned lands, **and**
27 **establish a Commercial category.**
28

29 The EAR's Assessment of Major Issues (Chapter 4) included the following recommendation:
30

31 **II. Economic Sustainability**

32 **A. Background:** Today, the County faces a variety of economic constraints. These stem from national
33 trends in the structure of employment and local conditions which contribute to a lack of investment.
34 Further, a determination made at the State level has concluded growth and development has reached its
35 effective physical carrying capacity in the Keys. The result of this determination is a regulatory
36 constraint on growth which allows only a very small and limited amount of net new residential and non-
37 residential construction each year.
38

39 From an economic structural standpoint, dynamic long term trends at the national and global levels shift
40 the economic structure of the local economy. Absent a highly focused and long term effort to modify
41 the effect of these forces, the global and national trends will prevail. These global and national
42 structural trends include a shift away from industrial production in the United States and a **shift toward**
43 **a service and retail based economy.** At the national level some 50 percent of manufacturing jobs have
44 been lost in the United States since 1960. By the same measure, service and retail positions have grown
45 by more than 250 percent each. In Florida, which has never had the share of manufacturing and
46 industrial employment as found elsewhere in the nation, the structural employment shift to service and
47 retail has been more pronounced over this period. Thus, in the face of these forces, employment by
48 industry type in the **Florida Keys has shifted in a more pronounced way toward a service and retail**
49 **based economy.**
50

51 **D. Strategies:** Consider developing a separate Economic Development Element of the Plan, with an
emphasis on redevelopment

1 **Issue Category #2(e): Development of a Commercial Land Use District Category**

2 **A. Background:** Currently, the County does not have an exclusive commercial land use category. The
3 two existing commercial use categories: Mixed Use/Commercial and Mixed Use/Commercial Fishing
4 include a residential component.

5 **B. Analysis:** Due to the potential for encroachment and impacts from litter and pets from residential
6 uses, mixed use parcels adjacent to natural habitat in Tier I have the potential to negatively impact these
7 lands.

8 **C. Policy Framework:** Objective 101.4 and its associated policies identify the various land use
9 districts and the uses allowed within each district, but again, there is no Commercial land use category.

10 **D. Strategies:** **The County should consider creating a policy for a Commercial Future Land Use**
11 **Designation that does not allow residential uses.**

12
13 **III. Land Use/Mobility**

14 **Issue Statement #2: The County Should Meet or Exceed Hurricane Evacuation Requirements as**
15 **required by State law.**

16
17 **Key Largo Community Master Plan (2006)**

18
19 Goals identified in the Key Largo Community Master Plan include:

20 **Land Use and Redevelopment Element**

21 **GOAL ONE:** *Direct future growth to lands that are most suitable for development and encourage*
22 *preservation of environmentally sensitive lands.*

23
24 Under this goal, community needs include the re-evaluation of parcels that were previously down-
25 zoned and now non-conforming, and restoration of the commercial status where appropriate (pg 20).

26
27 **Action Item 1.3.1:** Continue to use the FLUM and Land Use District Maps to regulate development of
28 individual parcels with respect to density, intensity, bulk regulations, and all other land development
29 regulation. This will protect the existing conformance status of most uses and promote orderly
30 development consistent with the Comprehensive Plan.

31
32 **Action Item 1.3.2:** Revise the FLUM and Land Use District Maps to resolve nonconformities
33 in the planning area where appropriate.

34
35 **Action Item 1.3.7:** Evaluate future FLUM change and Land Use District Map change requests for
36 nonconforming uses, proposed changes in use, vacant parcels and other requests based mainly on
37 comprehensive planning principles and the following community-goal related criteria:

- 38 a. Promote infill, design flexibility and transfer of density to Community Centers.
39 b. Preserve commercial conformance status within sections along US-1 predominated by existing
40 commercial businesses and disturbed lands.
41 c. Encourage sun-setting of intensive commercial uses within sections along US-1 predominated by
42 natural habitat or native-dominated landscape, relatively sparse development and relatively few
43 businesses.
44 d. Preserve commercial use status for existing waterfront uses that support the tourist-based and
45 working waterfront-based economy.
46 e. Give consideration to whether the property provides a unique or outstanding opportunity for
47 enhancement of design, connectivity and other community goals, especially along the US-1 corridor.

1 **Monroe County BOCC Fee Resolution 172-2012**

2 Section I.

3 *3. There shall be no application or other fees, except advertising and noticing fees, for property owners*
4 *who apply for a map amendment to the official LUD map and/or the official FLUM, if the property*
5 *owner can provide satisfactory evidence that a currently existing use on the site that also existed*
6 *lawfully in 1992 was deemed nonconforming by final adoption of the LUD map and/or a currently*
7 *existing use on the site that also existed lawfully in on the site in 1997 was deemed nonconforming by*
8 *final adoption of the FLUM. To qualify for the fee exemption, the applicant must apply for a LUD*
9 *and/or FLUM designation(s) that would eliminate the non-conforming use created with adoption of the*
10 *existing designation(s) and not create an adverse impact to the community. Prior to submittal of a map*
11 *amendment application, the applicant must provide the evidence supporting the change and application*
12 *for a fee exemption with the proposed LUD map/FLUM designations to the Monroe County Planning &*
13 *Environmental Resources Department as part of an application for a Letter of Understanding.*
14 *Following a review, the Director of Planning & Environmental Resources shall determine if the*
15 *information and evidence is sufficient, and whether the proposed LUD map and/or FLUM designations*
16 *are acceptable for the fee waiver, and approve or deny the fee exemption request. This fee waiver Letter*
17 *of Understanding shall not obligate the staff to recommend approval or denial of the proposed LUD or*
18 *FLUM Category.*

19
20 The proposed amendment will fulfill the EAR's recommendations to create a policy for a
21 Commercial Future Land Use Designation that does not allow residential uses, as well as
22 support the County's efforts to comply with the State's requirements for hurricane evacuation.
23

24 Further, as the County currently tries to address the nonconformities due to the official map
25 adoptions; the County must evaluate and make recommendations on amendments based on the
26 existing land use categories. The two existing future land use map categories that allow
27 commercial are: Mixed Use/Commercial (MC) and Mixed Use/Commercial Fishing (MCF).
28 Both of these categories include a residential component. If the County or a property owner
29 requests that the future land use map category for a property with an existing nonconforming
30 commercial use be changed to either the MC or MCF category, the allocated residential density
31 could likely increase with that change. Given the hurricane evacuation issues stated above and
32 the recently transmitted comprehensive plan amendment (BOCC Resolution 021-2012 - see
33 below) discouraging private applications for future land use changes which increase allowable
34 density/intensity, MC and MCF land use categories may not be viable options for land use
35 changes addressing nonconforming commercial uses. No alternative land use categories
36 currently exist which do not include a residential component.
37

38 Discouragement Amendment

39 On February 13, 2012, the Monroe County BOCC adopted Resolution 021-2012 to transmit to
40 the State Land Planning Agency an Ordinance by the MC BOCC amending the MC 2010
41 Comp Plan, creating Policy 101.4.20 discouraging private applications for future land use
42 changes which increase allowable density/intensity. The amendment is required to implement a
43 Work Program Task from Rule 28-20.140, F.A.C., and the direction from the Administration
44 Commission.
45

46 The Florida Department of Economic Opportunity has reviewed the proposed amendment, and
47 provided their Objections, Recommendations, and Comments (ORC) Report, dated May 4,

1 2012. Based on this report, the amendment has been revised based upon the ORC report, and
2 is scheduled to go before the BOCC on September 21, 2012 for adoption.
3

4 **Discouragement Amendment**

5 Policy 101.4.20

6 In order to implement the Florida Keys Carrying Capacity Study, Monroe County shall promote the
7 reduction in overall County density and intensity and the preservation of Monroe County's native
8 habitat by enacting legislation which implements the following policy statements for private
9 applications for future land use map amendments which increase allowable density and/or intensity.
10 Private application(s) means those applications from private entities with ownership of the upland
11 development and parcel(s) of land or includes private upland development on County-owned land.
12

13 Private applications requesting future land use map designation amendments received after the effective
14 date of this ordinance, which propose increases in allocated density and intensity shall be required to
15 comply with either option (1) or (2) below:
16

17 (1) For every acre of land, and/or fractions thereof, where there is a request to increase density and/or
18 intensity, a private applicant shall purchase and donate land that is a minimum of twice the size of the
19 parcel subject to the proposed request, which contains non-scarified native upland habitat and/or
20 undisturbed wetland habitat to Monroe County for conservation. The following requirements apply:

21 • The donated land shall be designated as Tier I, Tier II or Tier III-A Special Protection Area and be
22 located on Big Pine Key/No Name Key or be within the same sub-area of unincorporated Monroe
23 County as the proposed increase in density and/or intensity.

24 • The land shall be inspected by the Monroe County Biologist to assure it is acceptable for
25 acquisition and donation.

26 • A restrictive covenant shall be recorded to extinguish the development rights on the donated land.

27 • The Future Land Use Map Designation for the donated land may be designated by the County as
28 Conservation (C).
29

30 (2) For each requested additional unit of density, a private applicant shall purchase and donate a lot
31 designated as Improved Subdivision (IS) district on the Land Use (Zoning) District map which contain
32 non-scarified native upland habitat and/or undisturbed wetland habitat to Monroe County. The
33 following requirements apply:

34 • Private applicants shall provide IS lots pursuant to a 1:1 (1 unit: 1 lot) ratio to mitigate the request
35 for increased allowable density, pursuant to option (a) or (b) below:
36

37 (a) The donated IS lot(s) shall be designated as Tier I, Tier II or Tier III-A Special Protection Area and
38 be located on Big Pine Key/No Name Key or be within the same sub-area of unincorporated Monroe
39 County as the proposed increase in density.

40 • The IS lot(s) shall be inspected by the Monroe County Biologist to assure it is acceptable for
41 acquisition and donation.

42 • A restrictive covenant shall be recorded to extinguish the development rights on the donated land.

43 • The Future Land Use Map Designation for the donated land may be designated by the County as
44 Conservation (C).
45

46 (b) The donated IS lot(s) shall be designated as Tier III, suitable for affordable housing and must be
47 within the same sub-area of unincorporated Monroe County as the proposed increase in density.

48 • The IS lot(s) shall be dedicated to Monroe County for affordable housing projects.
49

For options (1) and (2) described above, the parcel which is the subject of the request to increase its density and intensity must be designated as Tier III and have existing public facilities and services and available central wastewater facilities.

The creation of an exclusive Commercial Future Land Use Map (FLUM) Category will further support the goal of avoiding increases in residential density by providing alternative FLUM and zoning categories which do not allow residential development.

III. PROPOSED AMENDMENT

Policy 101.4.21

The principal purpose of the Commercial (COMM) future land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail; highway-oriented sales and services; commercial recreation; light industrial; public, institutional and office uses may be permitted at intensities which are consistent with the community character and the natural environment. The commercial zoning districts established within this category are intended to serve the immediate vicinity or serve the Upper or Lower subarea. This category is not intended to accommodate transient or permanent residential development.

In order to protect environmentally sensitive lands, the following development controls shall apply to all Tier I lands within this land use category:

1. only low intensity commercial uses shall be allowed; and
2. a maximum floor area ratio of 0.10 shall apply.

Policy 101.4.22 ~~21~~

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17:

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
Commercial (COMM) <u>(Commercial 1 (C1) zoning & Commercial 2 (C2) zoning)</u>	<u>0 du</u> <u>0 rooms/spaces</u>	<u>N/A</u> <u>N/A</u>	<u>0.15-0.50</u>
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60

Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC) ^(g) (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF) ^(g) (CFA, CFV ^(c) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(d) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(f) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:

- (a) "N/A" means that maximum net density bonuses shall not be available.
- (b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.
- (c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.
- (d) Maximum net density bonuses shall not be available to the SS district.
- (e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
- (f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
- (g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
- (h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.
- (i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

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Policy 101.4.23 22

All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetation areas for properties in the Ocean Reef planned development shall be limited to 40 percent of the existing upland native vegetation. Except as defined in Policy 101.12.4, clearing of upland native vegetative areas in the Tiers I, II, and III shall be limited for the portion of the property containing upland native vegetation in the following percentages:

<u>Tier</u>	<u>Permitted Clearing *</u>
I	20%
II	40% (Big Pine Key and No Name Key)
III	40% or 3,000 s.f., 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.

* Palm or cactus hammock is limited to only 10%.

Policy 101.4.24

Reserved

Policy 101.4.25 ~~23~~

Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.26-24

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

Note there are several other Comprehensive Plan amendments being processed by Monroe County, which are scheduled for consideration and adoption by the BOCC on Sept. 21, 2012. The above, proposed Commercial category amendments as well as the other recently processed amendments are shown in Exhibit 1.

IV. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, THE FLORIDA STATUTES, AND PRINCIPLES FOR GUIDING DEVELOPMENT

A. The proposed amendment is consistent with the following Goals, Objectives and Policies of the Monroe County Year 2010 Comprehensive Plan. Specifically, the amendment furthers:

Goal 101: Monroe County shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources.

Objective 101.3: Monroe County shall regulate non-residential development to maintain a balance of land uses to serve the needs of the future population of Monroe County.

Objective 101.8: Monroe County shall eliminate or reduce the frequency of uses which are inconsistent with the applicable provisions of the land development regulations and the Future Land Use Map, and structures which are inconsistent with applicable codes and land development regulations.

1 **Policy 101.8.2**

2 Monroe County shall prohibit a non-conforming use to be changed to any other use unless the new
3 use conforms to all applicable provisions of the Future Land Use category and zoning district in
4 which it is located
5

6 **Policy 101.20.2:** The Community Master Plans shall be incorporated into the 2010 Comprehensive
7 Plan as a part of the plan and be implemented as part of the Comprehensive Plan. The following
8 Community Master Plans have been completed in accordance with the principles outlined in this
9 section and adopted by the Board of County Commissioners:

10 5. The Key Largo Livable CommuniKeys Master Plan is incorporated by reference into the
11 2010 Comprehensive Plan. The term Strategies in the Master Plan is equivalent to the term
12 Objectives in the Comprehensive Plan and the term Action Item is equivalent to the term
13 Policy; the meanings and requirements for implementation are synonymous.
14

15 **Goal 102:** Monroe County shall direct future growth to lands which are intrinsically most suitable
16 for development and shall encourage conservation and protection of environmentally sensitive
17 lands.
18

19 **GOAL 216**

20 Monroe County shall provide for hurricane evacuation, shelters and refuges, and communication
21 capabilities to promote safeguarding of the public against the effects of hurricanes and tropical
22 storms.
23

24 **Objective 216.1**

25 Monroe County shall reduce hurricane evacuation clearance time to 24 hours by the year 2010
26

27 **B. The amendment is consistent with the Principles for Guiding Development for the**
28 **Florida Keys Area, Section 380.0552(7), Florida Statute.**
29

30 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with
31 the principles for guiding development and any amendments to the principles, the principles shall
32 be construed as a whole and no specific provision shall be construed or applied in isolation from the
33 other provisions.
34

- 35 (a) Strengthening local government capabilities for managing land use and development so that
36 local government is able to achieve these objectives without continuing the area of critical state
37 concern designation.
- 38 (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass
39 beds, wetlands, fish and wildlife, and their habitat.
- 40 (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native
41 tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and
42 beaches, wildlife, and their habitat.
- 43 (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic
44 development.
- 45 (e) Limiting the adverse impacts of development on the quality of water throughout the Florida
46 Keys.
- 47 (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural
48 environment, and ensuring that development is compatible with the unique historic character of
49 the Florida Keys.
- 50 (g) Protecting the historical heritage of the Florida Keys.
- 51 (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed
52 major public investments, including:
53

- 1 1. The Florida Keys Aqueduct and water supply facilities;
- 2 2. Sewage collection, treatment, and disposal facilities;
- 3 3. Solid waste treatment, collection, and disposal facilities;
- 4 4. Key West Naval Air Station and other military facilities;
- 5 5. Transportation facilities;
- 6 6. Federal parks, wildlife refuges, and marine sanctuaries;
- 7 7. State parks, recreation facilities, aquatic preserves, and other publicly owned
- 8 properties;
- 9 8. City electric service and the Florida Keys Electric Co-op; and
- 10 9. Other utilities, as appropriate.

- 11
- 12 (i) Protecting and improving water quality by providing for the construction, operation,
- 13 maintenance, and replacement of stormwater management facilities; central sewage collection;
- 14 treatment and disposal facilities; and the installation and proper operation and maintenance of
- 15 onsite sewage treatment and disposal systems.
- 16 (j) Ensuring the improvement of nearshore water quality by requiring the construction and
- 17 operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l)
- 18 and 403.086(10), as applicable, and by directing growth to areas served by central wastewater
- 19 treatment facilities through permit allocation systems.
- 20 (k) Limiting the adverse impacts of public investments on the environmental resources of the
- 21 Florida Keys.
- 22 (l) Making available adequate affordable housing for all sectors of the population of the Florida
- 23 Keys.
- 24 (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a
- 25 natural or manmade disaster and for a post disaster reconstruction plan.
- 26 (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and
- 27 maintaining the Florida Keys as a unique Florida resource.
- 28

29 Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is consistent with the
30 Principles for Guiding Development as a whole and is not inconsistent with any Principle.

31
32 **C. The proposed amendment is consistent with the Part II of Chapter 163, Florida**
33 **Statute (F.S.). Specifically, the amendment furthers:**

34
35 Section 163.3161(4), F.S. – It is the intent of this act that local governments have the ability to
36 preserve and enhance present advantages; encourage the most appropriate use of land, water, and
37 resources, consistent with the public interest; overcome present handicaps; and deal effectively with
38 future problems that may result from the use and development of land within their jurisdictions.
39 Through the process of comprehensive planning, it is intended that units of local government can
40 preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance,
41 convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and
42 efficient provision of transportation, water, sewerage, schools, parks, recreational facilities,
43 housing, and other requirements and services; and conserve, develop, utilize, and protect natural
44 resources within their jurisdictions

45
46 Section 163.3177(1), F.S. - The comprehensive plan shall provide the principles, guidelines,
47 standards, and strategies for the orderly and balanced future economic, social, physical,
48 environmental, and fiscal development of the area that reflects community commitments to
49 implement the plan and its elements. These principles and strategies shall guide future decisions in
50 a consistent manner and shall contain programs and activities to ensure comprehensive plans are
51 implemented. The sections of the comprehensive plan containing the principles and strategies,
52 generally provided as goals, objectives, and policies, shall describe how the local government's

1 programs, activities, and land development regulations will be initiated, modified, or continued to
2 implement the comprehensive plan in a consistent manner. It is not the intent of this part to require
3 the inclusion of implementing regulations in the comprehensive plan but rather to require
4 identification of those programs, activities, and land development regulations that will be part of the
5 strategy for implementing the comprehensive plan and the principles that describe how the
6 programs, activities, and land development regulations will be carried out. The plan shall establish
7 meaningful and predictable standards for the use and development of land and provide meaningful
8 guidelines for the content of more detailed land development and use regulations.
9

10 Section 163.3177(6)(b)2.c., F.S., The capability to evacuate the coastal population before an
11 impending natural disaster.
12

13 **V. PREVIOUS MEETINGS/ACTIONS**

14
15 On August 28, 2012 the Monroe County Development Review Committee (DRC) reviewed
16 and discussed the proposed text amendment, and confirmed the proposed amendment's
17 consistency with the Monroe County Year 2010 Comprehensive Plan, the Florida Statutes,
18 and Principles for Guiding Development. The DRC recommended approval of the proposed
19 text amendment.
20

21 **VI. STAFF RECOMMENDATION**

22
23 Staff recommends **approval** of the proposed amendment to amend Policies 101.4.21, 101.4.22,
24 101.4.23, 101.4.24, 101.4.25 and create Policy 101.4.26 to establish a Commercial future land
25 use map category; and revise the "Future Land Use Densities and Intensities" table to include a
26 Commercial (COMM) future land use category, corresponding zoning categories and establish
27 the density and intensity standards.
28

29 The proposed amendment provides a mechanism to limit or reduce residential density within
30 the County while permitting appropriate alternative uses, such as commercial retail and office.
31 The proposed amendment complements proposed Policy 101.4.20, which satisfies the
32 Administration Commission Rule 28-20.140, F.A.C., Work Program task (5)(a)9., requiring
33 the adoption of a comprehensive plan amendment to discourage private applications for future
34 land use changes which increase allowable density and intensity. The Commercial land use
35 category and its related commercial zoning districts will offer the option to reclassify existing
36 non-conforming commercial uses to commercial land without increasing residential density.
37 Further, the new Commercial category may assist the County in maintaining a 24 hour
38 hurricane evacuation clearance time.
39

40 **III PROCESS**

41
42 Comprehensive Plan amendments may be proposed by the Board of County Commissioners,
43 the Planning Commission, the Director of Planning, or the owner or other person having a
44 contractual interest in property to be affected by a proposed amendment. The Director of
45 Planning shall review and process applications as they are received and pass them onto the
46 Development Review Committee and the Planning Commission.
47

48 The Planning Commission shall hold at least one public hearing. The Planning Commission
49 shall review the application, the reports and recommendations of the Department of Planning

1 & Environmental Resources and the Development Review Committee and the testimony given
2 at the public hearing. The Planning Commission shall submit its recommendations and
3 findings to the Board of County Commissioners (BOCC). The BOCC holds a public hearing
4 to consider the transmittal of the proposed comprehensive plan amendment, and considers the
5 staff report, staff recommendation, and the testimony given at the public hearing. The BOCC
6 may or may not recommend transmittal to the Florida Department of Economic Opportunity
7 (DEO). The amendment is transmitted to DEO, which then reviews the proposal and issues an
8 Objections, Recommendations and Comments (ORC) Report. Upon receipt of the ORC report,
9 the County has 180 days to adopt the amendments, adopt the amendments with changes or not
10 adopt the amendment.
11

12 **VII. EXHIBITS**

- 13
- 14 1. Compilation of Comprehensive Plan amendments: proposed amendment to Comprehensive
15 Plan to create a Commercial FLUM category as well as the other recently processed
16 amendments
- 17 2. Proposed, draft Land Development Code (LDC) amendments which include corresponding
18 Commercial Land Use District (zoning) Categories (for illustrative purposes only). LDC
19 amendments will be processed in the Fall of 2012.
- 20 3. DEO (formerly DCA) letter to the County dated October 29, 2010, encouraging the County
21 to consider the establishment of a commercial land use designation within the Evaluation
22 and Appraisal Report process and comprehensive plan update.
23
24
25

Exhibit 1

Compilation of Recently Transmitted Comprehensive Plan amendments: includes proposed Commercial FLUM amendment (shown in green)

Objective 101.4

Monroe County shall regulate future development and redevelopment to maintain the character of the community and protect the natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map.

Policy 101.4.1

The principal purpose of the Residential Conservation land use category is to encourage preservation of open space and natural resources while providing for very low-density residential development in areas characterized by a predominance of undisturbed native vegetation. Low-intensity public uses and utilities are also allowed. In addition, Monroe County shall adopt Land Development Regulations which allow any other nonresidential use that was listed as a permitted use in the Land Development Regulations that was in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the use is limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limit to what the pre-2010 LDR's allowed, whichever is more restricted. Maximum permitted densities shall be based upon the results of the habitat analysis required by Division 8 of the Monroe County Land Development Regulations, as amended.

Policy 101.4.2

The principal purpose of the Residential Low land use category is to provide for low-density residential development in partially developed areas with substantial native vegetation. Low intensity public and low intensity institutional uses are also allowed. In addition, Monroe County shall adopt Land Development Regulations which allow any other nonresidential use that was listed as a permitted use in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the use is limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limit to what the pre-2010 LDR's allowed, whichever is more restricted.

Policy 101.4.3

The principal purpose of the Residential Medium land use category is to recognize those portions of subdivisions that were lawfully established and improved prior to the adoption of this plan and to define improved subdivisions as those lots served by a dedicated and accepted existing roadway, have an approved potable water supply, and have sufficient uplands to accommodate the residential uses. Development on vacant land within this land use category shall be limited to one residential dwelling unit for each such platted lot or parcel which existed at the time of plan adoption. However, Monroe County shall adopt Land Development Regulations which allow nonresidential uses that were listed as a permitted use in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan (pre-2010 LDR's), and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the uses are limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limited to what the pre-2010 LDR's allowed,

whichever is more restricted. Lands within this land use category shall not be further subdivided.

Policy 101.4.4

The principal purpose of the Residential High category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured housing, located near employment centers. In addition, Monroe County shall adopt Land Development Regulations which allow nonresidential uses that were listed as a permitted use in the Land Development Regulations that were in effect immediately prior to the institution of the 2010 Comprehensive Plan, and that lawfully existed on such lands on January 4, 1996 to develop, redevelop, reestablish and/or substantially improve provided that the use is limited in intensity, floor area, density and to the type of use that existed on January 4, 1996 or limited to what the pre-2010 LDR's allowed, whichever is more restricted.

Policy 101.4.5

[Currently Processing Comprehensive Plan Amendment - BOCC Resolution 25-2012]

The principal purpose of the Mixed Use/ Commercial land use category is to provide for the establishment of commercial land use zoning districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted. In addition, Mixed Use/Commercial land use districts are to establish and conserve areas of mixed uses, which may include maritime industry, light industrial uses, commercial fishing, transient and permanent residential, institutional, public, and commercial retail uses.

This land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and non-residential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. The County shall continue to take a proactive role in encouraging the maintenance and enhancement of community character and recreational and commercial working waterfronts.

In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed;
2. a maximum floor area ratio of 0.10 shall apply; and
3. maximum net residential density shall be zero.

In order to preserve and promote recreational and commercial working waterfront uses, as defined by 342.07, F.S., the following criteria shall apply to all lands designated with the Maritime Industries (MI) land use (zoning) district within this land use category:

1. When a mixture of uses is proposed for parcels designated as MI land use (zoning) district, working waterfront and water dependent uses, such as marina, fish house/market, boat repair, boat building, boat storage, or other similar uses but excluding transient uses, shall be preserved by maintaining a minimum of 35% of the upland area of the property for those uses.
2. Parcels within the MI zoning district that have existing wet slips shall preserve at least 20% of the wet slips for vessels involved with recreational and commercial working waterfront uses, excluding live-aboard vessels solely used as a residence and not for navigation.

3. Parcels within the MI zoning district creating new wet slips shall preserve at least 10% of the wet slips for vessels involved with recreational and commercial working waterfront uses, excluding live-aboard vessels solely used as a residence and not for navigation.
4. The preservation of dockage for recreational and commercial working waterfront uses shall be documented on the final development plan and shall be a written condition of any permit approval.
5. For permanent residential development, parcels within the MI zoning district shall be limited to commercial apartments or employee housing. Commercial apartment means an attached or detached residential dwelling unit located on the same parcel of land as a nonresidential use that is intended to serve as permanent housing for the owner or employees of that nonresidential use. The term does not include a tourist housing use or vacation rental use.
6. The preservation of a public access walkway shall be required for all parcels with direct access to the water. Consideration shall be given to security and the physical constraints of the parcel. The public access walkway shall be documented on the final development plan to link a continuous walkway and shall be a written condition of any permit approval.
7. Parcels within the MI zoning district shall be limited to commercial retail uses of less than 5,000 square feet of floor area.

Policy 101.4.6

The principal purpose of the Mixed Use/ Commercial Fishing land use category is to provide for the maintenance and enhancement of commercial fishing and related traditional uses such as retail, storage, and repair and maintenance which support the commercial fishing industry. Residential uses are also permitted. In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed
2. a maximum floor area ratio of 0.10 shall apply; and
3. maximum net residential density shall be zero.

Policy 101.4.7

The principal purpose of the Industrial land use category is to provide for the development of industrial, manufacturing, and warehouse and distribution uses. Other commercial, public, residential, and commercial fishing-related uses are also allowed.

Policy 101.4.8

The principal purpose of the Agriculture/Aquaculture land use category is to encourage the retention of existing agricultural and aqua cultural uses.

Policy 101.4.9

The principal purpose of the Recreation land use category is to provide for public and private activity-based and resource-based recreational facilities.

Policy 101.4.10

The principal purpose of the Institutional land use category is to provide for institutional uses by federally tax-exempt, non-profit facilities, including, but not limited to, educational, scientific, religious, social service, cultural, and recreational organizations. Related residential and non-residential uses, including student and employee housing shall be allowed.

Policy 101.4.11

The principal purpose of the Educational land use category is to provide for public educational facilities. The County shall coordinate with the School Board to balance educational facility land requirements with other land use objectives. In recognition of Monroe County's environment and the linear distribution of its population, the County shall encourage schools to accommodate building and facility requirements on existing sites. When new school sites are required, school shall be encouraged to locate proximate to urban residential areas and other public facilities.

Policy 101.4.12

The principal purpose of the Public Buildings/Grounds land use category is to provide for public buildings and grounds owned by federal, state and local governments.

Policy 101.4.13

The principal purpose of the Public Facilities land use category is to provide for land owned by public utilities and service providers.

Policy 101.4.14

The principal purpose of the Military land use category is to provide for federally owned lands used for military purposes. Development densities and intensities are not subject to regulation by Monroe County. Military commanders will be requested to follow these recommended densities and intensities as specified in Policy 101.4.22, consistent with natural resource constraints as well as all County environmental design criteria.

Policy 101.4.15

The principal purpose of the Conservation land use category is to provide for publicly owned lands held primarily for the preservation of natural and historic resources and compatible passive recreational uses. Public uses consistent with the purpose of this category shall be allowed.

Policy 101.4.16

The principal purpose of the Airport District land use category is to prohibit the development of residential, educational or other uses which are characterized by the regular presence of large numbers of people within the hazard areas of civil and military airports.

Policy 101.4.17

The principal purpose of the Mainland Native land use category is to protect the undeveloped and environmentally sensitive character of land within Monroe County that is located on the mainland of the Florida peninsula. Very low density residential uses and low-intensity educational and research centers shall be allowed. All land in the mainland portion of Monroe County is hereby designated as Mainland Native.

Policy 101.4.18

The principal purpose of the Historic overlay category is to identify existing and potential historic districts for designation, protection, and preservation (See Goal 104 and supporting objectives and policies). Maximum permitted densities and intensities shall be in accordance with the underlying land use categories.

Policy 101.4.19

Densities among properties designated Residential Conservation and Residential Low shall not be increased above the densities which existed prior to the date of plan adoption except through appeal procedures to demonstrate that such prior density designations were incorrect due to scrivener's/drafting errors or incorrect habitat conditions identified on the December 1985 Habitat Classification Aerial Photographs.

Policy 101.4.20

[Currently Processing Comprehensive Plan Amendment - BOCC Resolution 21-2012]

In order to implement the Florida Keys Carrying Capacity Study, Monroe County shall promote the reduction in overall County density and intensity and the preservation of Monroe County's native habitat by enacting legislation which implements the following policy statements for private applications for future land use map amendments which increase allowable density and/or intensity. Private application(s) means those applications from private entities with ownership of the upland development and parcel(s) of land or includes private upland development on County-owned land.

Private applications requesting future land use map designation amendments received after the effective date of this ordinance, which propose increases in allocated density and intensity shall be required to comply with either option (1) or (2) below:

- (1) For every acre of land, and/or fractions thereof, where there is a request to increase density and/or intensity, a private applicant shall purchase and donate land that is a minimum of twice the size of the parcel subject to the proposed request, which contains non-scarified native upland habitat and/or undisturbed wetland habitat to Monroe County for conservation. The following requirements apply:

 - The donated land shall be designated as Tier I, Tier II or Tier III-A Special Protection Area and be located on Big Pine Key/No Name Key or be within the same sub-area of unincorporated Monroe County as the proposed increase in density and/or intensity.
 - The land shall be inspected by the Monroe County Biologist to assure it is acceptable for acquisition and donation.
 - A restrictive covenant shall be recorded to extinguish the development rights on the donated land.
 - The Future Land Use Map Designation for the donated land may be designated by the County as Conservation (C).

- (2) For each requested additional unit of density, a private applicant shall purchase and donate a lot designated as Improved Subdivision (IS) district on the Land Use (Zoning) District map which contain non-scarified native upland habitat and/or undisturbed wetland habitat to Monroe County. The following requirements apply:

 - Private applicants shall provide IS lots pursuant to a 1:1 (1 unit: 1 lot) ratio to mitigate the request for increased allowable density, pursuant to option (a) or (b) below:
 - (a) The donated IS lot(s) shall be designated as Tier I, Tier II or Tier III-A Special Protection Area and be located on Big Pine Key/No Name Key or be within the same sub-area of unincorporated Monroe County as the proposed increase in density.

 - The IS lot(s) shall be inspected by the Monroe County Biologist to assure it is acceptable for acquisition and donation.

- A restrictive covenant shall be recorded to extinguish the development rights on the donated land.
- The Future Land Use Map Designation for the donated land may be designated by the County as Conservation (C).

(b) The donated IS lot(s) shall be designated as Tier III, suitable for affordable housing and must be within the same sub-area of unincorporated Monroe County as the proposed increase in density.

- The IS lot(s) shall be dedicated to Monroe County for affordable housing projects.

For options (1) and (2) described above, the parcel which is the subject of the request to increase its density and intensity must be designated as Tier III and have existing public facilities and services and available central wastewater facilities.

Example of Option 1	12 acres requesting a FLUM amendment to increase density and/or intensity	Requires the donation of 24 acres of non-scarified native upland habitat and/or undisturbed wetland habitat, designated as Tier I, Tier II or Tier III-A. <i>(12 acres x 2 = 24 acres)</i>
Example of Option 2	20 acres with an allocated density allowing the development of 20 units, requesting to increase density to allow 40 units	(a) Requires the donation of 20 IS lots of non-scarified native upland habitat and/or undisturbed wetland habitat, designated as Tier I, Tier II or Tier III-A; or (b) Requires the donation of 20 IS lots designated as Tier III and suitable for affordable housing. <i>(Increase of 20 units = 20 IS lots)</i>

Policy 101.4.21

The principal purpose of the Commercial (COMM) future land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail; highway-oriented sales and services; commercial recreation; light industrial; public, institutional and office uses may be permitted at intensities which are consistent with the community character and the natural environment. The commercial zoning districts established within this category are intended to serve the immediate vicinity or serve regional commercial purposes, including subareas. This category is not intended to accommodate transient or permanent residential development.

In order to protect environmentally sensitive lands, the following development controls shall apply to all Tier I lands within this land use category:

1. only low intensity commercial uses shall be allowed; and
2. a maximum floor area ratio of 0.10 shall apply.

Policy 101.4.22 ~~21~~

[Currently Processing Comprehensive Plan Amendment - BOCC Resolution 25-2012]

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17:

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
<u>Commercial (COMM)</u> (Commercial 1 (C1) zoning & Commercial 2 (C2) zoning)	<u>0 du</u> <u>0 rooms/spaces</u>	<u>N/A</u> <u>N/A</u>	<u>0.15-0.50</u>
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC)(g) (j) (SC, UC, DR, RV, and MU and MI zoning)	1-6 du 5-15 rooms/spaces 1 du (MI zoning)	2-6-18 du 10-25 rooms/spaces 2 du (MI zoning)	0.10-0.45 (SC, UC, DR, RV, and MU zoning) 0.30-0.60 (MI zoning)
Mixed Use/Commercial Fishing (MCF) ^(a) (CFA, CFV ^(c) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(b) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(b) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:

(a) "N/A" means that maximum net density bonuses shall not be available.

(b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.

(c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.

- (d) Maximum net density bonuses shall not be available to the SS district.
- (e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
- (f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
- (g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
- (h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.
- (i) The Maximum Net Density is the maximum density allowable with the use of TDRs.
- (j) A mixture of uses shall be maintained for parcels designated as MI zoning district that are within the MC future land use category. Working waterfront and water dependent uses, such as marina, fish house/market, boat repair, boat building, boat storage, or other similar uses, shall comprise a minimum of 35% of the upland area of the property, pursuant to Policy 101.4.5.

Policy 101.4.23 22

[Currently Processing Revisions to Clearing Limits Policy- BOCC Resolution 20-2012]

All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (~~zoning~~) ~~Overlay~~ Tier ~~Overlay District~~ Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetative areas (hardwood hammock, pinelands, and beach berm) for properties in the Ocean Reef planned development shall be limited to 40 percent of the existing upland native vegetation.

Except as defined in Policy 101.12.4, clearing of upland native vegetative areas (hardwood hammock, pinelands, beach berm, cactus hammock and palm hammock) in the Tiers I, II, ~~and-III~~ and Tier III-A shall be limited ~~for~~ to the portion of the property containing upland native vegetation in the following percentages or maximum square footage:

Tier	Permitted Clearing *
I	<p><u>20% or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet of upland native vegetative area.</u></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 the 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><u>40% or 3,000 square feet, whichever is greater; but no greater than 7,500 square feet of upland native vegetative area (Big Pine Key and No Name Key).</u></p>

<p style="text-align: center;">III</p>	<p>40% or 3,000 square feet s.f., 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 the 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 40 percent of the entire site.</u></p>
<p style="text-align: center;"><u>III-A</u> <u>Special Protection</u> <u>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 the 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 40 percent of the entire site.</u></p>
	<p>* Palm or cactus hammock is limited to only 10%.</p>

Policy 101.4.24 23

[Currently Processing Revisions to Clearing Limits Policy- BOCC Resolution 20-2012]

Notwithstanding the clearing limits established in the Livable CommuniKeys Master Plans adopted by reference into the 2010 Comprehensive Plan by Policy 101.20.2, the permitted clearing established by Policy 101.4.23 22 shall control.

Policy 101.4.25 24

Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.26 25

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

Exhibit 2

FIRST DRAFT Land Development Code (LDC) amendments which include corresponding Commercial Land Use District (zoning) Categories (for illustrative purposes only). LDC amendments will be processed in the Fall of 2012

[DRAFT for Discussion Purposes Only]

COMMERCIAL 1

Sec. 130-xx. - Purpose of the commercial 1 district (C1).

The purpose of the C1 district is to establish areas for commercial uses designed and intended primarily to serve the needs of the immediate vicinity in which they are located. This district should be established at locations convenient and accessible to residential areas to discourage long trips on U.S. 1.

Sec. 130-xx. – Commercial 1 district (C1).

(a) The following uses are permitted as of right in the commercial 1 district:

(1) Commercial retail, low- and medium-intensity and office uses or any combination thereof of less than 2,500 square feet of floor area;

(2) Commercial recreational uses limited to:

- a. Bowling alleys;
- b. Tennis and racquet ball courts;
- c. Miniature golf and driving ranges;
- d. Theaters;
- e. Health clubs; and
- f. Swimming pools;

(3) Institutional uses;

(4) Public buildings and uses;

(5) Accessory uses;

(6) Storage areas, provided that the area does not exceed 25 percent of the gross area of the parcel proposed for development;

- a. All outside storage areas are screened from adjacent use by a solid fence, wall or hedge at least six feet in height.

(7) Collocations on existing antenna-supporting structures, pursuant to section 146-5(3);

(8) Attached wireless communications facilities, as accessory uses, pursuant to section 146-5(4);

(9) Replacement of an existing antenna-supporting structure pursuant to section 146-5(2);

(10) Stealth wireless communications facilities, as accessory uses, pursuant to section 146-5(5);

(11) Satellite earth stations, as accessory uses, pursuant to section 146-5(6);

(12) Wastewater nutrient reduction cluster systems that serve less than ten residences.

(b) The following uses are permitted as minor conditional uses in the commercial 1 district, subject to the standards and procedures set forth in chapter 110, article III:

(1) Commercial retail, low- and medium-intensity and office uses or any combination thereof of greater than 2,500 but less than 10,000 square feet of floor area, provided that access to U.S. 1 is by way of:

- a. An existing curb cut;

- b. A signalized intersection; or
- c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity of less than 2,500 square feet in floor area; provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) Parks and community parks; and
- (4) Light industrial uses, provided that:
 - a. The parcel proposed for development does not have an area of greater than two acres;
 - b. The parcel proposed for development is separated from any established residential use by at least a class C bufferyard; and
 - c. All outside storage areas are screened from adjacent use by a solid fence, wall or hedge at least six feet in height;

(c) The following uses are permitted as major conditional uses in the commercial 1 district subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail of low- and medium-intensity and office uses or any combination thereof greater than 10,000 square feet in floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity greater than 2,500 square feet in floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) New antenna-supporting structures, pursuant to section 146-5(1);
- (4) Land use overlays A, E, PF, subject to the provisions of article IV of this chapter; and

COMMERCIAL 2

Sec. 130-xx. - Purpose of the commercial 2 district (C2).

The purpose of the C2 district is to designate appropriate areas for higher-intensity commercial uses intended to serve retail sales and service, professional services and resort activities needs of a subarea. This district should be established at discrete nodes along U.S. 1 and designed to serve the needs of both residents and visitors.

Sec. 130-xx. – Commercial 2 district (C2).

(a) The following uses are permitted as of right in the commercial 2 district:

- (1) Commercial retail of low- and medium-intensity and office uses or any combination thereof of less than 10,000 square feet of floor area;

- (2) Commercial retail uses of high intensity of less than 5,000 square feet of floor area;
- (3) Commercial recreational uses limited to:
 - a. Bowling alleys;
 - b. Tennis and racquet ball courts;
 - c. Miniature golf and driving ranges;
 - d. Theaters;
 - e. Health clubs; and
 - f. Swimming pools;
- (4) Institutional uses;
- (5) Public buildings and uses;
- (6) Light industrial uses;
- (7) Accessory uses;
- (8) Collocations on existing antenna-supporting structures, pursuant to section 146-5(3);
- (9) Attached wireless communications facilities, as accessory uses, pursuant to section 146-5(4);
- (10) Replacement of an existing antenna-supporting structure pursuant to section 146-5(2);
- (11) Stealth wireless communications facilities, as accessory uses, pursuant to section 146-5(5); and
- (12) Satellite earth stations, as accessory uses, pursuant to section 146-5(6).

(b) The following uses are permitted as minor conditional uses in the commercial 2 district, subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail of low- and medium-intensity and office uses or any combination thereof of greater than 10,000 but less than 45,000 square feet of floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity of greater than 5,000 but less than 30,000 square feet of floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) Parks and community parks.

(c) The following uses are permitted as major conditional uses in the commercial 2 district, subject to the standards and procedures set forth in chapter 110, article III:

- (1) Commercial retail of low- and medium-intensity and office uses, or any combination thereof, of greater than 45,000 square feet in floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or
 - c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (2) Commercial retail uses of high intensity of greater than 30,000 square feet in floor area, provided that access to U.S. 1 is by way of:
 - a. An existing curb cut;
 - b. A signalized intersection; or

- c. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (3) Amusement or sea life parks and drive-in theaters, provided that:
- a. The parcel of land has an area of at least two acres;
 - b. The parcel is separated from any residential district or established residential use by at least a class E buffer; and
 - c. Access to U.S. 1 is by way of:
 - 1. An existing curb cut;
 - 2. A signalized intersection; or
 - 3. A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least 400 feet;
- (4) Marinas, provided that:
- a. The parcel proposed for development has access to water of at least four feet below mean sea level at mean low tide;
 - b. The sale of goods and services is limited to fuel, food, boating, diving and sport fishing products;
 - c. All outside storage areas are screened from adjacent uses by a solid fence, wall or hedge at least six feet in height;
 - d. Any commercial fishing activities are limited to the landing of catch, mooring and docking of boats and storage of traps and other fishing equipment; and
 - e. Each nonwaterside perimeter setback of the parcel proposed for development must have a class C bufferyard within a side yard setback of ten feet;
- (5) Heliports or seaplane ports, provided that:
- a. The heliport is associated with a governmental services facility, a law enforcement element or a medical services facility;
 - b. The heliport or seaplane port is a Federal Aviation Administration certified landing facility;
 - c. The landing and departure approaches do not pass over established residential uses or known bird rookeries;
 - d. If there are established uses within 500 feet of the parcel proposed for development, the hours of operation shall be limited to daylight; and
 - e. The use is fenced or otherwise secured from any entry by unauthorized persons;
- (6) New antenna-supporting structures, pursuant to section 146-5(1); and
- (7) Land use overlays A, E, PF, subject to the provisions of article IV of this chapter.

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[DRAFT for Discussion Purposes Only]

Future Land Use Category and Corresponding Zoning	Allocated Density^(b)	Maximum Net Density^{(a)(b)(l)}	Maximum Intensity
	(per acre)	(per buildable acre)	(floor area ratio)
Commercial (COMM)	0	N/A	0.15-0.50
<i>Commercial 1 (C1) Zoning</i>	0	N/A	CR -Low intensity 0.35, CR - Medium intensity 0.25, CR - High intensity 0.15, Offices 0.40, Commercial recreational 0.15, Institutional 0.30, Outdoor recreational 0.15, Public buildings and uses 0.30, Light industry 0.30
<i>Commercial 2 (C2) Zoning</i>	0	N/A	CR- Low intensity 0.50, CR - Medium intensity 0.40, CR - High intensity 0.35, Offices 0.45, Commercial recreation 0.25, Institutional 0.40, Outdoor recreational 0.25, Public buildings and uses 0.35 Light industry 0.40

CR = commercial retail



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

October 29, 2010

The Honorable Sylvia Murphy
Mayor, Monroe County
102050 Overseas Highway, Suite 234
Key Largo, Florida 33037

Re: Letter of Understanding for the Monroe County Evaluation and Appraisal Report

Dear Mayor Murphy:

The Department has reviewed your letter outlining the scope of work for the preparation of the County's Evaluation and Appraisal Report (EAR). The Department agrees with the summary of the issues set forth in the attached document. This letter serves as confirmation of our understanding. However, we have the following recommendations concerning the proposed Scope of Work.

- The County's major issues list includes the compatibility with military installations. In addressing compatibility, the Department recommends that the County carefully consider the requirements of Chapter 163, Florida Statutes, as they were amended by the 2010 Florida Legislature and evaluate the need for sound attenuation standards and other techniques to ensure the compatibility of development proximate to military installations.
- The County has included "Continued Public Waterfront Access; Protect and Expand Water Dependent/Water Related Uses" as a major issue. The Department recommends the inclusion of criteria that encourages the preservation of recreational and commercial working waterfronts.
- Economic Sustainability is listed as a major issue. The County will be examining the goals, objectives and policies in the comprehensive plan to evaluate numerous aspects of economic sustainability. **As part of the evaluation, the Department encourages an evaluation of the need to establish a commercial land use designation.**
- Included in the major issue, "Natural Resource Protection," is an evaluation of the effectiveness of the Tier system. The Department recommends delaying the evaluation of the Tier system until the next evaluation of the comprehensive plan. This would provide additional time to implement and observe changes resulting from the tier designation challenge that will not be fully implemented prior to 2011.

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♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
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Sylvia Murphy, Mayor
October 29, 2010
Page 2

- The EAR is an opportunity to compare the content of the comprehensive plan with current statutory requirements to ensure that the plan is up to date. The Department recommends that the County evaluate changes made to Section 380.0552(7)(j), Florida Statutes, which requires that growth be directed to areas served by central wastewater treatment facilities. In so doing, the County should also evaluate the need to establish a minimum score for applications for non-residential development in order to guide development away from environmentally sensitive areas when there is a lack of competition for the non residential building allocation.
- The EAR will also need to address all of the remaining applicable requirements set forth under Section 163.3191(2), Florida Statutes.

We appreciate the effort you and your staff have shown in developing the EAR scoping issues for Monroe County. We look forward to continuing to work with you as you prepare your EAR. If you or your staff have any questions or need additional assistance, please contact Rebecca Jetton, Area of Critical State Concern Program Manager, at (850) 922-1766.

Sincerely,



Charles Gauthier, AICP, Director
Division of Community Planning

Enclosure

CG/rj

cc: Ms. Christine Hurley, AICP, Growth Management Director
Ms. Carolyn A. Dekle Executive Director, South Florida Regional Planning Council



MONROE COUNTY EVALUATION AND APPRAISAL REPORT DRAFT ISSUE COMPILATION REPORT

Pursuant to Florida Statutes, the Monroe County EAR will present an evaluation and assessment of the Comprehensive Plan related to the following topics:

Introduction

1. Purpose of the EAR
2. County Profile
3. Overview of the Report

Chapter 1: Public Involvement Process

1. A summary of the public participation program and activities undertaken by the County in preparing the report *[163.3191(2)(j)]*

Chapter 2: Community-Wide Assessment

1. Population Analysis: Trends and Projections *[163.3191(2)(a)]*

- a. Population Growth Trends
- b. Population of Municipalities and Unincorporated Area
- c. Population Growth in Surrounding Counties
- d. Population Projections for Monroe County

2. Land Use Inventory

- a. Land Area in Existing Plan
- b. Current Existing Land Use Area
- c. Reasons for change: *[163.3191(2)(a)]*
 - i. City of Marathon
 - ii. Village of Islamorada
 - iii. Mainland Monroe County
- d. Impact of Change in Land Area
- e. Amount of Vacant and Developable Land *[163.3191(2)(b)]*
 - i. Characteristics
 - ii. Adjacent Uses



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- iii. "Off the Market" parcels (those not available for development, e.g., conservation - FDEP, Land Authority)
- iv. Existing Land Use Map
- v. Future Land Use Map
- vi. Existing to Future Land Use Comparative Analysis [163.3191(2)(d)]
- vii. Future Land Use Map Amendments (2004-2010)
- f. Location Analysis

Chapter 3: Assessment of Comprehensive Plan Elements [163.3191(2)(h)]

1. Introduction
2. Future Land Use
3. Conservation and Coastal Management
4. Traffic Circulation
5. Mass Transit
6. Ports, Aviation and Related Facilities
7. Housing
8. Potable Water
9. Solid Waste
10. Sanitary Sewer
11. Drainage
12. Natural Groundwater Aquifer Recharge
13. Recreation and Open Space
14. Intergovernmental Coordination
15. Capital Improvements
16. Cultural Resources

Chapter 4: Major Issues Analysis

1. Statement of Issue

- a. Brief background of each major issue.
 - i. What is it?
 - ii. Can it be quantified?
 - iii. Compare the Past and the Present
 - 1) What was the situation at the time of the Plan development?
 - 2) What is the situation today?
 - 3) If the issue can be quantified, compare the quantities in the adopted plan with the current quantities.



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- b. An analysis of each major issue for its potential social, economic, and environmental impacts of these issues. *[163.3191(2)(e)]*
 - i. Why is it an issue?
 - ii. What events have occurred to cause the issue, (e.g. active hurricane season)?
 - iii. What does this mean?
 - iv. Does the issue represent an opportunity not previously identified?
 - v. Why was it unanticipated?

2. Policy Framework *[163.3191(2)(g)]*

- a. The identification of plan objectives related to each major issue.
- b. Evaluation of the extent to which the objectives have been achieved.
- c. Relevant Variables: A discussion on any unforeseen and unanticipated changes and circumstances which have resulted in problems and opportunities with respect to major issues in each element, including applicable legislative changes.
- d. Identification of goals, objectives and policies which no longer apply.

3. Strategies to Address Issue *[163.3191(2)(i)]*

- a. The identification of any actions or corrective measures, as appropriate:
 - i. Any land use map amendments anticipated to address the identified major issues.
 - ii. An updated Capital Improvements Element.
 - iii. Any new and revised goals objectives and policies for major issues identified within each element.



Chapter 5: Special Topics

1. School Concurrency [163.3191(2)(k)]

- a. An assessment of the success or failure of the coordination of the future land use map and associated residential development with public schools and their capacities.
 - i. Map Location of Schools and Community Facilities (Existing land Use Map)
 - ii. Future Land Use Categories where schools are allowed
 - iii. Land Capacity
 - iv. School Capacities
 - v. School Busing Information
 - vi. Timing: Capacity vs. Enrollment
 - vii. Exemption
- b. An assessment of the joint decision making processes engaged in by the County and the School Board in regard to establishing appropriate population projections and the planning and siting of public school facilities.
 - i. Coordinating Mechanisms between the County and the School Board
 - ii. Co-Location/Shared Use of Facilities
 - iii. Comprehensive Policy Effectiveness Review
 - iv. Population Projection Methodologies

2. Water Supply Planning [163.3191(2)(l)]

- a. An assessment of whether the County has been successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in 373.0361(2)(a) F.S., within the County's jurisdiction.
- b. Assess the degree to which the County has implemented the water supply work plan for building public, private, and regional water supply facilities, including development of alternative water supplies, identified in the Potable Water Element as necessary to serve existing and new development.
- c. The assessments will explore the following:
 - i. How does the Plan (future, infrastructure, and conservation, ICE, and CIE elements) ensure water to support future development, including Miami-Dade County?
 - ii. What actions were taken?
 - iii. What degree has the Water Supply planning objectives been achieved?



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- iv. How should the Plan be updated?
- v. Effectiveness in implementing the capital improvements called for in the 10 year work plan.
- vi. Water Management District Plan
- vii. Water Supply Facilities
- viii. Florida Keys Aqueduct Authority (FKAA) Water Supply Plan
- ix. Capacity/Demand
- x. Existing and Future Population
- xi. Fire Suppression
- xii. Funding
- xiii. Consistency with the Lower East Coast Regional Water Supply Plan

3. Coastal High-Hazard Area (CHHA) [163.3191(2)(m)]

- a. An evaluation of whether any past reduction in land use density within the coastal high-hazard area impairs the property rights of current residents when redevelopment occurs including, but not limited to, redevelopment following a natural disaster
- b. Identify strategies to address redevelopment and the property rights of affected residents balanced against public safety considerations
- c. The evaluation will explore the following:
 - i. Evaluate Redevelopment Feasibility and Property Rights in Coastal High-Hazard Areas.
 - ii. Map Coastal High Hazard Area.
 - iii. Evaluate Impact of Redevelopment (e.g. Reduction of Existing Density).
 - iv. Evaluate Feasibility of Allowing Re-establishment of All Affected Dwelling Units.
 - 1) Hurricane Evacuation Requirements.
 - 2) Private Property Rights.
 - v. Explore Potential Strategies for Redevelopment:
 - 1) Allow nonconformities to continue until redevelopment.
 - 2) Allow re-establishment of nonconforming use/density after a natural disaster.
 - 3) Purchase of excess rights; acquired rights eliminated.
 - 4) Purchase of repetitive loss structures (HMGP).
 - 5) Transfer of Development Rights: Excess property rights would be transferred to parcels outside the CHHA.



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- 6) Change Future Land Use Map to match the nonconformity. (Only allowed if no increase in overall density and within hurricane evacuation clearance times)

4. Compatibility with Military Installations

[163.3175 and 163.3177(6)(a), F.S.]

- a. Evaluate the effectiveness of the County's coordination process for land uses adjacent or closely proximate to NAS-Key West.

5. Transportation Concurrency

- a. An assessment of the extent to which a concurrency exception area designated pursuant to 163.3180(5) F.S., or a multimodal transportation district designated pursuant to 163.3180(15) F.S., has achieved the purpose for which it was created and otherwise complies with the provisions of 163.3180 F.S. [163.3191(2)(o)]

NOTE: Not applicable, there are no concurrency exception areas or multimodal transportation districts within the County.

- b. An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing a concurrency management system in coordination with the municipalities and counties, as appropriate pursuant to 163.3180(10) F.S. [163.3191(2)(p)]
 - i. US1 Task Force
 - ii. Existing Methodology
 - iii. Miami-Dade County

Chapter 6: Assessment of Changes to Florida Statutes, Administrative Rules, State and Regional Plans [163.3191(2) (f)]



EAR MAJOR ISSUES

A. PUBLIC PARTICIPATION

Public participation was initiated through a website created for the update of the County's Comprehensive Plan and the EAR process (<http://www.keyscompplan.com>). The site contains a brief overview of the EAR process, information about public workshops and meetings, and links to other EAR related documents. The following meetings and public hearings were held in order to identify the major local issues on which the County will focus its EAR:

- February 12, 2010: A meeting with the County's Division Directors was conducted. The purpose of the meeting was to introduce staff to the Comprehensive Plan update process and to obtain preliminary comments regarding potential EAR major issues.
- February 24, 2010: The Planning Commission meeting was held at the Marathon Government Center. The purpose of the meeting was to provide a briefing regarding the Comprehensive Plan update process and to survey the commissioners regarding the major issues upon which the EAR should focus.
- February 24 - 26, 2010: One-on-one interviews were conducted with the Board of County Commissioners. The purpose of these meetings was to provide a briefing regarding the Comprehensive Plan update process and to survey the commissioners regarding the major issues upon which the EAR should focus.
- March 10, 2010: Monroe County Division Directors and other key personnel were surveyed on the major issues upon which the EAR should focus.
- April 9 - 11, 2010: A series of public workshops were conducted in the lower, middle and upper keys to survey the participants regarding the major issues of importance upon which the EAR should focus.
- April 21, 2010: A public workshop was held on Sugarloaf Key. The purpose of the meeting was to survey the participants regarding the major issues of importance for the EAR.
- May 13, 2010: At the Scoping Meeting, agencies, adjacent cities and municipalities met with County staff for the purpose of ensuring that all important EAR issues are identified; agency/municipality concerns are



addressed; and to assist the County in developing strategies to address issues that are within their jurisdiction or expertise.

- July 14, 2010: A public workshop was conducted for the purpose of confirming the final draft list of major issues.
- September 15, 2010: At this hearing, the BOCC approved the Compilation Report of issues upon which the EAR should focus and approved the transmittal of a Letter of Understanding and the Compilation Report to the DCA requesting concurrence. *<Final Details to be inserted after this hearing>*

B. LIST OF MAJOR ISSUES

I. County-wide Visioning and Planning

Capitalize upon and protect the uniqueness (sense of place) of the various communities within the planning areas; implement the recommendations within the existing visioning plans.

- a. Do the County's policies recognize and preserve the unique development/redevelopment patterns and community character within each Planning Area?
 1. Building Scale and Massing
 2. Architectural standards
 3. Existing Land Uses (especially water dependent uses)
 4. Habitat and Species Protection
 5. Infrastructure
 - i. Wastewater
 - ii. Stormwater
 - iii. Roads/bridges
 6. Encouraging redevelopment of sites that are currently developed vs. vacant land (NROGO constraints on redevelopment)
 7. Evaluate floor area ratio maximums in each of the Future Land Use categories for compatibility.
 8. Evaluate opportunities for discouraging density increases, including requiring any Future Land Use Map amendment to transfer allocated or maximum net density.
- b. Do the County's policies reflect the recommendations of the existing community visioning plans?
 1. Stock Island Livable CommuniKeys Plan
 2. Key Largo Livable CommuniKeys Plan



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3. Tavernier Livable CommuniKeys Plan
 4. Draft Lower Keys Livable CommuniKeys Plan
 5. Scenic Highway and Overseas Heritage Trail Master Plans
- c. Do the Comprehensive Plan policies need to address outside jurisdictional constraints?
1. FEMA injunction or processes that need to be amended related to the FWS biological opinion relative to the FEMA injunction.

II. Economic Sustainability

Promote economic sustainability, in a manner consistent with environmental stewardship, with a special focus upon existing businesses.

- a. Designate economic business development locations on the Future Land Use Map.
- b. Do the County's policies enhance and promote the economic strength of the County in a sustainable manner that protects natural resources?
- c. Do the County's land use categories and maps provide sufficient land, at appropriate intensities, within Tier 3 (adjacent to existing services) to adequately provide for non-residential development?
 1. The analysis will be based upon the results of the Economic Analysis.
- d. Do the County's existing policies promote job diversification, creation, retention?
- e. Do the County's policies encourage existing business redevelopment?
- f. How successful is the County in promoting business opportunities to designated areas?
- g. Is the County successful in working with the various Chambers of Commerce in attracting economic development opportunities?
- h. Do the County's policies promote effective coordination with the Tourist Development Council to attract visitors who value and appreciate the natural resources and environmental sustainability of the Florida Keys, e.g., eco-tourism?
- i. How successful is the County in promoting business opportunities to designated areas?
- j. Is there a need for a separate Economic Development Element of the Comprehensive Plan?



III. Land Use/Mobility

Promote Attractive, Well-Planned Development Adjacent to Services, and Existing Commercial "Hubs", with an Emphasis on Redevelopment.

- a. Do the County's policies relating to the ROGO system promote well-planned development in appropriate areas?
- b. Do the County's policies relating to the NROGO system promote well-planned development in appropriate areas?
 1. Does the commercial square foot per new unit of housing limit, established in Policy 101.3, provide the appropriate framework for redevelopment or for adequate community needs?
 2. Should the County undertake a market demand analysis to determine the future non-residential needs of the community?
- c. Do the County's policies relating to the Tier system promote well-planned development in appropriate areas?
- d. Do the County's policies effectively address the issues related to Mainland Monroe County?
- e. Do the County's policies adequately address growth management issues within the Mainland Planning Area?
- f. Do the County's policies promote well-planned redevelopment projects?
- g. Do the County's policies adequately reflect the conclusions of the County's Future Land Use Needs Analysis?
- h. Do the County's policies and vesting determination process effectively protect lawfully existing uses, densities and intensities?
- i. Identify appropriate locations for fire stations on the Future Land Use Map.

The County Should Meet or Exceed Hurricane Evacuation Requirements as required by 9J-5 F.A.C.

- a. Do the County's policies effectively balance the need for evacuation clearance with growth?
- b. Does the current hurricane evacuation model use adequate assumptions and will the model reflect any successful policy changes implemented since the first 2001 Model?



Support Historic Preservation.

- a. Do the County's policies effectively promote preservation of historic sites and structures?
- b. Should the County include policies that offer incentives or promote cultural attractions?

Assure Continued Public Waterfront Access; Protect and Expand Water Dependent/Water Related Uses.

- a. Do the County's land use policies effectively promote the preservation and expansion of public water front access strategies (hotels, motels, restaurants, marinas, public open/green space)?
- b. Does the Comprehensive Plan include criteria and regulatory incentives that encourage the preservation of recreational and commercial waterfronts, as required under Chapter 163, F.S.; how effective have those criteria and incentives been?

Increase Availability and Use of Alternative Modes Transportation.

- a. Do the County's policies promote the use and development of alternative modes of transportation, e.g., pedestrian/bicyclist trails; mass transit?
- b. Has the County provided pedestrian and bicycle paths and other alternate forms of transportation?
- c. How successful is the County in coordinating its *Livable CommuniKeys* plans with FDOT's work plans?
- d. How successful is the County in implementing mass transit for its elderly and less fortunate population?
- e. Has the County addressed mass transit opportunities?

IV. Natural Resource Protection

Preserve and protect natural resources, including water, habitat and species.

- a. Do the County's policies protect potable water supply?
- b. How has the County protected Threatened, Endangered and Special Status Species and their habitats?
- c. How has the County protected wetland areas, benthic resources and environmentally sensitive lands?



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- d. Evaluate the effectiveness of the following initiatives:
 1. Tier System
 2. Land Acquisition
 3. Habitat Conservation Plan for Big Pine and No-Name Keys (Incidental Take Permit)
- e. How has the Comprehensive Plan addressed water quality and what protection measures are in place?
- f. Has the County addressed the Nutrient Reduction Criteria?
- g. How has the County conserved water resources; are enforcement efforts effective?
- h. Is the County's solid waste collection and disposal system adequate?
- i. Are the County's policies and practices adequate to protect native species and habitat from invasive animals (feral cats/raccoons/snakes/goats)?

Complete Wastewater and Drainage Upgrades.

- a. How successful is the County in providing sewer and drainage improvements through the Key Largo Wastewater Treatment District and FKAA?
- b. Do the comprehensive plan policies incorporate the most recent State and Federal regulatory requirements relative to waste water and stormwater treatment standards?
- c. How do the County's fiscal constraints impact the implementation of the *Waste Water Master Plan*?
- d. Should funding alternatives for *Stormwater Management Master Plan* implementation be explored?

V. Climate Change/Hazard Mitigation

Monroe County should support and promote "green" initiatives; address climate change; and develop and implement hazard mitigation/adaptation best practices.

- a. Do the County's polices promote energy conservation and provide strategies geared to reduction of green house gas emissions?



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- b. Do the policies of the County include appropriate mitigation/adaptation strategies?
 1. Local Mitigation Strategy
 2. Post-NFIP Below Flood Enclosures
 3. Repetitive Loss Structures
 4. Vulnerable Infrastructure
 - i. Water
 - ii. Wastewater
 - iii. Transportation
 - iv. Culverts
 5. Evaluate the Impact of Sea Level Rise:
 - i. Government Buildings
 - ii. Roadways
 - iii. Land Use Strategies
 - iv. Saltwater Intrusion
 - 1) People
 - 2) Environment
 - 3) Land values
 - 4) NEPA Adaptation/Mitigation Requirements
- c. Is there a need for a separate Energy and/or Climate Change Element?

VI. Financial Feasibility

Assure adequate capital funding to complete necessary improvements or purchase lands for conservation or affordable housing purposes.

- a. Does the County have adequate Capital Project Funding Capacity?
 1. Wastewater
 2. Land Acquisition
 - i. Conservation
 - ii. Affordable Housing
 - iii. Stormwater
 - iv. Roads/Transportation Facilities/Bridges
 - v. Parks and Recreation
 - vi. Solid Waste
- b. Has the County investigated creative funding sources to assist in paying for its capacity related public facilities and services, which may include adopting new revenue sources, increasing impact fees, and promoting business throughout the County?



- c. Have developer funded improvements been successful in helping the County meet financial feasibility?
- d. Do the County's policies reflect an adequate land acquisition policy related to habitat preservation and a prioritization of land acquisition based on risk to the County related to takings cases?
- e. Are there other methods the County could use to create additional funding for land acquisition?
- f. Will the County's CIE be able to meet statutory requirements related to the financial feasibility by December, 2011?
- g. Evaluate the adequacy of the County's existing Impact Fee Program.

VII. Affordable Housing

Promote the development of affordable, attainable and senior living housing that is well-planned, attractive and energy efficient.

- a. Do the County's policies effectively promote affordable, workforce and senior-living housing?
- b. Do the County's policies promote energy efficient building design?
- c. How do the County's policies impact the implementation and cost of housing?
- d. Should affordable housing policy incentives be focused more on rental or homeownership?
- e. Has the County identified or planned redevelopment areas that are suitable for affordable/workforce housing?

VII. Public Involvement/Information

Promote robust public involvement and information sharing regarding land use issues throughout the planning and development process.

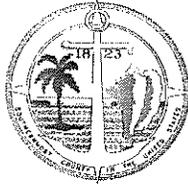
- a. Do the County's policies effectively promote public involvement within the planning process?
- b. What strategies are used by the County to inform the public of upcoming planning issues?
- c. Do the County's public outreach strategies reach out to a broad-range of citizens and property owners?



VIII. Intergovernmental Coordination

Provide effective and efficient intergovernmental, interdepartmental and interagency coordination.

- a. Do the County's land use policies, community plans, practices, and capital improvement project schedule effectively coordinate with the plans and activities of other municipalities and agencies, e.g. hurricane evacuation staging, and planning, FDOT roadway widening?
- b. Do the County's policies encourage effective and efficient interdepartmental data sharing and review?
- c. Evaluate the issues relating to the FKAA providing adequate water pressure for fire service?
- d. Identify the appropriate portions of the FKCCS Study and Model to be used by the County for development review analysis.
- e. Evaluate the County's coordination activities with the South Florida Regional Planning Council for the use of the Carrying Capacity/Impact Assessment Model and Routine Planning Tool.



**Item #2 Commercial Land Use Density &
Intensity
Draft Resolution**

MONROE COUNTY PLANNING COMMISSION

RESOLUTION NO. -12

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS CREATING A COMMERCIAL FUTURE LAND USE CATEGORY; AND REVISING THE "FUTURE LAND USE DENSITIES AND INTENSITIES" TABLE TO INCLUDE A COMMERCIAL (COMM) FUTURE LAND USE CATEGORY, CORRESPONDING ZONING CATEGORIES, AND ESTABLISH THE DENSITY AND INTENSITY STANDARDS.

WHEREAS, the Monroe County Development Review Committee considered the proposed amendment at a regularly scheduled meeting held on the 28th day of August, 2012; and

WHEREAS, at a regularly scheduled meeting held on the 26th day of September, 2012, the Monroe County Planning Commission held a public hearing for the purpose of considering the transmittal to the State Land Planning Agency, for review and comment, a proposed amendment to the Monroe County Year 2010 Comprehensive Plan; and

WHEREAS, the Monroe County Planning Commission makes the following findings of fact and conclusions of law:

1. The BOCC has transmitted an amendment to the MC 2010 Comprehensive Plan, creating Policy 101.4.20 discouraging private applications for future land use changes which increase allowable density/intensity, implementing the Work Program Task from Rule 28-20.140, F.A.C., and the direction from the Administration Commission within its 30-Day Report.
2. Florida Statutes and the Monroe County 2010 Comprehensive Plan require the maintenance of a hurricane evacuation 24 hour clearance time.
3. The Monroe County 2010 Comprehensive Plan does not currently include an exclusive commercial future land use category.

4. The adopted Evaluation and Appraisal Report recommends the creation of a commercial future land use category.
5. When the Monroe County 2010 Comprehensive Plan and Future Land Use Maps were adopted and determined to be in compliance with Florida Statutes in 1997 as well as with the adoption of the official zoning maps in 1992, multiple properties with existing commercial/office uses became nonconforming due to the adopted maps.
6. The Livable CommuniKeys Plans include action items directing the County to revise the FLUM and Land Use District Maps to resolve nonconformities.
7. The proposed amendment is internally consistent with the Monroe County Comprehensive Plan.
8. The proposed amendment is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern, Section 380.0552(7), Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA:

[Amendments are presented in ~~striketrough~~ to indicate deletions and underline to indicate additions to text. All other words, characters, and language of this subsection remain un-amended.]

Section 1. The following amendment to the Monroe County 2010 Comprehensive Plan is recommended for transmittal to the State Land Planning Agency and adoption by the Board of County Commissioners as follows:

Policy 101.4.21

The principal purpose of the Commercial (COMM) future land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail; highway-oriented sales and services; commercial recreation; light industrial; public, institutional and office uses may be permitted at intensities which are consistent with the community character and the natural environment. The commercial zoning districts established within this category are intended to serve the immediate vicinity or serve the Upper or Lower subarea. This category is not intended to accommodate transient or permanent residential development.

In order to protect environmentally sensitive lands, the following development controls shall apply to all Tier I lands within this land use category:

1. only low intensity commercial uses shall be allowed; and
2. a maximum floor area ratio of 0.10 shall apply.

Policy 101.4.22 21

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17:

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
Commercial (COMM) (Commercial 1 (C1) zoning & Commercial 2 (C2) zoning)	<u>0 du</u> <u>0 rooms/spaces</u>	<u>N/A</u> <u>N/A</u>	<u>0.15-0.50</u>
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC) ^(a) (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF) ^(a) (CFA, CFV ^(c) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(d) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(f) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:

(a) "N/A" means that maximum net density bonuses shall not be available.

- (b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.
- (c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.
- (d) Maximum net density bonuses shall not be available to the SS district.
- (e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
- (f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
- (g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
- (h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.
- (i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

Policy 101.4.23 ~~22~~

All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetation areas for properties in the Ocean Reef planned development shall be limited to 40 percent of the existing upland native vegetation. Except as defined in Policy 101.12.4, clearing of upland native vegetative areas in the Tiers I, II, and III shall be limited for the portion of the property containing upland native vegetation in the following percentages:

<u>Tier</u>	<u>Permitted Clearing *</u>
I	20%
II	40% (Big Pine Key and No Name Key)
III	40% or 3,000 s.f., 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.

* Palm or cactus hammock is limited to only 10%.

Policy 101.4.24

Reserved

Policy 101.4.25 ~~23~~

Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.26-24

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

PASSED AND RECOMMENDED FOR ADOPTION by the Monroe County Planning Commission at a regular meeting held on the 26th day of September, 2012.

Denise Werling, Chair _____
Randolph D. Wall, Vice Chair _____
Jeb Hale, Commissioner _____
Elizabeth Lustburg, Commissioner _____
William Wiatt, Commissioner _____

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

By _____

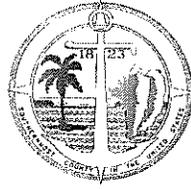
Denise Werling, Chair

Signed this _____ day of _____, _____

Monroe County Planning Commission Attorney

Approved As To Form

Date: _____



**Item #2 Commercial Land Use Density &
Intensity
Draft Ordinance**

ORDINANCE NO. - 2012

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICIES 101.4.21, 101.4.22, 101.4.23, 101.4.24, 101.4.25 AND CREATING POLICY 101.4.26 TO ESTABLISH A COMMERCIAL FUTURE LAND USE CATEGORY; AND REVISE THE “FUTURE LAND USE DENSITIES AND INTENSITIES” TABLE TO INCLUDE A COMMERCIAL (COMM) FUTURE LAND USE CATEGORY, CORRESPONDING ZONING CATEGORIES, AND ESTABLISH THE DENSITY AND INTENSITY STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

WHEREAS, the Monroe County 2010 Comprehensive Plan does not currently include an exclusive commercial future land use category; and

WHEREAS, Florida Statutes and the County’s 2010 Comprehensive Plan require the maintenance of a hurricane evacuation 24 hour clearance time; and

WHEREAS, the adopted Evaluation and Appraisal Report recommends the creation of a commercial future land use category; and

WHEREAS, when the Monroe County 2010 Comprehensive Plan and Future Land Use Maps were adopted and determined to be in compliance with Florida Statutes in 1997 as well as with the adoption of the official zoning maps in 1992, multiple properties with existing commercial/office uses became nonconforming due to the adopted maps; and

WHEREAS, the Livable CommuniKeys Plans include action items directing the County to revise the FLUM and Land Use District Maps to resolve nonconformities; and

WHEREAS, the BOCC has transmitted an amendment to the MC 2010 Comprehensive Plan, creating Policy 101.4.20 discouraging private applications for future land use changes which increase allowable density/intensity, implementing the Work Program Task from Rule 28-20.140, F.A.C., and the direction from the Administration Commission within its 30-Day Report; and

WHEREAS, the Monroe County Development Review Committee considered the proposed amendment at a regularly scheduled meeting held on the 28th day of August, 2012; and

WHEREAS, at a regularly scheduled meeting held on the 26th day of September, 2012, the Monroe County Planning Commission held a public hearing for the purpose of considering the transmittal to the State Land Planning Agency a proposed amendment to the Monroe County Year 2010 Comprehensive Plan and recommended approval of the amendment.

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

Section 1. The Monroe County 2010 Comprehensive Plan is amended as follows: (Deletions are ~~stricken through~~ and additions are underlined.)

Policy 101.4.21

The principal purpose of the Commercial (COMM) future land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail; highway-oriented sales and services; commercial recreation; light industrial; public, institutional and office uses may be permitted at intensities which are consistent with the community character and the natural environment. The commercial zoning districts established within this category are intended to serve the immediate vicinity or serve the Upper or Lower subarea. This category is not intended to accommodate transient or permanent residential development.

In order to protect environmentally sensitive lands, the following development controls shall apply to all Tier I lands within this land use category:

1. only low intensity commercial uses shall be allowed; and
2. a maximum floor area ratio of 0.10 shall apply.

Policy 101.4.22 21

Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17:

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
<u>Commercial (COMM)</u> <u>(Commercial 1 (C1) zoning & Commercial 2 (C2) zoning)</u>	<u>0 du</u> <u>0 rooms/spaces</u>	<u>N/A</u> <u>N/A</u>	<u>0.15-0.50</u>

Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC) ^(g) (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF) ^(g) (CFA, CFV ^(c) , CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS ^(d) , SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D ^(e) , URM ^(e) , and UR ^(f) zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:

- (a) "N/A" means that maximum net density bonuses shall not be available.
- (b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.
- (c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.
- (d) Maximum net density bonuses shall not be available to the SS district.
- (e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
- (f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
- (g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
- (h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.
- (i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

Policy 101.4.23 22

All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetation areas for properties in the Ocean Reef planned development shall be

limited to 40 percent of the existing upland native vegetation. Except as defined in Policy 101.12.4, clearing of upland native vegetative areas in the Tiers I, II, and III shall be limited for the portion of the property containing upland native vegetation in the following percentages:

<u>Tier</u>	<u>Permitted Clearing *</u>
I	20%
II	40% (Big Pine Key and No Name Key)
III	40% or 3,000 s.f., 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.

* Palm or cactus hammock is limited to only 10%.

Policy 101.4.24
Reserved

Policy 101.4.25 23

Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.26-24

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

Section 2. **Severability.** If any section, subsection, sentence, clause, item, change, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

Section 3. **Repeal of Inconsistent Provisions.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. **Transmittal.** This ordinance shall be transmitted by the Director of Planning to the State Land Planning Agency pursuant to Chapter 163 and 380, Florida Statutes.

Section 5. **Filing and Effective Date.** This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding the amendment in compliance with Chapter 163, Florida Statutes and after any applicable appeal periods have expired.

Section 6. **Inclusion in the Comprehensive Plan.** The numbering of the foregoing amendment may be renumbered to conform to the numbering in the Monroe County Year 2010 Comprehensive Plan and shall be incorporated in the Monroe County Year 2010 Comprehensive Plan.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the _____ day of _____, 2012.

Mayor David Rice _____
Mayor *pro tem* Kim Wigington _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner Heather Carruthers _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor David Rice

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

DEPUTY CLERK



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Planning Commission

Through: Townsley Schwab, Senior Director of Planning & Environmental Resources
Joseph Haberman, AICP, Planning & Development Review Manager

From: Reynaldo Ortiz, Assoc. AIA, AICP, Planning & Biological Plans Supervisor

Date: September 14, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE CHAPTER 102, ADMINISTRATION, ARTICLE III, NONCONFORMITIES, TO ADDRESS NONCONFORMITY OF WATER-DEPENDENT AND WATER-RELATED COMMERCIAL USES AND STRUCTURES AS A PRIMARY SOURCE OF ECONOMIC SUSTAINABILITY AS ADDRESSED IN THE KEY LARGO AND TAVERNIER COMMUNIKEYS PLANS, TO UPDATE THE PROVISION RELATED TO THE REGISTRATION OF NONCONFORMING USES AND STRUCTURES, 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: September 26, 2012

1
2 **I REQUEST**
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of Chapter 102, Administration, Article III, Nonconformities, of the Monroe County Code
6 (MCC) in order to address nonconformity of water-dependent and water-related commercial
7 uses and structures as a primary source of economic sustainability as addressed in the Key
8 Largo and Tavernier CommuniKeys Plans and to update the existing provision related to the
9 registration of nonconforming uses and structures.

10
11 **II RELEVANT PRIOR COUNTY ACTIONS:**
12

13 In 2005, the BOCC passed and adopted Ordinance #002-2005, thus adopting the Livable
14 CommuniKeys Master Plan for the Tavernier Creek to Mile Marker 97.

15
16 In 2007, the BOCC passed and adopted Ordinance #012-2007, thus adopting the Livable
17 CommuniKeys Master Plan for Key Largo.
18

A large, stylized handwritten signature in blue ink, appearing to be a cursive representation of a name.

1 During a regularly scheduled meeting held on August 28, 2012, the Development Review
2 Committee reviewed the subject request and recommended approval to the BOCC.
3

4 III REVIEW

5 Registration of Nonconformities:

6
7
8 The existing registration process outlined in MCC §102-55 was never carried out. However,
9 Planning & Environmental Resources Department staff has determined that there would be
10 value in maintaining a registry of lawful nonconforming uses and structures. Therefore, the
11 department is proposing to simply the section of code to establish a running registry as such
12 uses and structures are identified.
13

14 Nonconforming Water-Dependent and Water-Related Commercial Uses:

15
16 The Livable CommuniKeys Master Plan program provides Monroe County citizens with the
17 opportunity to create a vision document that reflects the unique needs and qualities of their
18 community. There are presently four Livable CommuniKeys Master Plans that have been
19 incorporated into the Monroe County Comprehensive Plan by reference: Big Pine Key and
20 No Name Key; Tavernier; Stock Island/Key Haven; and Key Largo. The following action
21 items relate to nonconformities:
22

23 Action Item 8.1.1 of the Livable CommuniKeys Master Plan for the Tavernier Creek to Mile
24 Marker 97 currently reads:

25
26 Inventory the existing commercial uses on the shoreline and document, which uses are
27 currently within the shoreline setback.
28

29 Action Item 8.1.2 of the Livable CommuniKeys Master Plan for the Tavernier Creek to Mile
30 Marker 97 currently reads:

31
32 Amend the Land Development Regulations to permit existing commercial uses to remain
33 within the shoreline setbacks as long as storm water is managed and shoreline vegetation
34 maintained.
35

36 Action Item 7.1.1 of the Key Largo Livable CommuniKeys Master Plan currently reads:

37
38 Preserve and protect the tourist-based and working waterfront businesses such as public
39 marinas, waterfront restaurants, charter operations, multi-use resorts, commercial fishing
40 and boatyards through amendment of the Land Development Regulations including
41 regulations regarding nonconforming uses and structures.
42

43 The existing regulations are insufficient to address modifications to a lawfully established
44 water-dependent or water-related commercial nonconforming use or structure located in the
45 Tavernier or Key Largo planning areas as described their respective CommuniKeys Plans.

1 Therefore, staff recommends the following changes (deletions are ~~stricken through~~ and
2 additions are underlined):
3

4 **Sec. 102-54. Purpose.**
5

6 The purpose of this article is to regulate and limit the continued existence of uses and structures
7 established prior to the date of the enactment of the ordinance from which ~~this chapter is~~
8 ~~derived~~ this Land Development Code is derived (September 15, 1986) and/or prior to the date
9 of the enactment of a subsequent ordinance amending a given land development regulation
10 within this Land Development Code that do not or no longer conform to the provisions of this
11 ~~chapter~~ this Land Development Code. Many nonconformities may continue, but the provisions
12 of this article are designed to curtail substantial investment in nonconformities and to bring
13 about their eventual elimination in order to preserve the integrity of this ~~chapter~~ this Land
14 Development Code.
15

16 **Sec. 102-55. Registration**
17

18 ~~All claims of nonconforming uses and structures shall be registered with the planning director~~
19 ~~in a form provided by the planning director within one year of the service of individual notice~~
20 ~~by mail to all landowners of record of the adoption of the plan and the requirement to register~~
21 ~~nonconforming uses and structures. Individual notice by mail shall be deemed served upon the~~
22 ~~deposit of duly stamped notice in the U.S. mails addressed to the owner of record according to~~
23 ~~the most recent listing of the property appraiser of the county. Failure to register a claim of~~
24 ~~nonconforming use or structure within one year after adequate legal notification by the~~
25 ~~planning director shall constitute a waiver of the right to claim nonconforming use status.~~
26 ~~Evaluation of nonconformity claims shall be on a case-by-case basis by the planning director~~
27 ~~based on the lawful nature of the use or structure when established, subject to appeal as~~
28 ~~provided in article VI of this chapter. The board of county commissioners, at its discretion,~~
29 ~~may direct the planning director to issue notification by category.~~
30

31 All known, lawful nonconforming uses and structures shall be registered with the planning &
32 environmental resources department. In the course of its duties related to development review,
33 staff of the planning department shall identify and recognize nonconforming uses and
34 structures. Once discovered and determined to be lawful, the planning director, or his or her
35 designee, shall add recognized lawful nonconforming uses and structures to an official registry.
36

37 **Sec. 102-56. Nonconforming uses.**
38

39 (a) *Authority to continue.* Nonconforming uses of land or structures may continue in
40 accordance with the provisions of this section. Notwithstanding any provision of this
41 section or of this ~~part II of the County Code~~ Land Development Code or the
42 Comprehensive Plan:

- 43 (1) Leases, subleases, assignments or other occupancy agreements for compensation for
44 less than 28 days in duration shall be discontinued and shall not be renewed, extended
45 or entered into, in any district that prohibits vacation rental uses after the effective date
46 of the ordinance from which this section is derived unless a vacation rental use was

1 established and obtained all required state and local permits and licenses prior to
2 September 15, 1986, under previous Code provisions expressly allowing vacation
3 rental uses; and

4 (2) Leases, subleases, assignments or other occupancy agreements for compensation of RV
5 spaces for six months or more within a particular RV park, other than in a designated
6 storage area shall be discontinued and shall not be renewed, extended or entered into,
7 after the effective date of the ordinance from which this section is derived.
8

9 (b) *Ordinary repair and maintenance.* Normal maintenance and repair to permit continuation
10 of ~~registered~~ nonconforming uses registered in accordance with section 102-55 may be
11 performed.
12

13 (c) *Extensions.* Nonconforming uses shall not be extended. This prohibition shall be construed
14 so as to prevent:

15 (1) Enlargement of nonconforming uses by additions to the structure in which such
16 nonconforming uses are located; or

17 (2) Occupancy of additional lands.
18

19 (d) *Relocation.* A structure in which a nonconforming use is located shall not be moved unless
20 the use thereafter shall conform to the limitations of the land use district into which it is
21 moved.
22

23 (e) *Change in use.* A nonconforming use shall not be changed to any other use unless the new
24 use conforms to the provisions of the land use district in which it is located.
25

26 (f) *Termination.*

27 (1) *Abandonment or discontinuance.* Where a nonconforming use of land or structure is
28 discontinued or abandoned for six consecutive months or one year in the case of stored
29 lobster traps, then such use may not be reestablished or resumed, and any subsequent
30 use must conform to the provisions of this ~~chapter~~ Land Development Code and the
31 Comprehensive Plan. Leases, subleases, assignment or other occupancy agreement for
32 compensation for less than 28 days in duration shall be discontinued and shall not be
33 renewed, extended or entered into, in any district that prohibits vacation rental use after
34 the effective date of the ordinance from which this section is derived. Leases, subleases,
35 assignments or other occupancy agreements for compensation of RV spaces for six
36 months or more within a particular RV park, other than in a designated storage area,
37 shall be discontinued and shall not be renewed, extended or entered into, after the
38 effective date of the ordinance from which this section is derived.

39 (2) *Damage or destruction.* Except as provided in section 110-65, if a structure in which a
40 nonconforming use is located is damaged or destroyed so as to require substantial
41 improvement, then the structure may be repaired or restored only for uses that conform
42 to the provisions of the land use district in which it is located. Fair market value shall be
43 determined by reference to the official tax assessment rolls for that year or by an
44 appraisal by a qualified independent appraiser. The extent of damage or destruction
45 shall be determined by the building official, in consultation with the ~~director~~-of

1 planning director, by comparing the estimated cost of repairs or restoration with the fair
2 market value.

3 (3) Damage and destruction in commercial fishing districts (CFA, CFV and CFSD). In the
4 CFA, CFV and CFSD land use districts, nonconforming ~~Noneconforming~~ uses lawfully
5 existing as of September 15, 1986, may be rebuilt even if 100 percent destroyed,
6 provided that they are rebuilt to preexisting use, building footprint and configuration
7 without increase in density or intensity of use and registered in accordance with section
8 102-55.

9 (4) Damage and destruction of water-dependent and water-related commercial
10 nonconforming uses. Lawfully established water-dependent and water-related
11 commercial uses which are identified as a source of economic sustainability within a
12 Livable CommuniKeys Plan may be permitted to be rebuilt even if 100 percent
13 destroyed provided that they are rebuilt to preexisting use and registered in accordance
14 with section 102-55. Development shall be brought into compliance to the maximum
15 extent practical, as determined by the planner director.

16
17 **Sec. 102-57. Nonconforming structures.**

18
19 (a) *Authority to continue.* A nonconforming structure devoted to a use permitted in the land use
20 district in which it is located may be continued in accordance with the provisions of this
21 section.

22
23 (b) *Ordinary repair and maintenance.* Normal maintenance and repair of ~~registered~~
24 nonconforming structures registered in accordance with section 102-55 may be performed.

25
26 (c) *Enlargements and extensions.* Nonconforming structures that are used in a manner
27 conforming to the provisions of this ~~chapter~~ Land Development Code may be enlarged or
28 extended, provided that the nonconformity is not further violated.

29
30 (d) *Relocation.* A nonconforming structure, other than an historic structure ~~previously~~
31 the National Register of Historic Places, ~~or~~ the Florida Inventory of Historic Places, and/or
32 designated as historic by the board of county commissioners, shall not be moved unless it
33 thereafter shall conform to the regulations of the land use district in which it is located.

34
35 (e) *Termination.*

36 (1) *Abandonment.* Where a nonconforming structure is abandoned for 12 consecutive
37 months, then such structure shall be removed or converted to a conforming structure.

38 (2) *Damage or destruction.*

39 a. Any part of a nonconforming structure that is damaged or destroyed to the extent
40 of less than 50 percent of the fair market value of such structure may be restored as
41 of right if a building permit for reconstruction shall be issued within six months of
42 the date of the damage.

43 b. Except as provided in section 134-56, chapter 122, in regard to mobile homes, and
44 section 130-162, any nonconforming structure that is damaged or destroyed so as to
45 require substantial improvement may be repaired or restored only if the structure
46 conforms to the provisions of the land use district in which it is located. Fair market

1 value shall be determined by reference to the official tax assessment rolls for that
2 year or by an appraisal by a qualified independent appraiser. The extent of damage
3 or destruction shall be determined by the building official, in consultation with the
4 ~~director~~ of planning director, by comparing the estimated cost of repairs or
5 restoration with the fair market value.
6

7 (f) Water-dependent and water-related commercial nonconforming structures. Lawfully
8 established water-dependent and water-related nonresidential structures which are
9 identified as a source of economic sustainability within a Livable CommuniKeys Plan may
10 be permitted to be rebuilt even if 100 percent destroyed provided that they are rebuilt to
11 preexisting use and registered in accordance with section 102-55. Development shall be
12 brought into compliance to the maximum extent practical, as determined by the planner
13 director.
14

15 **Sec. 102-58. Nonconforming accessory uses and accessory structures.**

16
17 No nonconforming accessory use or accessory structure shall continue after the principal
18 structure or use shall have terminated unless such structure or use thereafter shall conform to
19 the provisions of the land use district in which it is located.
20

21 **Sec. 102-59. Nonconforming signs, parking, landscaping, lighting, access, and**
22 **bufferyards.**

23
24 In no event later than three years from the effective date of the ordinance from which this
25 ~~chapter~~ Land Development Code is derived (September 15, 1989), nonconforming signs and
26 all uses that are nonconforming due to failure to comply with the standards of chapter 114,
27 articles III—VI and chapter 142, shall bring their properties into compliance with these
28 provisions whenever substantial improvements or change of use are proposed or, if such is
29 physically impossible due to site size, the physical layout of structure on and adjoining the site,
30 into compliance to the maximum extent practical.
31

32 **Sec. 102-60. Nonconforming live-aboard vessels.**

33
34 Notwithstanding any other provision of this ~~chapter~~ Land Development Code, live-aboard
35 vessels in use on the effective date of the ordinance from which this ~~chapter~~ Land
36 Development Code is derived (September 15, 1986) shall comply with each and every
37 requirement of this ~~chapter~~ Land Development Code on or before one year after the effective
38 date of the ordinance from which this ~~chapter~~ Land Development Code is derived (September
39 15, 1987).
40

41 * * * * *

42
43 **IV RECOMMENDATION**

44
45 Staff has found that the proposed text amendment would be consistent with the provisions of
46 MCC §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from

1 those on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
2 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
3 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
4 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
5 the proposed text amendments are necessary due to recognition of a need for additional detail
6 or comprehensiveness.

7
8 Staff recommends that the Board of County Commissioners amend the Monroe County Code
9 as stated in the text of this staff report.