

DEVELOPMENT REVIEW COMMITTEE

Tuesday, August 28, 2012

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, August 28, 2012**, beginning at 1:04 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Gail Creech

DRC MEMBERS

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

STAFF

Mayte Santamaria, Assistant Planning Director	Present
Rey Ortiz, Planner	Present
Tim Finn, Planner	Present
Emily Schemper, Planner	Present
Gail Creech, Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

Mr. Schwab approved the minutes from the July 24, 2012 meeting.

A discussion was held off the record on a matter not on the agenda from 1:06 p.m. to 2:06 p.m.

MEETING

New Items:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 114-67(C), REQUIRED OFF-STREET PARKING, TO REVISE THE MINIMUM REQUIRED NUMBER OF PARKING SPACES FOR SINGLE-FAMILY DWELLING UNITS, MOBILE HOMES AND RV PARKS; 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 2012-109)

(2:06 p.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that the main purpose of this ordinance is to change the parking requirements of single-family dwelling units to be the same as multifamily dwelling units. The Board of County Commissioners (BOCC) has previously increased the parking requirements for multifamily based on bedrooms rather than units. Due to that advertising, the requirements for single-family units could not be changed at that time. The mobile home requirement will stay at two because those lots tend to be smaller.

Mr. Haberman further reported that the Director of Growth Management has directed staff to review the parking requirements for restaurants based on seats as opposed to square footage. The planning code does not refer to seating, but building permits do require seating information for Health Department approval and Fire Marshal approval. Now if a restaurant wants to increase the number of seats in the same dining area, they will be required to get a building permit by the Building Department. Nonconformities will be created and nonconformities will possibly be eliminated. There will still be parking requirements for kitchen areas, three per thousand square feet, which is the standard for retail, but the dining area is going to be based on seats. Mr. Haberman is going to look at other tourist communities' restaurant parking requirements and compare calculating the parking by seat to requiring three spaces per thousand square feet, whichever is more restrictive. A restaurant can be turned into retail at any time and Mr. Haberman wants to ensure that, if the restaurant is eliminated, there is adequate parking for the retail that may take its place.

Mr. Haberman encouraged staff to bring up any issues they may have with parking requirements during this ordinance revision. Any new standards proposed will have to be justified. Mr. Ortiz suggested amending the requirement for scooters at this point. Mr. Haberman explained to Ms. Schemper that the new single-family parking requirement will be exactly the same as multifamily, which is two spaces minimum, and then one more space for anything over two bedrooms. Ms. Santamaria discussed the hotel parking requirement and then suggested making the language clearer in the ordinance.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 101-6, OWNERSHIP DISCLOSURES, TO CREATE A REGULATION PROVIDING THE MINIMUM REQUIREMENTS FOR DISCLOSING OWNERSHIP OF PROPERTY AS IT RELATES TO APPLICATIONS UNDER THE LAND DEVELOPMENT CODE, 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 2012-112)

(2:20 p.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that the Growth Management Director suggested use of this proposed language used in another community in South Florida. Mr. Haberman has tailored the language to include Monroe County's terminology. This ordinance is to require proof of ownership of property for development approvals. Corporations will have to disclose all of the parties that are involved in that

corporation. The code will now be crystal clear that this will have to be done in the form of a disclosure.

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)

(2:22 p.m.) Mr. Ortiz presented the staff report. Mr. Ortiz reported that the Tavernier and Key Largo CommuniKeys Plans make reference to water-related commercial nonconforming uses and allows them to continue, but this does not match with Monroe County's land development code. The text amendments being proposed have two components: To allow them to continue with their nonconformity and create a mechanism to allow them to expand on those nonconformities, and, in addition to start a registry regarding these properties. This will make it easier for businesses to expand if they wish.

Mr. Haberman explained to Mr. Roberts that Section 102 of the code was not meant to be an ongoing list, but was meant to be a documentation of properties that were made nonconforming by the 1986 adoption of the current LDRs. This will allow staff to keep a running list as these nonconformities are discovered, but it is not going to require staff or the owners to report everything in existence. Mr. Roberts voiced concern about the language in the nonconforming structures section of the code regarding certain allowances to existing nonconforming structures if registered. Mr. Haberman suggested that Mr. Ortiz revise that section to read "recognized as lawful," and then any documentation from the County can recognize it. Mr. Ortiz clarified that the entirety of Article 3 was advertised and, therefore, that change can be made if needed.

The logistics of how this registry will be managed was discussed. Mr. Schwab stressed the importance of creating a good system of managing the registry. Mr. Haberman added that what is in the registry now has to be removed because it was not a requirement 25 years ago to maintain it, but only to create it. Ms. Santamaria suggested including either in the request or the recommendation, or both, the action items being implemented.

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING 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 TO ESTABLISH THE DENSITY AND INTENSITY STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE AND FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE INCLUSION IN THE MONROE COUNTY 2010 COMPREHENSIVE PLAN.

(File 2012-120)

(2:37 p.m.) Ms. Schemper presented the staff report. Ms. Schemper reported that this is a County-initiated change. The two commercial future land use categories in existence currently both allow residential in addition to commercial and various uses. Based on a number of issues, staff has decided that a commercial future land use category is needed that does not allow any residential within it, whether as of right or as conditional uses. One of the issues that this is based on is hurricane evacuation. Making a future land use category that only allows commercial will help provide alternative and additional uses. First, the category has to be created. The next step is to then make the corresponding zoning categories. Once those categories are made, then the map amendments can be accomplished.

Ms. Schemper further reported that when the 2010 comp plan future land use maps and the official zoning maps were adopted, it created a lot of nonconformities where there were existing commercial uses that suddenly were on residential zoned or FLUM'd lots. So this ordinance provides an alternative for them to just be zoned commercial, keep their commercial use, and even though not conforming anymore, it is not increasing the residential density. The discouragement amendment was recently passed, which is a resolution to discourage private applications for future land use changes which increase allowable density, for which this ordinance gives an alternative also.

Ms. Santamaria asked staff to review the proposed amendment and notify Ms. Schemper of any revisions that need to be made. Ms. Schemper clarified that this is just the FLUM change, and when the zoning creation begins the SC district will be followed with certain uses removed. Mr. Haberman questioned creating a commercial district with a higher FAR than urban commercial. Ms. Santamaria explained that the proposal right now is to have two zoning categories: One with a lower intensity zoning category and one with a higher intensity zoning category, almost identical to UC. The reasoning is since the residential component is removed, maybe a slight boost in FAR will make this seem to be a more viable option. Ms. Santamaria again asked for staff's input into any revisions necessary.

Ms. Schemper added that there is also a special provision in the amendment of allowing only low intensity commercial in Tier I land with a maximum floor area of .41. Mr. Haberman suggested changing the density table in the code to clarify the language. Ms. Santamaria stated that work is being done on the density and intensity table to incorporate all the zoning categories and existing standards into one table to reveal and correct any inconsistencies.

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE; SECTION 138-48, GENERAL

PROVISIONS; SECTION 138-49, TYPE OF DEVELOPMENT AFFECTED; SPECIAL REQUIREMENTS; SECTION 138-50, TYPE OF DEVELOPMENT NOT AFFECTED; SECTION 138-51, NROGO ALLOCATIONS; SECTION 138-52, APPLICATION PROCEDURES FOR NROGO, SECTION 138-53, EVALUATION PROCEDURES FOR NONRESIDENTIAL FLOOR AREA ALLOCATION; TO ESTABLISH NEW DEFINITIONS; TO REVISE THE TYPES OF DEVELOPMENT AFFECTED AND NOT AFFECTED; TO REVISE THE REGULATIONS TO INCREASE THE NUMBER OF NROGO ALLOCATION PERIODS IN A GIVEN YEAR FROM TWO ALLOCATION PERIODS TO FOUR ALLOCATION PERIODS; TO INCREASE THE MAXIMUM AMOUNT OF AN ALLOCATION; TO ESTABLISH A CODIFIED MECHANISM TO ALLOCATE NONRESIDENTIAL FLOOR AREA THAT WENT UNALLOCATED IN PREVIOUS YEARS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-013)

(2:51 p.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that this is an expanded version of the amendment taken to the DRC in the previous couple of months. What was proposed before and is continuing to be proposed is that NROGO be allocated on a quarterly basis rather than semiannually. After review at the prior meeting, staff decided to go for a broader fix of NROGO at the direction of everybody in attendance at that meeting. The whole article for NROGO was not advertised because this does not affect points and Mr. Haberman did not want it to have the implication that it is affecting points. Mr. Ortiz is also currently making edits to the point system. Other sections left out of the advertisement were listed. Mr. Haberman stated that now is the time to fix any issues with NROGO that are found.

Mr. Haberman further reported that the biggest change being made is allocating 2,500 NROGO square feet four times a year and getting rid of the inconsistent policy that implies only 2,500 square feet are allocated, per year. There is a cap on 10,000-square-foot buildings except in urban commercial districts. That will probably have a 50,000 square foot cap. If the higher intensity commercial is the same as urban commercial without residential, 50,000 will probably still be allowed in that category.

The other big change reported is establishing a bank of allocations to allow applicants to go back and claim. That will probably be on a first come/first served basis because it is already supposed to be allocated. Ms. Santamaria added that the plan and code says unused NROGO can be used, but it has never formally been tracked over the years. There are currently 350,000 unused square feet in NROGO. The plan says the County shall maintain the ratio of 1 to 239. 90 percent of NROGO allocations have been banked since 2002. Ms. Santamaria commented that the policy and code and the audit has been sent to the Department of Economic Opportunity (DEO) for them to review in advance. DEO has not commented yet.

Mr. Haberman explained that NROGO is countywide with the exception of Big Pine, which has a balance as well. Certain criteria will have to be met, such as the property has to be Tier III or Tier IIIA (SPA), and a development approval needs to be in hand before an applicant is allowed

to ask for banked allocations. Since the comp plan is specific about types of development that can be exempt from NROGO, but is not clear on what nonresidential floor area is, some of the things that staff does not feel are nonresidential floor area will thereby be exempted. One thing staff will be adamant about removing are things that do not have a nonresidential activity underneath them that are not enclosed. Definitions are being added and some frivolous language is being removed. Recreational uses were discussed. Mr. Haberman clarified that all areas that meet the definition of floor area in Section 121 are subject to NROGO. Mr. Haberman asked to receive comments on the draft before the Planning Commission staff report is drafted.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 3:11 p.m.