

AGENDA

PLANNING COMMISSION
MONROE COUNTY
July 29, 2015
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
William Wiatt
Elizabeth Lustberg
Ron Miller
Beth Ramsay-Vickrey

STAFF:

Mayte Santamaria, Sr. Director of Planning and Environmental Resources
Steve Williams, Assistant County Attorney
John Wolfe, Planning Commission Counsel
Mike Roberts, Sr. Administrator, Environmental Resources
Rey Ortiz, Planning & Biological Plans Examiner Supervisor
Tiffany Stankiewicz, Development Administrator
Emily Schemper, Comprehensive Planning Manager
Kevin Bond, Planning & Development Review Manager
Matt Coyle, Principal Planner
Devin Rains, Sr. Planner
Tom Broadrick, Sr. Planner
Barbara Bauman, Planner
Mitzi Crystal, Transportation Planner
Ed Koconis, Permit Manager
Gail Creech, Sr. Planning Commission Coordinator

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

- SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

- SWEARING OF COUNTY STAFF

CHANGES TO THE AGENDA

- APPROVAL OF MINUTES

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MEETING

New Items:

1. A PUBLIC HEARING TO CONSIDER AND FINALIZE THE RANKING OF APPLICATIONS IN THE DWELLING UNIT ALLOCATION SYSTEM FOR THE BIG PINE KEY/NO NAME KEY SUBAREA. ALLOCATION AWARDS TO BE ALLOCATED, IF AVAILABLE, TO APPLICANTS PREVIOUSLY DEFERRED WITHIN THE BIG PINE KEY/NO NAME KEY SUBAREA.

(File 2014-153)

[2014-153 SR PC 07.29.15.PDF](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 110-9, SUSPENSION OF DEVELOPMENT REVIEW PROCEEDINGS, ADDING PROVISIONS FOR DEVELOPMENT REVIEW CONTINGENT ON CODE VIOLATION COMPLIANCE; 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 INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

(File 2015-111)

[2015-111 SR PC 07.29.15.PDF](#)

[2015-111 Draft Ordinance.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

- RESOLUTIONS FOR SIGNATURE

ADJOURNMENT



Item #1 Reallocation of Expired ROGO's Staff Report

MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Planning Commission

Through: Mayté Santamaria, Sr. Director of Planning and Environmental Resources

From: Tiffany Stankiewicz, Development Administrator

Date: July 17, 2015

Subject: Allocation Awards to be allocated, if available, to applicants previously deferred within the Big Pine Key/No Name Key Subarea

Meeting Date: July 29, 2015

1 This report has been prepared to identify allocation awards which are valid through July 22,
2 2015, and to award allocations, if available, to applicants previously deferred within the Big Pine
3 Key/ No Name Key Subarea. This recommendation is subject to the expiration of Tier 1
4 allocations and the "H" limits within this Subarea.

5
6 **I) BACKGROUND INFORMATION:**

7
8 **Big Pine/No Name Key Sub-area:**

- 9
- 10 1) On June 23, 1992, the Monroe County Board of Commissioners adopted
11 Ordinance 016-1992, implementing the Residential Dwelling Unit Allocation
12 System. The ordinance became effective on July 13, 1992 and has been amended
13 from time to time.
 - 14 2) In 1998, the Florida Department of Transportation, Monroe County, the Florida
15 Department of Community Affairs, the U.S. Fish and Wildlife Service and the
16 Florida Fish and Wildlife Conservation Commission signed a Memorandum of
17 Agreement to develop a Habitat Conservation Plan (HCP) for the Key Deer and
18 other protected species in the project area.
 - 19 3) The Livable Communikeys Program (LCP), Master Plan for Future Development
20 of Big Pine Key and No Name Key was adopted on August 18, 2004 under
21 Ordinance 029-2004. The LCP envisioned the issuance of 200 residential
22 dwelling units over 20 years at a rate of roughly 10 per year. A minimum of
23 twenty percent of the 10 units per year are to be set aside for affordable housing
24
25

development. Below is a table tracking LCP allocations remaining at the conclusion of Quarter 3 Year 23 (April 13, 2015).

Liveable Communikeys Master Plan (LCP) 2003-2023					
	Beginning Balance	Allocated thru Quarter 2 Year 23	Balance of Allocations remaining to LCP*	Deferred Allocation	Balance including Deferred Allocation(s)
Market Rate Allocations	160	99	62	7	55
Affordable Housing Allocations	40	10	30	0	30
Totals	200	109	92	7	85

* Means the total adjusted to account for expired allocations and re-use of allocations.

Note this chart covers allocations made thru Quarter 3 Year 23.

- 4) On September 22, 2005, the Monroe County Board of Commissioners adopted Ordinance 025-2005 which revised the ROGO to utilize the Tier overlay as the basis for the competitive point system. The ordinance became effective on February 5, 2006.
- 5) On June 9, 2006, the U.S. Fish and Wildlife Permit was issued to 1) Monroe County, Growth Management Division, 2) Florida Department of Transportation, and 3) Florida Department of Community Affairs for Threatened and Endangered Species Incidental Take Permit (ITP) as defined within the geographic area covered by the HCP.
- 6) Livable CommuniKeys Master Plan *Action Item 3.2.6*: Limit allocation awards in Tier I to no more than five percent of all residential units permitted over the twenty-year planning period (*i.e.*, a maximum of 10 units) or a total of $H = 0.022$ (two percent of the total H), whichever results in the lower H. Development in Tier 1 is tracked from December 27, 2004, the effective date of the Livable CommuniKeys Plan, which established the Tier System for Big Pine, and No Name Key. (Ordinance 020-2009)
- 7) The ITP (Federal ITP #TE083411-0) requires the Permittees [1. Monroe County, Growth Management Division, 2. Florida Department of Transportation, and 3. Florida Department of Community Affairs] to ensure that the take of the covered species is minimized and mitigated. The Permittees are responsible for meeting the terms and conditions of the ITP and implementing the HCP.
- 8) The ITP specifies in G5, "New residential development in Tier 1 (Tiers defined in HCP, Table 2.7) areas will be limited to no more than five percent of all residential units permitted over the 20-year life of the HCP (*i.e.*, a maximum of 10 units) or a total H of 0.022), whichever results in a lower H."

1 9) The Incidental Take Permit (ITP) provides specific development limitations on
 2 Big Pine Key/No Name Key, including, but not limited to:

- 3 • The total impact of commercial, institutional (including public projects
 4 such as wastewater and roads), and residential development over the 20-
 5 year life of the HCP shall not exceed H=1.1.
- 6 • For each H value unit of development, 3 H units of conservation lands
 7 shall be acquired, restored, and protected in perpetuity. Over the term of
 8 this permit, lands with a cumulative H value of 3.3 shall be acquired.
- 9 • New residential development will be limited to a maximum of 200
 10 dwelling units over the 20 year life of the HCP.
- 11 • New residential development in Tier 1 areas will be limited to no more
 12 than 5% of all residential units permitted over the 20 year life of the HCP
 13 (no more than 10 units) or H=0.022 whichever results in a lower H.
- 14 • No new development other than single-family residential and accessory
 15 uses will be permitted in Tier I areas.

16
 17 As of December 31, 2014 (11 years into the 20-year permit), the County has
 18 issued 103 allocations of the 200 building permits allowed to be issued
 19 comprising 35.3% (0.3887 H) of the total 1.1 'H' allowed, while having acquired
 20 86.8% (2.8662 'H') of the total 3.3 'H' mitigation required by the HCP and ITP.

21
 22 As noted above, the ITP allows development of 10 dwelling units or 0.022 H
 23 impact, whichever results in a lower H in Tier I areas on Big Pine/No Name Keys.
 24 ROGO allocations for 9 dwelling units totaling 0.0201 H have been issued to date,
 25 with 4 of these allocations resulting in building permits totaling 0.0074 'H'.
 26

27 **10) Tier 1 applications previously deferred on Big Pine Key/No Name Key Sub-**
 28 **area:**
 29

Key (Island)	Permit Number	Deferred Allocation type	Quarter, Year Deferred	Real Estate Number	H-value
No Name	96101462	Market Rate	Q4Y21 (2013)	00319494.000300	0.0026
No Name	96101461	Market Rate	Q2Y22 (2014)	00319494.000200	0.0022
No Name	96101460	Market Rate	Q2Y22 (2014)	00319494.000100	0.0043
No Name	96101465	Market Rate	Q3Y22 (2014)	00319494.000600	0.0026
No Name	96101467	Market Rate	Q3Y22 (2014)	00319494.000700	0.0034
No Name	96101468	Market Rate	Q4Y22 (2014)	00319494.000800	0.0025
No Name	96101471	Market Rate	Q1Y23 (2014)	00319494.001100	0.0027

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 31
 32
 33 **II) ALLOCATION FACTORS:**
 34

35 A. The ITP limits Big Pine/No Name Key to ten (10) allocations over a twenty year period or
 36 H =0.022 whichever is lower. Below is a table tracking the Tier 1 allocations by
 37 Quarter/Year.
 38

Tier 1 Award limits	Key (Island)	Permit Number	Allocation type	Quarter, Year	Real Estate Number	H-value	Permit Issue Date	Certificate of Occupancy (C/O) Date	Current Status	Tier 1 Allocations Update
Limited to a maximum 10 or H= .022 whichever is lower over the life of the ITP.	Big Pine	95101613	Market Rate	Q3Y4 (1996)	00285550.000000	0.0028	6/1/2005	9/4/2012	C/O	Big Pine/No Name Keys Subarea: Used 9 (since 1996) out of a maximum potential of 10 or less depending on H allowance whichever comes first. Based on permits issued to properties in Tier 1 and pending permits with allocation awards the H total is .0201 (since Dec. 27, 2004).
	Big Pine	96101622	Market Rate	Q2Y6 (1998)	00289510.000000	0.0022	5/1/2006	3/6/2008	C/O	
	Big Pine	03102303	Adm. Relief	Q2Y16 (2008)	00289710.000000	0.0013	4/29/2008	8/4/2010	C/O	
	Big Pine	97101361	Market Rate	Q1Y17 (2008)	00296820.000000	0.0011	12/16/2009	3/29/2012	C/O	
	No Name	96101472 (Not used)	Market Rate	Q2Y19 (2011)	00319494.001300				Expired	
	No Name	96101470	Market Rate	Q2Y20 (2012)	00319494.001000	0.0029			Allocation valid to 7/22/2015	
	No Name	96101469	Market Rate	Q2Y20 (2012)	00319494.000900	0.0032			Allocation valid to 7/22/2015	
	No Name	96101464	Market Rate	Q3Y20 (2012)	00319494.000500	0.0024			Allocation valid to 7/22/2015	
	No Name	96101463	Market Rate	Q4Y20 (2012)	00319494.000400	0.0019			Allocation valid to 7/22/2015	
	No Name	96101473	Market Rate	Q4Y20 (2012)	00319494.001400	0.0023			Allocation valid to 7/22/2015	
						0.0201				

Based on the Code, Comprehensive Plan, Livable CommuniKeys Plan, Habitat Conservation Plan, and Incidental Take Permit within the Big Pine/No Name Key Subarea, new residential development in Tier 1 is limited to no more than five percent of all residential units permitted over the twenty year planning period (i.e., a maximum of 10 units) or H=0.022, whichever results in a lower H over the life of the ITP (2003-2023). A review of the H-impacts used (0.0201) to date, shows 0.0019 remains available for Tier 1 (H limit is 0.022 - 0.0201 used = 0.0019).

If allocation awards expire for building permit applications 96101470, 96101469, 9610146, 96101463, and 96101473 (identified in the table above) expire, then 0.0127 additional H will become available for Tier 1 awards, resulting a new H balance of 0.0127 + 0.0019= 0.146.

- B. G5 in the ITP specifies, “New residential development in Tier 1 (Tiers defined in HCP, Table 2.7) areas is limited to no more than five percent of all residential units permitted over the 20-year life of the HCP (i.e., a maximum of 10 units) or a total H- 0.022), whichever results in a lower H.”
- C. LCP, Action Item 3.2.6: Limits allocation awards in Tier I to no more than five percent of all residential units permitted over the twenty year planning period (i.e., a maximum of 10 units) or a total H-0.022 (two percent of the total H), whichever results in a lower H.
- D. Monroe County Code Section 138-24(a)(5) Big Pine Key and No Name Key.
All allocation awards on Big Pine Key and No Name Key are subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect ROGO allocations under this article.
- E. Monroe County Code Section 138-25(f) Expiration of allocation award: Except as provided for in this division, an allocation award shall expire when its corresponding building permit is not picked up after sixty (60) days of notification by certified mail of the award or, after issuance of the building permit.

The following allocation awards for building permit applications 96101470, 96101469, 9610146, 96101463, and 96101473 are valid through July 22, 2015. To date the permits have not been issued.

III) CONCLUSION:

Market Rate Allocations:

Building permit applications 96101470, 96101469, 9610146, 96101463, and 96101473 are set to expire on July 22, 2015. These applications have a total H value of .0127.

If all these issued Tier 1 allocation awards expire on July 22, 2015, then a recommendation for Market Rate allocation awards will be made subject to the H availability and availability of H mitigation at the time of permitting.

Big Pine Key/No Name Key previously deferred Tier 1 Market Rate Allocation Awards within the LCP, HCP and ITP allowances										
Quarter Year	Planning Commission Resolution	Permit #	Name	Key	Subdivision	Lot	Block	RE#	Tier Designation	Parcel H value
Quarter 4 Year 21	P26-13	96101462	Schleu, Vivienne	No Name	Rev. Plat Galleon Bay	3	N/A	00319494.000300	1	0.0026
Quarter 2 Year 22	P01-14	96101461	Schleu, Vivienne	No Name	Rev. Plat Galleon Bay	2	N/A	00319494.000200	1	0.0022
Quarter 2 Year 22	P01-14	96101460	Schleu, Vivienne	No Name	Rev. Plat Galleon Bay	1	N/A	00319494.000100	1	0.0043
Quarter 3 Year 22	P15-14	96101465	Schleu, Vivienne	No Name	Rev. Plat Galleon Bay	6	N/A	00319494.000600	1	0.0026
Total H =										0.0117

16



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

To: Monroe County Planning Commission

Through: Mayté Santamaria, Senior Director of Planning & Environmental Resources

From: Emily Schemper, Comprehensive Planning Manager 

Date: July 8, 2015

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 110-9, SUSPENSION OF DEVELOPMENT REVIEW PROCEEDINGS, ADDING PROVISIONS FOR DEVELOPMENT REVIEW CONTINGENT ON CODE VIOLATION COMPLIANCE; 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 INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE #2015-111)*

Meeting: July 29, 2015

I. REQUEST

This is a request from the Planning & Environmental Resources Department, per the direction of the Monroe County Board of County Commissioners (BOCC), to amend Monroe County Code (MCC) Section 110-9 – Suspension of Development Review Proceedings, to add provisions specifically allowing the Planning Director to condition development review on resolution of outstanding code violations,.

II. RELEVANT PRIOR COUNTY ACTIONS

On October 2, 1986, the BOCC adopted Ordinance No. 033-1986, which adopted the Monroe County Comprehensive Plan, including Volume III - Land Development Regulations. The suspension of development review proceedings language currently effective as Section 110-9 of the Monroe County Code was adopted as Section 5-109 of the Land Development Regulations at that time.

On January 21, 2015, at a regularly scheduled meeting, the BOCC directed staff to evaluate and propose amendments to MCC Section 110-9 – Suspension of development review proceedings – in order to allow the Planning Director to authorize development review contingent on the resolution of outstanding code violations on the property proposed for development.

During a regularly scheduled meeting held on June 23, 2015, the Monroe County Development Review Committee (DRC) considered the proposed amendment and recommended approval, memorialized by Resolution No. DRC 05-15.

III. REVIEW

MCC Section 110-9 currently reads as follows:

Sec. 110-9. – Suspension of development review proceedings.

The director of planning may in his discretion suspend consideration of any application for development approval during the pendency of a code enforcement proceeding involving all or a portion of the parcel proposed for development.

Pursuant to MCC Section 101-1. Definitions., development approval is defined as follows:

Development approval, development order, or development permit includes any building permit, conditional use approval, subdivision approval, change of land use district boundary, comprehensive plan text amendment, certificate of compliance, or any other official action by any official, commission, or board of the county having the effect of permitting development.

The current provisions of Section 110-9 give the Planning Director the authority to postpone the processing and review of development applications for property with pending code enforcement proceedings. Per direction by the BOCC, staff has developed the proposed amendment in order to give the Planning Director the ability to not just defer review of development approval, but to impose conditions on development approval(s) requiring the subject property's compliance and resolution of outstanding code violations. The goal is that this flexibility will further encourage property owners to resolve code violations.

IV. PROPOSED AMENDMENT

Staff recommends the following changes (Additions are underlined and in green; Deletions are ~~stricken and in red~~; Text to remain the same is in black):

Sec. 110-9. – Suspension of development review proceedings.

The ~~director of p~~Planning Director may in his or her discretion suspend consideration of any application for development approval during the pendency of a code ~~enforcement~~ compliance proceeding involving all or a portion of the parcel proposed for development. The Planning Director may suspend development review entirely for such a parcel, or may choose to proceed with review of a development application but impose conditions on such development approval requiring resolution of outstanding code violations on the subject parcel prior to the proposed development.

V. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN AND PRINCIPLES FOR GUIDING DEVELOPMENT

A. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe County Year 2010 Comprehensive Plan. Specifically, it 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 101.4: 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.

B. The amendment is not inconsistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statutes.

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

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
 - i. The Florida Keys Aqueduct and water supply facilities;
 - ii. Sewage collection, treatment, and disposal facilities;
 - iii. Solid waste treatment, collection, and disposal facilities;
 - iv. Key West Naval Air Station and other military facilities;

- v. Transportation facilities;
 - vi. Federal parks, wildlife refuges, and marine sanctuaries;
 - vii. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 - viii. City electric service and the Florida Keys Electric Co-op; and
 - ix. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.
 - (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
 - (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
 - (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
 - (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
 - (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

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

C. The amendment is consistent with one or more of the required provisions of §102-158(d)(5)(b):

1. Changed projections (e.g., regarding public service needs) from those on which the text or boundary was based; **N/A**
2. Changed assumptions (e.g., regarding demographic trends); **N/A**
3. Data errors, including errors in mapping, vegetative types and natural features described in volume I of the plan; **N/A**
4. New issues; **The proposed amendment addresses new issues related to the increased frequency of outstanding code violations on parcels requesting development approval.**
5. Recognition of a need for additional detail or comprehensiveness; **The proposed amendment addresses the need for additional detail in the Planning Director's ability to suspend development review proceedings due to outstanding code violations.**
6. Data updates. **N/A**

VI. STAFF RECOMMENDATION

Staff has found that the proposed text amendment would be consistent with one or more of the required provisions of §102-158(d)(5)(b). Specifically, staff has found that the proposed text amendments are necessary due to new issues and recognition of a need for additional detail or comprehensiveness.

Staff has also found that the proposed text amendment would be consistent with the Monroe County Year 2010 Comprehensive Plan, the Florida Keys Principles for Guiding Development, and Sections 163.3194, 163.3201 and 163.3202, Florida Statute.

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



ORDINANCE NO. - 2015

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 110-9, SUSPENSION OF DEVELOPMENT REVIEW PROCEEDINGS, ADDING PROVISIONS FOR DEVELOPMENT REVIEW CONTINGENT ON CODE VIOLATION COMPLIANCE; 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 INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 21, 2015, at a regularly scheduled meeting, the BOCC directed staff to evaluate and propose amendments to MCC Section 110-9 – Suspension of Development Review Proceedings – in order to allow the Planning Director to authorize development review contingent on the resolution of outstanding code violations on the property proposed for development; and

WHEREAS, the current provisions of Section 110-9 give the Planning Director the authority to postpone the processing and review of development applications for property with pending code enforcement proceedings; and

WHEREAS, the proposed amendment would give the Planning Director the ability to not just defer review of development approval, but to impose conditions on development approval(s) requiring the subject property’s compliance and resolution of outstanding code violations; and

WHEREAS, the Monroe County Development Review Committee considered the proposed amendment at a regularly scheduled meeting held on the 23rd day of June, 2015; and

WHEREAS, at a regularly scheduled meeting held on the 29th day of July, 2015, the Monroe County Planning Commission held a public hearing to consider, review and receive public comment for a proposed amendment to the Monroe County Code and to make its recommendation to the Board of County Commissioners; and

1 **WHEREAS**, at a regularly scheduled meeting held on the 16th day of September, 2015,
2 the BOCC held a public hearing to consider, review and receive public comment for a proposed
3 amendment to the Monroe County Code; and
4

5 **WHEREAS**, the proposed amendment is consistent with the provisions and intent of the
6 Monroe County Comprehensive Plan; and
7

8 **WHEREAS**, the proposed amendment is necessary due to new issues and recognition of
9 a need for additional detail or comprehensiveness as required by Section 102-158 of the Monroe
10 County Code; and
11

12 **WHEREAS**, the proposed amendment is consistent with the Principles for Guiding
13 Development for the Florida Keys Area of Critical State Concern, Section 380.0552(7), Florida
14 Statutes;
15

16 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
17 **COMMISSIONERS OF MONROE COUNTY, FLORIDA:**
18

19 **Section 1.** The Monroe County Code is amended as follows: (Deletions are ~~stricken through~~ and
20 additions are underlined.)
21

22 **Sec. 110-9. – Suspension of development review proceedings.**
23

24 The ~~director of p~~Planning Director may in his or her discretion suspend consideration of any
25 application for development approval during the pendency of a code ~~enforcement compliance~~
26 proceeding involving all or a portion of the parcel proposed for development. The Planning
27 Director may suspend development review entirely for such a parcel, or may choose to proceed
28 with review of a development application but impose conditions on such development approval
29 requiring resolution of outstanding code violations on the subject parcel prior to the proposed
30 development.
31

32 **Section 2. Severability.** If any section, paragraph, subdivision, clause, sentence or provision of
33 this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such
34 judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the
35 effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or
36 provision immediately involved in the controversy in which such judgment or decree shall be
37 rendered.
38

39 **Section 3. Conflicting Provisions.** In the case of direct conflict between any provision of this
40 ordinance and a portion or provision of any appropriate federal, state, or County law, rule code
41 or regulation, the more restrictive shall apply.
42

43 **Section 4. Transmittal.** This ordinance shall be transmitted to the Florida State Land Planning
44 Agency as required by F.S. 380.05(11) and F.S. 380.0552(9).
45

1 **Section 5. Filing.** This ordinance shall be filed in the Office of the Secretary of the State of
2 Florida but shall not become effective until a notice of Final Order is issued by the Florida State
3 Land Planning Agency or Administration Commission approving the ordinance and any
4 challenge to the order is resolved.
5

6 **Section 6. Inclusion in the Monroe County Code.** The provisions of this Ordinance shall be
7 included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an
8 addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform
9 marking system of the Code.
10

11 **Section 7. Effective Date.** This ordinance shall become effective as provided by law and stated
12 above. This ordinance applies to any permit, and or other development approval application
13 submitted after the effective date.
14

15 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,
16 Florida, at a regular meeting held on the _____ day of _____, 2015.
17
18

19 Mayor Danny L. Kolhage _____
20 Mayor Pro Tem Heather Carruthers _____
21 Commissioner George Neugent _____
22 Commissioner David Rice _____
23 Commissioner Sylvia Murphy _____
24
25

26 Attest: AMY HEAVILIN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

27
28
29 By: _____
30 Deputy Clerk

By: _____
Mayor Danny L. Kolhage

31
32 (SEAL)