

DEVELOPMENT REVIEW COMMITTEE

Tuesday, July 21, 2020

MEETING MINUTES

The Monroe County Development Review Committee conducted a virtual meeting on **Tuesday, July 27, 2020**, beginning at 1:00 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER by Emily Schemper

ROLL CALL by Ilsa Aguila

DRC MEMBERS PRESENT

Emily Schemper, Senior Director of Planning and Environmental Resources
Cheryl Cioffari, Assistant Director of Planning
Bradley Stein, Development Review Manager
Mike Roberts, Assistant Director, Environmental Resources
Mayte Santamaria, Senior Planning Policy Advisor
Rey Ortiz, Assistant Building Official
Shareen Yee Fong, FDOT Representative
Cassy Cane, Deputy Fire Marshal
Karen Taporco, Naval Air Station Key West

STAFF MEMBERS PRESENT

Steve Williams, Assistant County Attorney
Peter Morris, Assistant County Attorney
IIZE Aguila, Senior Planning Commission Coordinator

APPLICANTS & PUBLIC PRESENT

John Mafera Dottie Moses Richard Strickland

CHANGES TO THE AGENDA

There were no changes to the agenda. Ms. Schemper noted that Items 1, 2 and 3 were related, and requested that Items 1 and 2 be read together.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, June 21, 2020, by Emily Schemper.

MEETING

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY 2030 COMPREHENSIVE PLAN AMENDING THE GLOSSARY TO MODIFY THE DEFINITION OF ACCESSORY USE OR ACCESSORY STRUCTURE, MODIFY THE DEFINITION OF DWELLING UNIT, DELETE THE DEFINITION OF FAMILY, MODIFY THE DEFINITION

OF HOUSEHOLD, CREATE A DEFINITION FOR KITCHEN, CREATE A DEFINITION FOR LOCK-OUT UNIT, MODIFY THE DEFINITION OF TRANSIENT UNIT; CREATE A DEFINITION FOR WET BAR; AND AMENDING POLICY 101.3.5 TO ADDRESS THE TERM LOCK-OUT UNIT; 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 COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-098)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE AMENDING SECTION 101-1 TO MODIFY THE DEFINITION OF ACCESSORY USE OR ACCESSORY STRUCTURE, MODIFY THE DEFINITION OF DWELLING UNIT, DELETE THE DEFINITION OF FAMILY, MODIFY THE DEFINITION OF HOUSEHOLD, CREATE A DEFINITION FOR KITCHEN, CREATE A DEFINITION FOR LOCK-OUT UNIT, MODIFY THE DEFINITION OF TRANSIENT UNIT, CREATE A DEFINITION FOR WET BAR; AND AMENDING SECTION 138-23 TO ADDRESS THE TERM LOCK-OUT UNIT; 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 AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-099)

Ms. Mayte Santamaria, Assistant Director, Environmental Resources, presented the staff report. Item 1 is an amendment to the Comprehensive Plan and Item 2 is an amendment to the Land Development Code. They are consistent with each other and make sustained changes in both documents to the respective elements within those documents. These items started back in February of 2017 when the Board directed staff to adopt a temporary moratorium for applications using the terms “lock-out” and “occupancy standards,” after a development was approved that caused the Board to believe there would be unintended consequences and issues potentially impacting hurricane evacuation, the creation of additional living units without a ROGO allocation or exemption, and an increase in vehicles, people and disturbances. Since that time the County adopted one resolution and three ordinances establishing a temporary moratorium until the County could process and adopt amendments to the Comp Plan and Code to specifically address the undefined term “lock-out.” The main changes include creating the definition for lock-out: A lockout unit means any structure, or room or groups of rooms, or portion of a single-family or multi-family dwelling or transient unit, which creates a separate, independent living area which can be accessed and locked or keyed separately from the principle entry to the residential dwelling unit or transient unit. Lock-out units create a separate, independent living area/habitable space which shall be considered a unit, either a dwelling unit or a transient unit, which requires an additional ROGO allocation or ROGO exemption, and may be counted as a full dwelling unit or transient unit when computing the allowable density on the site. This particular definition is to address the Board’s concern that units or living spaces were potentially being developed without ROGO allocations.

Additionally, the definition of “dwelling units” is being amended to include: Dwelling units shall not include additional dwelling units, secondary dwelling units, lock-out units or any other habitable structure that creates a separate, independent living area that are occupied by a separate and independent household without an additional ROGO allocation or ROGO exemption. The definition includes a table both within the Glossary of the Comp Plan and in the Definition Section of the Code which provides a matrix of when development proposals can move forward that creates these units without a ROGO allocation and without meeting density standards. The source of the matrix is an original MOU with the DCA, now the DEO that was adopted by the BOCC in 1988, and provides standards of when certain improvements can be approved, or not, without creating another unit. This is the same matrix from the MOU with slight modifications, such as including allowable improvements will require a restrictive covenant limiting the dwelling unit to occupancy by a single household only. So the proposal cannot create lock-out units, secondary dwelling units, guest units, dormitories or any other habitable structures that create a separate and independent living area occupied by a separate and independent household unless the site has additional density to support it, as well as ROGO allocations or exemptions to support it.

Staff is also recommending the deletion of the term “family” within the LDC and Comp Plan. After searching all uses of “family” it does not come up in the Code and is unnecessary after including the definition of lock-outs and dwelling units, because regulating won’t be required based on the term “family.” Staff recommends approval to both the Comp Plan and Code amendments, which will address the temporary moratorium in Item 3, and provides additional details and comprehensiveness within the Comp Plan and Code to address the lock-out units and potential consequences.

Ms. Schemper asked for questions or comments from staff. There were none. Ms. Schemper asked for any other DRC member comments. There were none. Ms. Schemper then asked for public comment.

Ms. Dottie Moses asked if this would apply to any people who managed to squeak in under the lock-outs today. Ms. Santamaria responded that these amendments would apply to new developments moving forward, and not be applied retroactively. Ms. Schemper noted that the interim development ordinance has been in place since 2017. Ms. Moses clarified that she was speaking specifically about the development on Stock Island which brought this to the County’s attention originally. Ms. Santamaria stated that those approvals included multiple versions of a development agreement. Ms. Schemper added that those developments could continue to do what they had gotten approval for. The point of a development order is to lock in the Code at the time the approvals were received, and Ms. Schemper was unaware of a way to make this retroactive. Mr. Steve Williams stated that a new law cannot be created to undo what was previously lawful, but this would mean that no one else can do this. Ms. Santamaria pointed out that no one since then had been allowed to do this because of the temporary moratorium. Mr. Williams added that one person had done it one time and the County has addressed it. There was no further public comment. Public comment was closed.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 012-2017, AND EXTENDED THROUGH ORDINANCE 027-2019, FOR AN ADDITIONAL 365 DAYS TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING NOVEMBER 8, 2020, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2020-066)

Ms. Mayte Santamaría presented the staff report. This is related to Items 1 and 2, and is the Interim Development Ordinance that has been in place since 2017 that provides a temporary moratorium on using the term "lock-out" for any development associated with it. This is a continuation of the temporary moratorium which will allow for the ability to process the two amendments discussed in Items 1 and 2. This ordinance is set to expire November 8, 2020, and it will take a bit longer for the amendments to be processed. Staff recommends approval.

Ms. Schemper asked for staff questions or comments. Mr. Steve Williams asked how long it was estimated to take to get Items 1 and 2 completed. Ms. Santamaria responded that she anticipates these would go before the Board in October 2020, be transmitted to the State Land Planning Agency for review and comments, with anticipated adoption in February 2021. Though the full 365 days may not be needed, that is the format for the temporary moratorium. There were no further staff questions or comments. Ms. Schemper asked for public comment. There was none. Public comment was closed.

4. AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 130-75, THE PERMITTED AND CONDITIONAL USES OF THE AIRPORT DISTRICT, TO ELIMINATE THE CONDITIONAL USE REQUIREMENT FOR PUBLIC AIRPORTS; 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 AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2020-081)

Ms. Mayte Santamaria presented the staff report. This is a Text Amendment proposed by the Airport Department. The intent is to streamline development proposals at public airports, specifically the County's airports in Key West and Marathon, by amending Section 130-75 to remove the requirements for minor and major conditional uses only for public airport uses, and having the projects reviewed by the County staff as an as-of-right project through the building permit review process, and require that the projects be consistent with the Airport Master Plan and the Airport Layout Plan. Both of these documents are reviewed and approved by the BOCC at public hearings and the Federal Aviation Administration (FAA). This is consistent with the Comp Plan, is intended to avoid delays and conflicts with state and federal requirements, and to be able to quickly and expeditiously complete projects for public health, safety and welfare, satisfying state and federal funding cycles. Staff recommends approval.

Ms. Schemper asked for staff comments or questions. There were none. Ms. Schemper then asked if Mr. Richard Strickland or Mr. John Mafera had anything to add. Mr. Richard Strickland, Director of Airports, thanked staff for their time, consideration and help.

Ms. Schemper then asked for public comment. There was none. Public comment was closed.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 1:22 p.m.