

DEVELOPMENT REVIEW COMMITTEE

-
Monday, January 23, 2012

- AGENDA

-
The Monroe County Development Review Committee will conduct a meeting on Monday, January 23, 2012, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

DRC MEMBERS:

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

STAFF MEMBERS

Susan Grimsley, Assistant County Attorney
Mitch Harvey, Comprehensive Plan Manager
Mayte Santamaria, Assistant Planning Director
Barbara Mitchell, Planner
Rey Ortiz, Planner
Gail Creech, Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL

MEETING

- NEW ITEM:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE REGULATIONS PERTAINING TO FENCES IN MONROE COUNTY CODE CHAPTER 114-20, FENCES; 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.

[2011-093 SR DRC 01.23.12.pdf](#)

2. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 138-50, Type of development not affected; amending criteria used for determination of exemption from the Nonresidential Rate of Growth Ordinance (NROGO); providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[2010-062 DRC SR 08.10.10.PDF](#)

ADJOURNMENT

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



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

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

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

Date: December 27, 2011

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 114-20, FENCES, TO INCLUDE ENTRY FEATURES AS PART OF ALLOWED FENCE STANDARD FOR STOCK ISLAND AND KEY HAVEN FOR SINGLE FAMILY RESIDENCES, AND TO PROVIDE EXCEPTIONS IN HEIGHT FOR PUBLIC SAFETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: January 23, 2012

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §114-20(d) of the Monroe County Code. The purpose of the proposed amendments is to
6 address a concern that single family residential would have an option to provide additional
7 security to accommodate the concerns of the resident; to address inconsistencies related to
8 fencing for public use; and to revise existing language to address areas of improper language
9 and incorrect references.

10
11 II RELEVANT PRIOR COUNTY ACTIONS:
12

13 Policy 101.20 of the Monroe County 2010 Comprehensive Plan currently reads:

14
15 Monroe County shall address local community needs while balancing the needs of all
16 Monroe County communities. These efforts shall focus on the human crafted
17 environment and shall be undertaken through the Livable CommuniKeys Planning
18 Program.
19

20 Livable Communikeys Program for Stock Island and Key Haven pg. 20, Key Haven
21 currently reads:

1
2 Improve the gateway/entrance into Key Haven

3
4 MCC §114-20 was last revised with Ordinance No. 036-2003.

5
6 III REVIEW

7
8 Currently for single family residences in Key Haven and Stock Island, the height for a fence
9 in the front yard setback is 6 feet. This standard does not consider security concerns and the
10 demarcation of pedestrian access points.

11
12 Key Haven and Stock Island are a densely populated area with smaller to moderately sized
13 single family homes. Homes generally are located toward the front of the lots, with small
14 back yards. In general, most yards are enclosed with fences and walls that are 6 feet above
15 established grade. A compliant wall generally provides privacy for the individual without
16 limiting the openness of the yard.

17
18 The current regulations within the Land Development Code addressing do not address the
19 existing non-conforming entry features in Key Haven. These currently non-conforming
20 improvements significantly contribute to the character of the neighborhood.

21
22 The proposed update to code would establish an option for residence of Key Haven and
23 Stock Island to request that the Director approve an entry feature within the proposed
24 guidelines as long as the character of the neighborhood is unchanged.

25
26 Specific size parameters are being introduced to encourage a rhythmic streetscape at the
27 pedestrian level throughout the area.

28
29 In addition the current text within the Land Development Code does not have a mechanism to
30 allow additional height for fencing requirements to address life and safety concerns.

31
32 Upon review, staff has found that allowing the single family homes on Key Haven and Stock
33 Island will allow property owners to accentuate their properties to further enhance the area and
34 allow them to address security concerns.

35
36 The flexibility in fencing height will assure that public safety concerns would be addressed.

37
38 Therefore, staff recommends the following changes (deletions are ~~stricken-through~~ and
39 additions are underlined):

40
41 **Sec. 114-20. Fences.**

42
43
44 * * * * *
45

1 d. No fence shall exceed four feet in height within any front yard setback or within
2 any side yard setback when such a yard is adjacent to a public street, except as follows:
3

4 1. Within all land use districts, fences of five feet in height may be permitted if constructed
5 of chainlink or other material that does not impair visibility;
6

7 2. Within land use districts UC, SC, I, MI, and AD, and when permitted in a commercial
8 fishing district around storage lots, fences may be constructed to a height of six feet;
9

10 3. Within land use districts IS, SR, SR-L, SS and NA, fences may be constructed to a
11 height of six feet, provided that no other residentially developed property is located within 200 feet
12 of the subject property;
13

14 4. On Stock Island and on Key Haven, fences may be constructed to a height of six feet.
15 Single family dwelling units may incorporate an accessory entry feature provided:

16 i. Entry feature is defined as a continuous wall, gate, fence or combination
17 thereof, located contiguous to and on both sides of the main access (driveway) to
18 the property which is designed and intended to control and/or demarcate the access
19 to the property. An “entry feature” includes all walls, buttresses, guy wires, integral
20 signs and decorative features attached thereto up to a maximum width 10 feet, a
21 maximum height of 10 feet, and 4 feet in depth as measured from the front yard
22 setback.

23 ii. 30 feet on either side of the driveway centerline.

24 iii. That such accessory entry feature will be compatible with the existing
25 development in the area, in harmony with the general appearance and character of
26 the community, in compliance with the site plan review criteria hereinafter
27 provided and will not otherwise be detrimental to the public welfare.

28 iv. That such accessory entry feature is designed and arranged on the site in a
29 manner that minimizes aural and visual impact on the adjacent structures while
30 affording the applicant a reasonable use of the land.

31 v. Written approval is obtained from the Director to authorize a site plan for
32 the accessory entry feature provided the improvement meet the requirements of this
33 code; such approval is limited to an accessory entry feature.

34 vi. Written approval of the immediate adjacent owner(s) is obtained. If the
35 applicant is unable to contact an adjacent property owner for such approval, the
36 applicant may present proof that he or she has mailed the request for approval to
37 each adjacent unit owner, by certified mail, return receipt requested, at each
38 adjacent property owner's mailing address as listed in the most current Monroe
39 County tax roll, and that the notice has been returned undeliverable; and

40 vii. No additional variances are necessary to accomplish the proposed accessory
41 entry feature.

42 viii. No portion may be constructed within the public road right-of-way unless
43 approved by the Public Works Department.

44 ix. Scaled site plan and elevations for the accessory entry feature that shows the
45 height, width and length of each element of the accessory entry feature applied for,
46 including any decorative or non-functional elements; and identification of the

1 materials composing each element of the structure (e.g. wire, stone, chain-link,
2 wood, etc.).

3
4 e. When it is necessary to use a fence to contain athletic activity, the fence may
5 exceed six feet to a maximum of 12 feet, and be designed not to impair visibility; and such fences
6 shall be subject to a minor conditional use approval.

7
8 f. Fences that may be erected around high voltage substations, pumping stations,
9 public service utilities, school yards, public playgrounds, public parks, and governmental or public
10 utility owned property are exempted from the requirements of this chapter.

11
12
13 * * * * *
14
15

16 IV RECOMMENDATION

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

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



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

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

From: Thomas A. Lloyd, Planner 

Date: August 9, 2010

Subject: *Proposed Ordinance to the Board of County Commissioners to amend Section 138-50 of the Monroe County Code, Type of Development not Affected*

Meeting: August 10, 2010 (continued from July 27, 2010)

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing an amendment to the text
5 of §138-50 of the Monroe County Code, which concerns the process utilized to determine
6 lawful establishment and, thereby, exemption from the County's Nonresidential Rate of
7 Growth Ordinance (NROGO).
8

9 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:
10

11 Since October 22, 2003, the criteria used to determine exemption from the NROGO have
12 been outlined in Administrative Interpretation No. 03-108. According to the memo, this
13 Administrative Interpretation was prepared with the Planning Commission to provide criteria
14 for determining "lawfully established" and consistency in determination of and awarding of
15 ROGO and NROGO exemptions and approval of TRE and the transfer of non-residential
16 floor area.
17

18 The Interpretation is as follows:
19

20 ...A landowner will receive an exemption from the ROGO or NROGO allocation if his
21 property meets the following test:
22

- 23 • Lawfully established – A permit or other official approval from the Division of
24 Growth Management for the units and/or floor area; and
25
- 26 • Counted in ROGO and 2010 Comprehensive Plan – Proof that the residential
27 unit(s) or amount of floor area was in existence and included in the April 1990
28 census. The census was used to determine the number of existing residential units
29 that is the basis for ROGO and NROGO.
30

1 If a permit or other Growth Management approval is not available, the following may be
2 used to establish that the property was lawfully-established:
3

- 4 • Aerial photographs showing existence of the dwelling unit/non-residential
5 structure prior to 1986 – the date the LDRs and Land Use District maps were
6 adopted. The map designation pre-1986 of many properties is different from
7 today's designation and the uses permitted in the district are different. This
8 answers the question of, "If the unit or floor area could have been permitted?";
9 and
- 10
- 11 • County property record card showing the existence of the unit or floor area prior
12 to 1986. After 1986, the permit records are considered complete and a permit is
13 required to demonstrate that the unit was lawfully established, the existence of the
14 unit or floor area prior to 1986 is an indication of what the use of the structure
15 was at that time; and
- 16
- 17 • Utility records for the period 1986-1991 that show the use was being served.
18 ROGO is based on the 1990 census count of dwelling units; to be counted in the
19 census, someone had to be living in the unit. All of the years are not required if
20 1990 is available; and
- 21
- 22 • The use could have been a permitted use under the pre-1986 zoning of the
23 property. This not only refers to the type of use but also the construction. For
24 example: a residential unit could not have been permitted below flood level after
25 January 1, 1975, therefore a structure built in 1980, below flood level could not
26 have been lawfully established as a residential unit,
27
- 28 • To help establish non-residential use of a property, Occupational Licenses (1986-
29 1991), if available, should also be submitted. The amount of non-residential floor
30 area that may be allocated is based on the floor area existing in 1990 (239 square
31 feet for each residential unit counted in the census).
32

33 Additional information will be required to help establish the number of units for mobile
34 home and/or recreational vehicles (RVs) in parks:
35

- 36 • The number of units in the mobile home surveys taken in the late 1980s and early
37 1990s may be used as an indication, but it should be recognized that the number
38 on site, at any one point in time, may have varied from the actual number
39
- 40 • The number of recreation vehicles included on the Health Department Licenses as
41 provided for in F.S. chapter 513 for the year 1996 are the maximum number of
42 RVs that may be on the site. Both mobile homes and RVs require a residential
43 ROGO and prior to adoption of the 2010 Comprehensive Plan could be
44 interchanged. Policy 101.2.6 prohibits new transient residential units, including
45 RV spaces, until December 2006. In a district that allows mobile homes and RV

spaces (URM), a mobile home may be permitted without a ROGO allocation if a RV space is removed.

- Demolition permits if mobile homes have been removed.
- Occupational licenses if available for the years 1990 through 1996.

Note: Living in an abandoned shed does not make it a residential unit and an old mobile home used for storage does not become floor area. If the use could/would not have been permitted, it may not be used as an exemption from ROGO.

There will be cases where the applicant and staff are unable to provide all the information required to determine if the structure is lawfully established and in use in 1990. Other information and "proof" of use may be provided to the Planning Director for consideration.

III REVIEW

The Planning & Environmental Resources Department has determined that there is a need to codify the criteria used for the determination of exemption from the NROGO ordinance. Recently, the City of Key West successfully amended their code (*see City of Key West §108-991, attached*) to address a similar situation. Upon review, staff has determined that elements and language provided within the "Key West model" could serve as a guideline for similar codification by the County. The "Key West model" effectively outlines the requirements for exemption while simultaneously and succinctly addressing criteria outlined in Administrative Interpretation No. 03-108.

As such, staff recommends the following changes (deletions are ~~stricken through~~ and additions are underlined):

Sec. 138-50. - Type of development not affected.

The NROGO shall not apply to the development described below:

- (1) *Development with no net increase in nonresidential floor area.* The redevelopment, rehabilitation or replacement of any lawfully established nonresidential floor area which does not increase the amount of nonresidential floor area greater than that which existed on the site prior to the redevelopment, rehabilitation or replacement.

The Planning Director shall review available documents to determine if a body of evidence exists to support the existence of lawfully established nonresidential floor area on or about September 19, 2001, the effective date of the original ordinance. Such evidence shall be documented through an appropriate application procedure which shall require, at a minimum, at least two of the following records:

- 1
2 a. Building permit(s) issued prior to September 19, 2001 supporting the
3 existence of the structure(s) and its use(s);
4 b. Documentation from the Monroe County Property Appraiser's Office from
5 the time on or about September 19, 2001;
6 c. Aerial photographs showing that the structure(s) existed on or about
7 September 19, 2001;
8 d. County Directory entries on or about September 19, 2001;
9 e. Rental, occupancy or lease records on, or prior to, September 19, 2001,
10 indicating the number, type, and term of the rental or occupancy;
11 f. State and/or County licenses on and about September 19, 2001, indicating the
12 number and types of nonresidential uses present on the subject property;
13 g. Documentation from utility providers indicating the type of service
14 (commercial or residential) provided and the number of meters in existence on
15 or about September 19, 2001; and
16 h. Similar supporting documentation not listed above as determined suitable by
17 the Planning Director.

18
19 Provision of affidavits to support the existence of nonresidential floor area is
20 allowed, but cannot be the sole record upon which a decision is based. Provision
21 of documents is the responsibility of the applicant.
22

23 Units which are determined not to be affected by NROGO per this subsection, but
24 which have not been previously acknowledged by the Planning Director, may also
25 be nonconformities, pursuant to Chapter 102, Article III Nonconformities. Such
26 occasions shall also require a determination, by the Director, as to the lawfulness
27 of the nonconformity.
28

- 29 (2) *Areas exempted from residential ROGO.* Any area of the unincorporated county
30 exempted from residential ROGO as provided for in section 138-22.
31
32 (3) *Public/governmental uses.* Public/governmental uses, including capital
33 improvements and public buildings, both as defined in section 101-1.
34
35 (4) *Development activity for certain not-for-profit organizations.* Except for the
36 nonpublic institutional uses on Big Pine Key and No Name Key pursuant to
37 section 138-49, nonresidential development activity within tier III designated
38 areas by federally tax exempt not-for-profit educational, scientific, religious,
39 social, cultural and recreational organizations which predominately serve the
40 county's permanent population, if approved by the planning commission after
41 review and recommendation by the planning director. This exemption is subject to
42 the condition that a restrictive covenant be placed on the property prior to the
43 issuance of a building permit. The restrictive covenant shall run in favor of the
44 county for a period of at least 20 years. Any change in the use or ownership of the
45 property subject to this restrictive covenant shall require prior approval by the
46 planning commission, unless the total floor area exempted by the planning

1 commission is obtained through an off-site transfer of floor area and/or
2 nonresidential floor area allocation. If the total amount of floor area that is
3 transferred and/or allocated meets or exceeds the total amount of floor area
4 exempted, the restrictive covenant shall be vacated by the county. This not-for-
5 profit exemption is not applicable to nonresidential development proposed within
6 a tier I designated area.
7

8 (5) *Vested rights.* Landowners with a valid, unexpired development of regional
9 impact approval granted by the county prior to January 4, 1996, (effective date of
10 the comprehensive plan) or an approved vesting determination by the county from
11 the nonresidential allocation requirements of this section and the comprehensive
12 plan.
13

14 (6) *De minimis expansion of nonresidential floor area.* The cumulative expansion,
15 after January 4, 1996, of any existing nonresidential floor area by 100 square feet
16 or less.
17

18 (7) *Industrial uses.* Industrial uses in the Maritime Industrial (MI) and the Industrial
19 (I) land use districts, provided that the floor area is restricted to manufacturing,
20 assembly, wholesaling, and distribution uses. All other uses which may be
21 permitted in the land use district are subject to the requirements of this article and
22 will require an NROGO allocation.
23

24 (8) *Agriculture/aquacultural uses.* Lawfully established agricultural and aquacultural
25 uses in the agricultural and aquaculture use overlay (A).
26

27 (9) *Sunshade.*

28 a. Unenclosed sunshades comprising in total not more than 200 square feet
29 may be permitted for an existing lawfully established use.
30

31 b. That portion of an uncovered, unenclosed boat rack or boat barn floor area
32 not associated with retail sales of boats and which does not exceed 50
33 percent of any site's net buildable area is not governed by NROGO.
34

35 (10) *Transfer off-site of existing nonresidential floor area.* The demolition and
36 transfer off-site of nonresidential floor area from a sender site and the
37 development of the transferred nonresidential floor area on a receiver site in
38 accordance with the following procedures and criteria:
39

40 a. *Eligibility of sender floor area.* Only nonresidential floor area within an
41 enclosed structure, as defined in section 101-1, not including uncovered
42 areas designated for food and beverage services and seating, shall be
43 eligible for transfer. Nonresidential floor area shall be lawfully established
44 floor area or have received an NROGO allocation or transfer of floor area
45 after September 19, 2001.
46

1 b. *Criteria for redevelopment of nonresidential floor area off-site.* In order to
2 redevelop off-site, a receiver site shall be evaluated for site conditions and
3 shall meet all of the following criteria:
4

- 5 1. Is located within a tier III designated area and, if on Big Pine Key,
6 s located within the designated community center overlay area;
7
8 2. Is located within the same ROGO subarea as the sender site, except
9 that for a receiver site on Big Pine Key, the sender site shall also
10 be located on Big Pine or No Name Keys;
11
12 3. Is not a commercial very high-intensity retail use which will
13 generate more than 150 vehicle trips per 1,000 square feet of floor
14 area;
15
16 4. Is not located within a V special flood hazard zone;
17
18 5. Does not propose the clearing within a tier III-A (special protection
19 area) designated area of any portion of an upland native habitat
20 patch of one acre or greater in area;
21
22 6. If on Big Pine Key, is not in a more restrictive tier category than
23 the sender site, and no transfer shall be allowed into tier 1;
24
25 7. Is not located in a coastal barrier resources system; and
26
27 8. Is not located in an offshore island/conservation land protection
28 area.
29

30 c. *Limitations on the amount of nonresidential floor area which may be*
31 *transferred to any one site.* The amount of nonresidential floor area which
32 may be transferred to any one site shall be as follows:
33

- 34
35 1. No more than a maximum cumulative total of 4,000 square feet of
36 nonresidential floor area may be transferred to any one site.
37
38 2. A receiving structure with existing nonresidential floor area shall
39 not be expanded using transferred floor area if the expansion
40 results in a structure with more than 10,000 square feet of
41 nonresidential floor area, except within the urban commercial land
42 use district, where a structure may be expanded to a maximum
43 total of 50,000 square feet of nonresidential floor area.
44 3. The amount of nonresidential floor area that may be transferred to
45 or from a site shall not be less than 200 square feet and shall be in
46 increments of 100 (i.e., 200, 300, 400, etc.) square feet.

1
2 d. *Procedures for transfer of nonresidential floor area.* The following
3 procedures shall be followed for permitting transfer of nonresidential floor
4 area off-site:

5
6 1. A preapplication conference and, at a minimum, a minor
7 conditional use approval shall be required for both the sender site
8 and the receiver site.

9
10 2. The sender nonresidential floor area shall be assigned a unique
11 identifier number for each 100 square foot increments that shall be
12 used for tracking and monitoring by the planning department. The
13 unique identifier number shall be itemized in the conditional use
14 orders and building permits required for both the sender and
15 receiver sites. All floor area to be transferred shall be rounded to
16 the nearest 100 square feet.

17
18 3. No building permit shall be issued for the nonresidential floor area
19 on the receiver site until the sending site structure is demolished as
20 per an issued demolition permit and a final inspection for the
21 demolished floor space has been completed by the building
22 department.

23
24 **IV RECOMMENDATION**

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

Attachment:

City of Key West

Sec. 108-991. - Development not affected by article.

Development consistent with the following shall not be affected by the terms of this article, but such development shall comply with all applicable sections of the city's land development regulations:

- (1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of equivalent single-family dwelling unit stock.
- (2) Redevelopment or rehabilitation which replaces but which does not increase the number of permanent or transient residential dwelling units above that existing on the site prior to redevelopment or rehabilitation.
- (3) Units in existence at the time the April 1, 1990 census was prepared are presumed not to be affected by BPAS. The administrative official shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 1990. Units existing in 1990 will be documented through a mandatory site visit by city staff and at least two of the following records:
 - a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 1990;
 - b. Building permits issued prior to April 1, 1990;
 - c. Copies of city directory entries on or about April 1, 1990;
 - d. Site visits which indicate that the age of the structure and associated improvements likely pre-date 1990;
 - e. Rental, occupancy or lease records from before and including April 1, 1990, indicating the number, type and term of the rental or occupancy;
 - f. Copies of state, county, and city licenses on and about April 1, 1990, indicating the number and types of rental units;
 - g. Documentation for Keys Energy Service and Florida Keys Aqueduct Authority indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 1990;
 - h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 1990 (Green Card); and
 - i. Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The administrative official's decision shall be rendered to the department of community affairs for a determination of consistency with the principals for guiding development.

Units which are determined not to be affected by the building permit allocation system per this subsection but which have not been previously acknowledged by the administrative official are presumed to be lawfully established per chapter 122, article 11, nonconformities, if the additional following requirements are met:

- a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and
- b. All back fee payments, including impact fee payments, from 1990 onward, as determined by the building department, are made in full.

Transient units which meet the criteria in this subsection will be licensed by the city.

(Code 1986, § 34.1372(4); Ord. No. 09-07, § 6, 5-5-2009)