

County of Monroe
Growth Management Division

Office of the Director

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We strive to be caring, professional and fair

Board of County Commissioners

Mayor Heather Carruthers, District 3
Mayor Pro Tem David Rice, District 4
Kim Wigington, District 1
George Neugent, District 2
Sylvia J. Murphy, District 5

AGENDA

CONSTRUCTION INDUSTRY INFORMAL GROUP MEETING

September 27, 2011 - 4 pm to 5 pm

Murray E. Nelson Government & Cultural Center, 102050 Overseas Hwy, Key Largo

September 28, 2011

Marathon Government Center, EOC Room, 2798 Overseas Highway, Marathon

A. CONSTRUCTION INDUSTRY INFORMAL GROUP MEETING: 3 PM – 4 PM

1. County Administrator, Growth Management Division Director, Building Official, Planning and Environmental Resources Director
2. Industry Input – Items that need to be addressed
3. Organizational Charts: [Key Largo](#) and [Marathon/Stock Island](#)
4. [Performance Indicators](#)

B. CONSTRUCTION INDUSTRY INFORMAL GROUP MEETING: 4 PM – 5 PM

1. Recommended Improvements documents (reflecting updates from the 6/28/11 Construction Industry Quarterly meeting): [Phase I Recommended Improvements – Bullet List](#)
2. Staff Reports on Phase I Action Items:
 - a. [Permit Type and Review Stops Matrix](#) – Master Item #s: 1.1, 2.1, 2.3: Implemented on September 1, 2011
 - b. [NEW Building Permit Application Requirements - FBC 105.3 and FS 713.133\(5\) and \(6\)](#)
 - 1) Contractors
 - 2) Architects, Engineers
 - 3) Fee Simple Titleholder, Bonding Company, Mortgage Lender
 - c. Proposed Revised ROGO/NROGO Process– Master Item #s: 2.2 and 6.6 ([Draft/Revision Ordinance for Planning Commission](#))
 - 1) Eliminates a full review/building permit application PRIOR to application for ROGO/NROGO. Proposed process:
 - a) Step 1: Site Plan Application (NEW)
 - b) Step 2: ROGO/NROGO Application
 - c) Step 3: Building Permit Application
 - 2) Discussion on cut-off for old ROGO/NROGO application vs new Site Plan application
 - 3) [Fees](#)
 - a) Fee Estimation Review of current and proposed process
 - b) Resource Calculations
 - c) Hourly Rate per employee level
 - d) ROGO Calculations
 - e) Site Plan Calculations
 - 4) Proposed timeline for processing ordinance amendment-
 - a) Committees that must review proposed changes:

Construction Industry Informal Group Mission Statement:

“To evaluate Growth Management Division Building, Flood Plain, Planning and Environmental Resources, Engineering, Fire, and other department operations related to permitting and development approvals, and recommend improvements for better service delivery to the Construction Industry and Monroe County residents.”

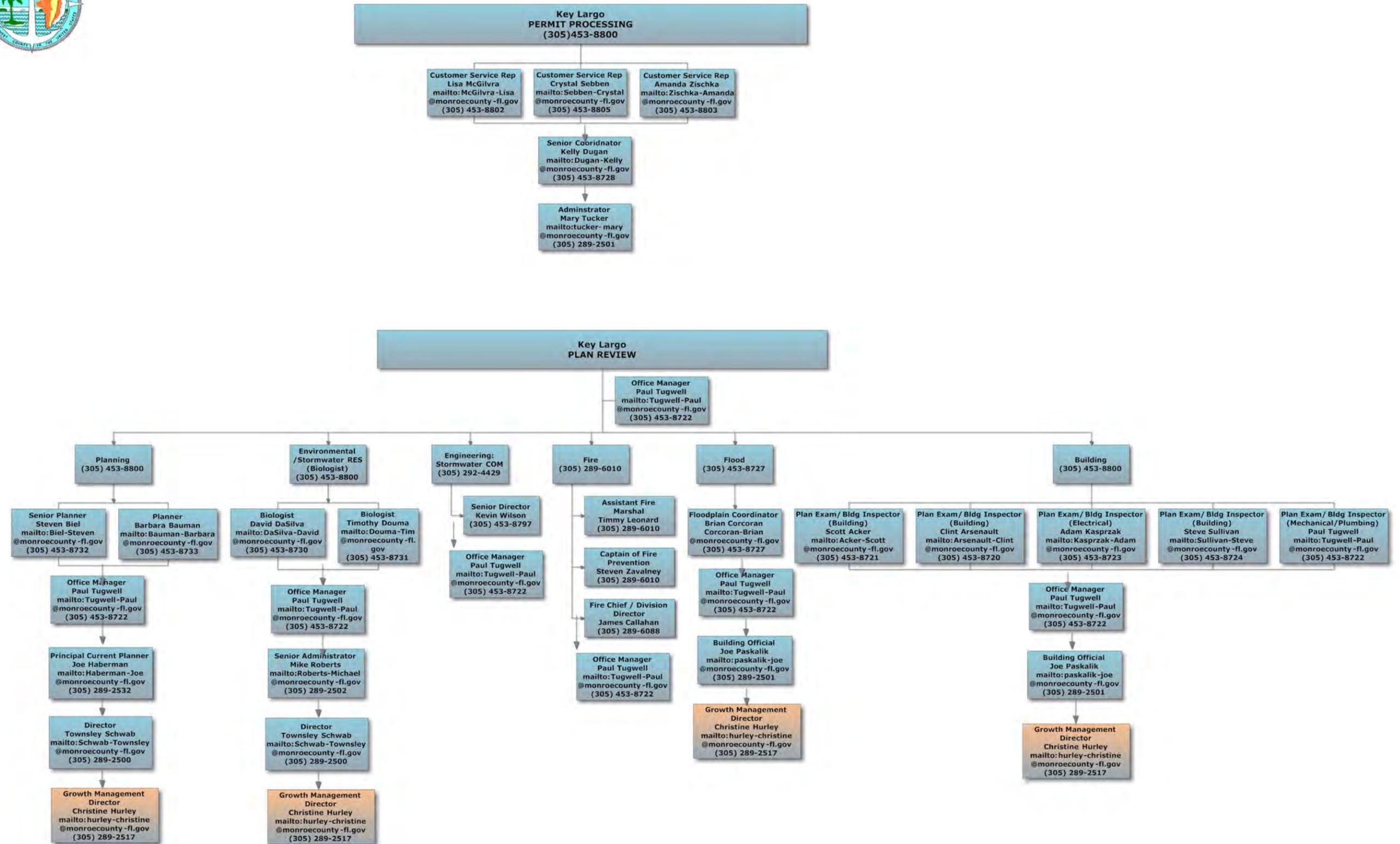
- DRC – May 10th
 - PC – September 14th
 - BOCC – November/December (Tentative)
 - b) Expected implementation early 2012
- d. Budget – Enhancements Requested for FY 2012 – As of October 1, 2011 (If Approved by BOCC)
 - 1) Building: Assistant Building Official 3 months funding - anticipated BO Retirement
 - 2) Planning and Environmental Resources: Planning and Biological Plans Examiner
 - e. Eliminate Flood Inspection per passing of House Bill 407 – Master Item #: 2.13
 - 1) Bill – Effective July 1, 2012
 - 2) Strategy for Implementing
 - a) Overview
 - b) August 16, 2011 [Letter to Brad Loar](#) regarding replacement program for 6-107 Inspection on Building Permit
 - f. Mitigation Banks – Master Item #: 9.4
 - 1) Summary of issue: [Memo](#)
 - 2) Discussion with BOCC October/November 2011 (Tentative)
 - g. Site Plan Requirements
 - 1) [Site Plan Guidelines Draft](#)
 - a) [Sample Site Plans Received for Permit Applications](#)
 - 2) Survey Issues/Discussion
 - 3) Elevation Certificate
 - h. [Permit Extension Legislation](#): Four year extension maximum
 - 1) SB 360
 - 2) SB 1752
 - 3) HB 7207
 - i. [Analysis](#): City Marathon conducting Department of Health approvals for abandonment of septic tanks
 - j. [Lateral Hookup Guidance](#)
3. Discussion – Kick off of Inspection Review by Permit Type
 - a. October 2011 Team meeting to begin scoping out process, meeting schedules, etc
 - b. Goal: Identify typical inspections required by permit type
 4. Legal Opinion submitting Permit without Contractor vs requiring contractor prior to issuance
 - a. [County Attorney statement](#)
 5. Proposed Future meeting date: February 2, 2012 – Key Largo
 6. Contact for volunteer signup/email: Karen Pleasant

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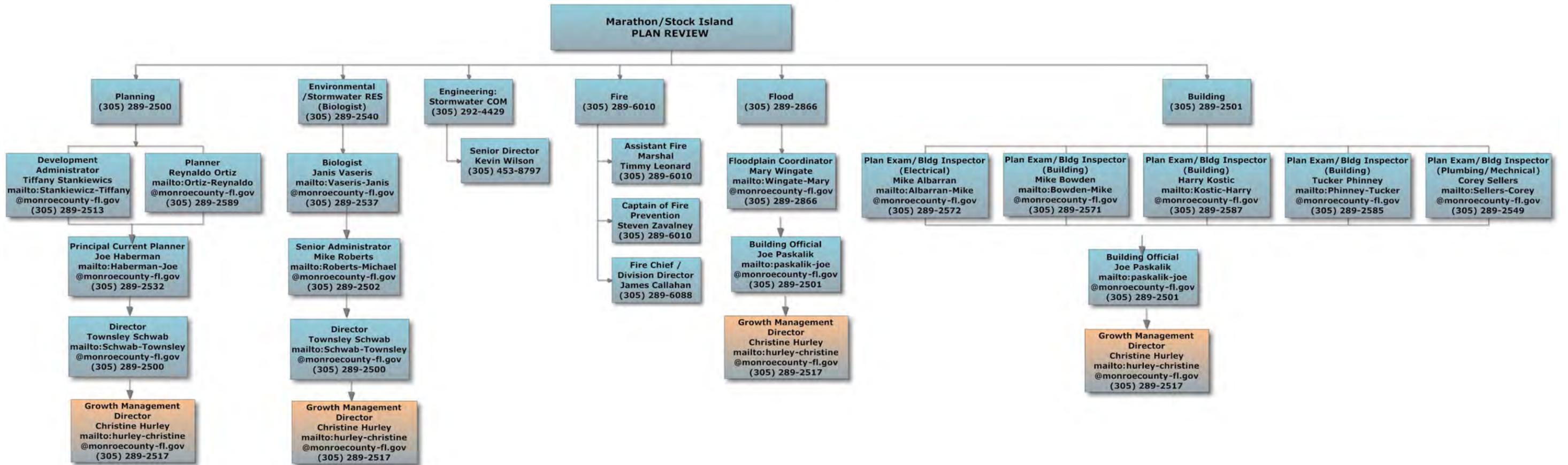


MONROE COUNTY - BUILDING PERMITTING SERVICES - KEY LARGO OFFICE



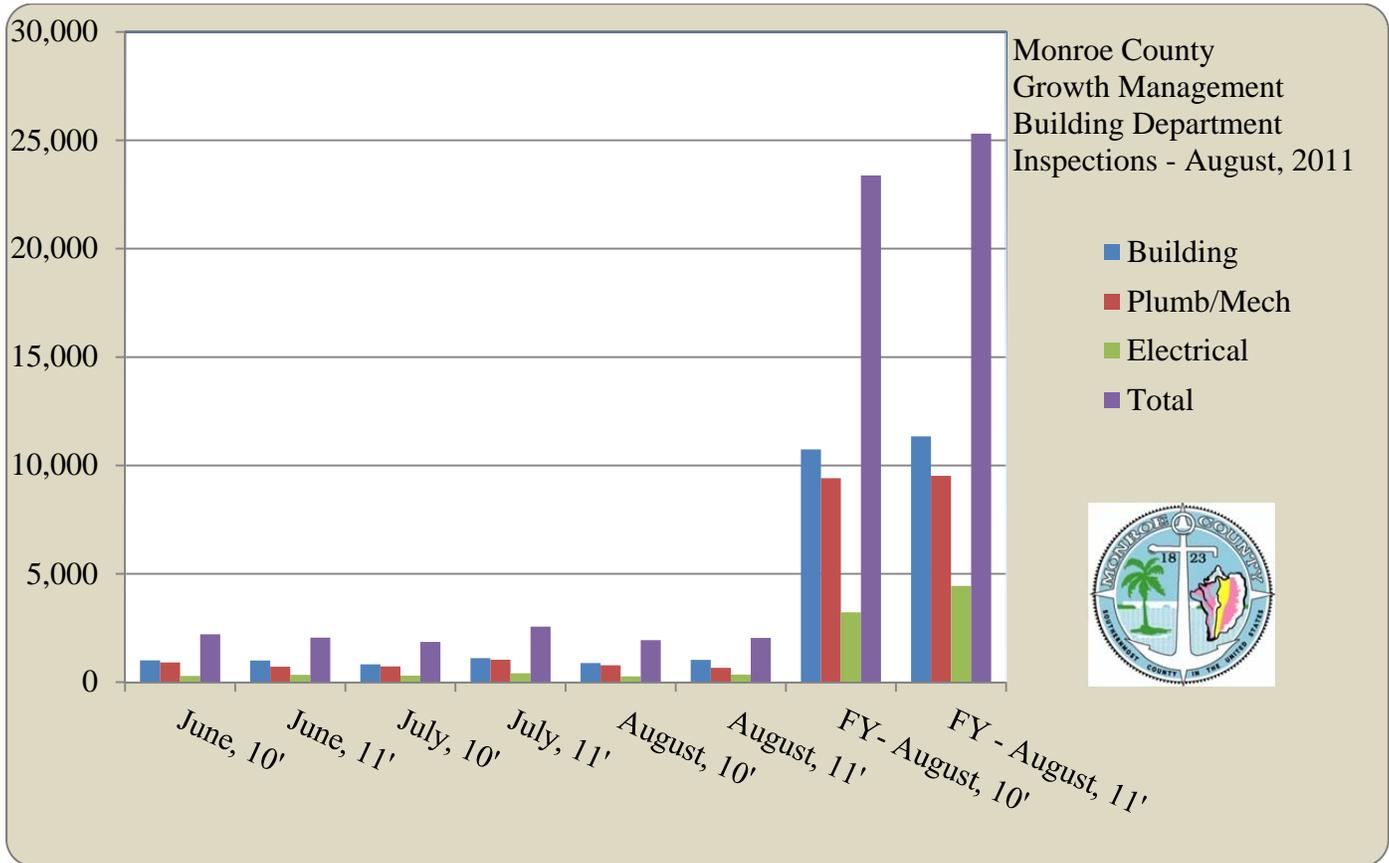


MONROE COUNTY - BUILDING PERMITTING SERVICES - MARATHON AND STOCK ISLAND OFFICES



**MONROE COUNTY GROWTH MANAGEMENT
BUILDING DEPARTMENT INSPECTIONS- AUGUST, 2011**

Inspections, FY 2011 vs. 2010								
	June, 10'	June, 11'	July, 10'	July, 11'	August, 10'	August, 11'	FY- August, 10'	FY - August, 11'
Building	1,006	1,001	827	1,110	886	1,029	10,743	11,343
Plumb/Mech	916	718	729	1,038	781	661	9,409	9,519
Electrical	290	339	301	414	270	351	3,223	4,443
Total	2,212	2,058	1,857	2,562	1,937	2,041	23,375	25,305

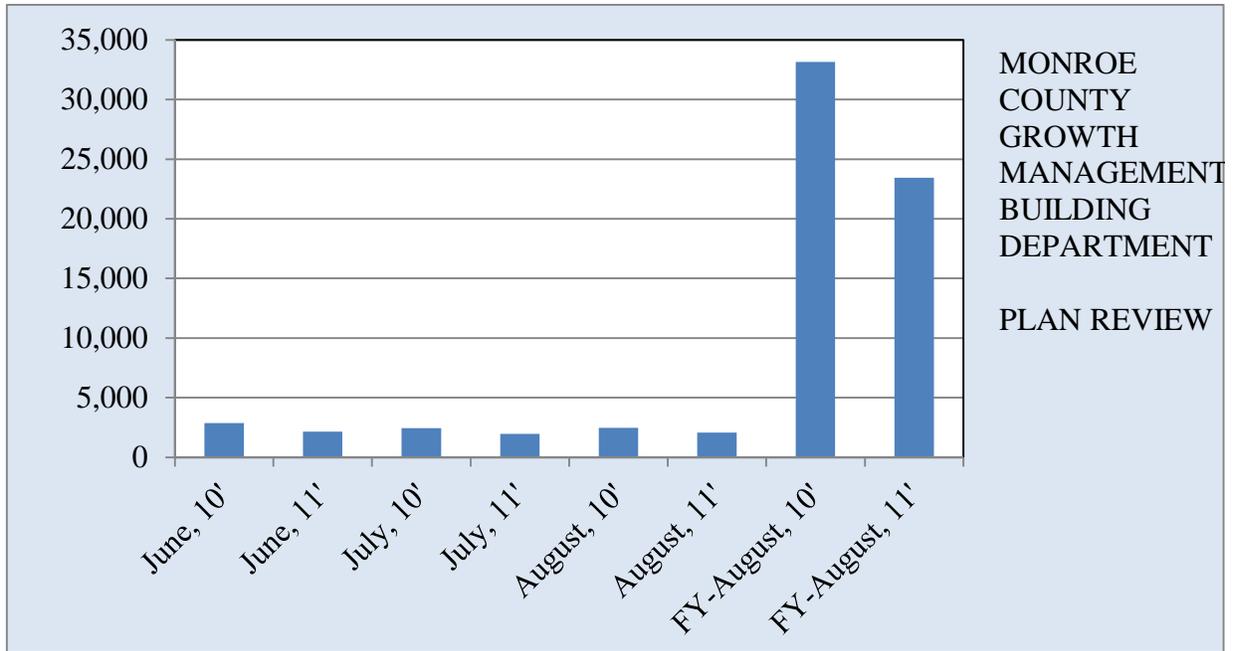


MONROE COUNTY GROWTH MANAGEMENT

BUILDING DEPARTMENT PLAN REVIEW

AUGUST, 2011

June, 10'	June, 11'	July, 10'	July, 11'	August, 10'	August, 11'	FY-August, 10'	FY-August, 11'
2,868	2,154	2,447	1,958	2,468	2,060	33,139	23,449



MONROE COUNTY - GROWTH MANAGEMENT
RECOMMENDED IMPROVEMENTS: PHASE I SUMMARY

Permitting Procedures, Policy, Standardization and Training:

- ✓ Internal review and process mapping of intake and plan review process across all offices.
- In PROGRESS: Review and update building permit types and the application forms and plan reviews checklists associated with each permit type to be used/distributed to public in each office.
- ✓ Comprehensive training session for all plan reviewers and customer service reps regarding changes to achieve standardized procedures across offices.
- In PROGRESS: Reverse ROGO/NROGO process modification, which in part will eliminate permit application and building plan reviews for ROGO/NROGO applications.
- ✓ Examine and revise Private Provider process, fees and present for BOCC approval new Building Fee Resolution.
- In PROGRESS: Eliminate Flood Inspection for downstairs enclosures with permit application (6-107)
- HOLD (Budget): Automate inspection request via phones system (IVR).
- Begins October 2011: Review, standardize and/or prioritize building inspections by permit types to be used in all offices. Update the computer system to reflect changes.
- In PROGRESS: Analyze statute requirements and building permitting policy for when general contractor and sub-contractors must give notice for building permit: at time of application, before issuance, during inspections.
- Review and cleanup expired permits.
- Amend Section 6-55 under Building Official Authority: Implement internal policy changes, fee interpretations, or code interpretations only after 90 day
- In PROGRESS: Study how the City of Marathon is conducting Health Department reviews on abandonment of septic tank permits

Fees:

- Increase permit exempt valuation from \$1000 to \$2500
- Analyze fees charged and services rendered related to permit applications to determine more efficient and simplified permit pricing approach. Propose new fee structure to BOCC for Monroe County Ordinance approval.
- Analyze fees charged and services rendered related to stormwater. Propose new fee structure to BOCC for Monroe County ordinance approval.
- Allow customers to pay fees collected by Growth Management by credit card.

Public Access:

- ✓ Create a Stormwater Retention Calculation worksheet for public usage and submission.
- ✓ Provide additional sitting for customers in Key Largo office - specifically bar stools.
- In PROGRESS: Provide computers in lobby's for access to MCPA, Clerk, eGov, Sunbiz with printing (charge .25cents per page) capability.

Monroe County Growth Management - Recommended Improvements Summary for Phase I

Phase (I,II,III)	MASTER Item #	Originating Summit Comment #	Goal	Status	Due Date or Implementation Date
I	1.1		Intake-Permit types/data entered Process Mapping	Done	9/1/2011
I	2.1		Review and consolidate/remove permit types and affects on database	Done	9/1/2011
I	2.3		Document Requirements at time of application, at time of issuance, at time of inspection	Working: On-going	
I	1.2		Plan Review Process Mapping	Done	9/1/2011
I	6.2	15	Plan Review: sequential processing creates time delay		
I	6.20	46	Retrain personnel to enter comments properly and notify contractor or Agent	Done	9/1/2011
I	6.20	48	Better communication between depts. and consistency between Marathon and Key Largo's Procedures	Working: On-going	
I	6.3	41	Standard procedures between Offices	Working: On-going	
I	2.2	33	Revise ROGO/NROGO Process: No Permitting/building plan review for ROGO applications; just planning case	Reviewed by DRC; PC and BOCC to follow	Expected Early 2012
I	6.6	13	Revise ROGO/NROGO : Affect on plan review time/storage/resource	Working	
I	5.1	38	Eliminate Private Provider fees private providers: why is there a charge?	Adopted 6/15/11	9/1/2011
I	6.7	37	Private Provider plan review and staff redundancy review	Done	9/1/2011
I	6.8	32	Private provide audit vs duplicating provider work	Done	9/1/2011
I	6.9	39	Outsource Plan Reviews - ICC or Private Providers		
I	6.21	63	Stormwater Retention Calculation worksheet : Improve staff and public ability to determine calculation	Done	9/1/2011
I	2.12	CH email 12/13/10	Create a "check" or some type of mechanism to prevent issuance without inspection floodplain	Done (Will be obsolete w/ HB 407)	
I	2.13	58	Eliminate Flood Inspection with permit (6-107)	FEMA required alternate process; BOCC Review 6/15/11; Letter sent 8/16/11	
I	1.4		Inspections Process Mapping	Begin October 2011	3/1/2011
I	7.2	6	Standard inspection codes by Permit Type	Begin October 2011	3/1/2011
I	7.1	1/25 Summit	Automate inspections via IVR/eGov request function	On Hold	
I	7.11	22	Prioritizing inspections	Begin October 2011	3/1/2011
i	7.14	59	Multiple Inspections of one site - all performed at once and not in specific order	Begin October 2011	3/1/2011
I	5.7	Written Request	Increase permit exempt valuation from \$1000 to \$2500	CEB Discussion	
I	5.2	17	Pricing by component vs sq ft	January 2012	
i	5.8	60	Fence Fees	January 2012	
I	5.6		Stormwater fees: Stormwater review, inspecting and final process document and fee restructuring. The current fees include: Plan review, Site visits, Admin, Research	January 2012	
I	5.3	18	Credit cards	Options Researched	
I	2.9	27	All permits at one time due to group request /subs should or should not be due at time of application? Issuance?		
I	2.5	26	Submit permit w/o contractor while job is being bid -can save time	Email from County Attorney	
I	2.6	55	Plan submission for permit review without an assigned General Contractor on commercial projects.....	Email from County Attorney	
I	4.1	49	2 bar stools at counter	Done	1/11/2011
I	4.2	45	Computer in Bldg dept w/ access to MCPA, Clerk, eGov, Sunbiz w/ print (charge .25) capability	Working w/ IT	
I	1.3		Issuance Process Mapping		
I	8.1		Expired permits: review /clean-up of data conversion errors; research other communities statute of limitations; fences/slabs/boat lifts/AC? Close out		
I	9.3	61	Amend Section 6-55 under Building Official Authority: Implement internal policy changes, fee interpretations, or code interpretations only after 90 day notice to contractors in writing. Policy changes, fee interpretations, or code interpretations that create an unsafe situation or health safety welfare issue shall not require 90 day notice, but every effort shall be made to notify industry representatives as soon as possible		
I	10.2	25	Increase knowledge of public so issues in permitting and development approval do not occur as frequently		

Default Review Stops by Permit Type

Effective 9/1/11

LEGEND: LANG=Language for Planning instead of actual review
 COM = Commercial
 DEV= Community Development

NOTE: * = Number of Permits Issued represents total since 1980's

** = These are automatic stops that the system will create when a permit is entered. However, review stops can be added manually or "NA" if not needed.

Code	Permit Type	REVIEW STOPS									AUTO Stops **		D I F F	Manually Add As Needed								
		BIO (Setback/ Use Water)	LDR / PLAN (Setback/ Use Land, and/or Historic) Any COM permit goes to PLAN	STORM WATER (ENG)	FIRE	EXAM (Structu ral)	ELECT	MECH (GAS)	PLUMB	FLOOD	Current # of Auto Review Stops	NEW # of Auto Review Stops		BLDG OFFICIAL	STORM WATER (By BIO)	WASTE WATER w/ HOLD on Parcel (By CustSer Rep)	FIRE	CODE (By CustSer Rep) When HOLD on Parcel - only CODE can NA)	FLOOD (6- 107) (By CustSer Rep based upon Parcel Info)	ROGO/NR OGO (By CustSer Rep)		
05	ADDITION-COMMERCIAL	1	1	1	1	1	1	1	1	1	9	9	0	1		1		1			1	NROGO
49	ADDITION-RESIDENTIAL	1	1			1	1	1	1	1	6	7	1	1	1						1	
34	AIR CONDITIONING		by Mech					1	1		2	3	1	1				COM			1	
34W	AIR CONDITIONING-WALK THRU (REPLACE)		by Mech								1	0	-1	1							1	
110	ALARMS-COMMERCIAL (BURGLAR/FIRE)		LANG		1			1			3	2	-1	1							1	
109	ALARMS-RESIDENTIAL (BURGLAR/FIRE)		LANG					1			2	1	-1	1							1	
01	ANTENNA/TOWERS/EQUIP BLDG	1	1	1	1	1	1	1			9	7	-2	1							1	NROGO
03	AWNINGS		1			1					2	2	0	1				COM			1	
67	BLASTING	1	LANG		1	1					4	3	-1	1							1	
37	BOAT DAVITS - LIFTS	1				1	1				4	3	-1	1							1	
59	BRIDGES	1			1	1					5	3	-2	1	1						1	
06	CARPORT	1	1			1	1				3	5	2	1							1	
OCCUPANCY	CHANGE OF OCCUPANCY		1		1	1	1	1	1		7	6	-1	1			1				1	NROGO
75	CHICKEE HUT	1				1	1				3	4	1	1				COM			1	
53	CISTERN	1				1	1		1	1	4	5	1	1	COM						1	
04	COMMERCIAL BLDG-NEW	1	1	1	1	1	1	1	1	1	9	9	0	1			1				1	NROGO
04-NROGO	COMMERCIAL BLDG-NEW NROGO	1	1	1	1	1	1	1	1	1	0	9	9	1			1				1	NROGO
04R	COMMERCIAL BLDG-REPLACE	1	1	1	1	1	1	1	1	1	9	9	0	1			1				1	NROGO
54	COMMERCIAL STORAGE	1	1	1	1	1	1	1	1	1	9	9	0	1							1	NROGO
72	CONCRETE CAP	1				1					2	2	0	1							1	
42	CONCRETE SLAB	1				1					3	2	-1	1	1		1				1	
62	CURBING	1				1					2	2	0	1							1	
36	DECK	1	1			1					3	3	0	1				COM			1	
08	DEMO	LANG	LANG			1	1	1	1	1	2	5	3	1				COM			1	
08W	DEMO WALK-THRU	LANG	LANG			1	1	1	1	1	0	5	5	1				COM			1	
106	DEMO-FEMA COMPLIANCE		LANG			1	1	1	1	1	2	5	3	1				COM			1	
09	DEMO-MOVING BLDG	1	1			1	1	1	1	1	7	6	-1	1				COM			1	ROGO
11-A	DOCK/SEAWALL REPAIR	1	LANG			1					3	2	-1	1				COM			1	
11	DOCKING FACILITY	1				1					5	2	-3	1				COM			1	
65	DREDGING	1	1			1					3	3	0	1							1	
51	ELECTRIC-MISC		LANG					1			2	1	-1	1							1	
51W	ELECTRIC-MISC WALK THRU		LANG					1			2	1	-1	1							1	
91	ELEVATOR/CHAIR LIFT/DUMB WAITER	1				1	1				3	4	1	1	1		1		COM		1	
41	ENCLOSURE - A-ZONE(OTHER (FEMA))					1	1				1	3	3	0	1						1	
40	ENCLOSURE-V-ZONE (FEMA)					1	1				1	3	3	0	1						1	

Default Review Stops by Permit Type

Code	Permit Type	REVIEW STOPS									AUTO Stops **		D I F F	Manually Add As Needed					
		BIO (Setback/ Use Water)	LDR / PLAN (Setback/ Use Land, and/or Historic) Any COM permit goes to PLAN	STORM WATER (ENG)	FIRE	EXAM (Structu ral)	ELECT	MECH (GAS)	PLUMB	FLOOD	Current # of Auto Review Stops	NEW # of Auto Review Stops		BLDG OFFICIAL	STORM WATER (By BIO)	WASTE WATER w/ HOLD on Parcel (By CustSer Rep)	FIRE	CODE (By CustSer Rep) - When HOLD on Parcel - only CODE can NA)	FLOOD (6- 107) (By CustSer Rep based upon Parcel Info)
28	EXCAVATION	1				1				4	2	-2	1	1				1	
07-FEMA	FEMA UNDETECTED RESIDENCE	1	1			1	1	1	1	1	6	7	1	1	1	1		1	ROGO
12W	FENCE/RETAIN WALLS-WALK THRU	1				1				4	2	-2	1					1	
12	FENCE/RETAINING WALLS	1				1				4	2	-2	1			COM		1	
29	FILL	1				1				3	2	-1	1					1	
14	FIRE PROTECTION SYSTEM		LANG		1		1			6	2	-4	1					1	
201	FLOOR COVERING		LANG			1				2	1	-1	1			COM		1	
15	FOUNDATION & PILING	1	1			1				2	3	1	1					1	
46	GARAGE/ENCLOSED CARPORT	1	1			1	1		1	4	5	1	1			COM		1	
16-A	GAS/FUEL TANKS - ABOVE GROUND		LANG		1	1		1	1	6	4	-2	1					1	
16	GAS/FUEL TANKS - IN GROUND		LANG		1	1	1	1	1	6	4	-2	1					1	
17	GAZEBO	1				1	1		1	3	4	1	1			COM		1	
18A	GENERATOR AUXILIARY	1	1			1	1		1	3	5	2	1			COM		1	
18	GENERATOR BUILDING	1	1	1		1	1	1	1	7	7	0	1			COM		1	NROGO
96	HANDICAP RAMP	1	1			1				3	3	0	1					1	
83	HOTEL/MOTEL	1	1	1	1	1	1	1	1	9	9	0	1		1			1	NROGO
22-AW	LAND CLEAR & EXOTICS WALK-THRU	1								2	1	-1	1					1	
22	LAND CLEARING	1								2	1	-1	1					1	
22-A	LAND CLEARING / EXOTICS ONLY	1								2	1	-1	1					1	
22B	LANDSCAPING MISC	1								3	1	-2	1					1	
68	LATTICE (WOOD) & SCREENING		LANG			1			1	2	2	0	1					1	
76	LAWN SPRINKLER SYSTEM	1	LANG				1		1	2	3	1	1					1	
21	LP GAS TANKS		1			1		1	1	6	3	-3	1			COM		1	
90	MARINA	1		1	1	1	1	1	1	9	7	-2	1			1		1	NROGO
56	MOBILE HOME - NEW	1	1		1	1	1	1	1	6	8	2	1	1	1			1	ROGO
56-AFFORD	MOBILE HOME - NEW AFFORDABLE	1	1		1	1	1	1	1	7	8	1	1	1	1			1	ROGO
30	MOBILE HOME-REPLACEMENT	1	1		1	1	1	1	1	6	8	2	1	1	1			1	ROGO
23	MULTI-FAMILY	1	1	1	1	1	1	1	1	9	9	0	1		1			1	ROGO
23-AFFORD	MULTI-FAMILY - AFFORDABLE HOUSING	1	1	1	1	1	1	1	1	9	9	0	1		1			1	ROGO
23-FEMA/AF	MULTI-FAMILY - FEMA AFFORDABLE HOUSING	1	1	1	1	1	1	1	1	9	9	0	1		1			1	ROGO
11-O	OBSERVATION DECK/CANNOT BE USED FOR DOCK	1	1			1				0	3	3	1	1				1	
112	PAINTING		LANG		1	1				1	2	1	1					1	
116	PARK	1		1	1	1	1	1	1	0	7	7	1					1	NROGO
24	PAVING/DRIVEWAY/SIDEWALK	1	1			1				3	3	0	1	1				1	
92	PILINGS	1	LANG			1				3	2	-1	1					1	
55	PLUMBING - MISCELLANEOUS		LANG					1		2	1	-1	1					1	
55S	PLUMBING - SEWER TIE-IN WALK THRU		LANG					1		2	1	-1	1					1	
25	POOL & SPA	1	NO FEE			1	1	1	1	1	5	6	1	1	1			1	
25-A	POOL & SPA MAINT. & REPAIR					1	1	1	1	4	4	0	1					1	
89	PORCH - ENCLOSE		1			1	1			1	3	4	1	1				1	
87	PORCH - OPEN/SCREENED	1				1	1		1	2	4	2	1	1				1	

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34A	POST CARD A/C PERMIT		LANG							0	0	0								
86	REFRIGERATION		LANG							2	1	-1	1					1		
60	REMODEL/REPAIR COM INT/EXT	1	1	1	1	1	1	1	1		9	9	1							
77	REMODEL/REPAIR RES INT/EXT		1			1	1	1	1		6	6	1							
PRESALE	RESEARCH & INSPECTION PRIOR TO SALE									0		0								
52	RETAINING WALL	1				1				3	2	-1	1	1				1		
113-CRW	RIGHT-OF-WAY ACCESSORY STRUCTURES	1			1	1	1			5	4	-1	1					1		
27	RIPRAP	1	LANG			1				3	2	-1	1					1		
38W	ROOFING WALK-THRU		LANG			1			1	2	2	0	1					1		
93	ROOFING-COMMERCIAL		LANG		1	1			1	3	3	0	1					1		
38	ROOFING-RESIDENTIAL		LANG			1			1	2	2	0	1					1		
31	RV - REPLACEMENT (USE)	1	1				1			4	3	-1			1			1		
31 WILMA	RV - TEMPORARY RV (EMERG HOUSING)	1	1		1					0	3	3						1		
105	SATELLITE DISHES		1				1			3	2	-1		1				1		
20	SEAWALL (Without Dock)	1				1				3	2	-1	1					1		
57	SEWAGE TREAT PLANT-COMMERCIAL	1	1	1	1	1	1	1		7	8	1	1		1			1		
35	SHED		1			1			1	3	3	0	1					1		
61W	SHUTTERS WALK-THRU		LANG			1				2	1	-1	1					1		
66	SIGNS		1		1	1	1			3	4	1	1	PLAN				1		
07-AFFORD	SINGLE FAMILY RES--AFFORDABLE HOUSING	1	1		1	1	1	1	1	6	7	1	1	1		DEV		1	ROGO	
07-AFF-EXP	SINGLE FAMILY RES-AFFORD FEE EXEMPT	1	1		1	1	1	1	1	0	7	7	1	1	1	DEV		1	ROGO	
07-AFF-INC	SINGLE FAMILY RES-AFFORD INCLUSIONARY	1	1		1	1	1	1	1	0	7	7	1	1	1	DEV		1	ROGO	
07	SINGLE FAMILY RES-CONVENTIONAL	1	1		1	1	1	1	1	6	7	1	1	1	1	DEV		1	ROGO	
07-EMP	SINGLE FAMILY RES-EMPLOYEE HOUSING	1	1		1	1	1	1	1	6	7	1	1	1	1	DEV		1	ROGO	
07-GUEST	SINGLE FAMILY RES-FROM GUEST HOUSE TO SFR	1	1		1	1	1	1	1	6	7	1	1	1				1		
102	SINGLE FAMILY RES-FROM MOBILE HOME REPLACED WITH SFR	1	1		1	1	1	1	1	6	7	1	1	1	1			1	ROGO	
07-SFRBOAT	SINGLE FAMILY RES-HOUSEBOAT	1	1		1	1	1	1		6	6	0	1	1	1			1	ROGO	
07-MODEST	SINGLE FAMILY RES-MODEST HOUSING	1	1		1	1	1	1	1	7	7	0	1	1	1			1	ROGO	
07-MOD	SINGLE FAMILY RES-MODULAR	1	1		1	1	1	1	1	6	8	2	1	1	1			1	ROGO	
101	SINGLE FAMILY RES--REPLACE-OF	1	1		1	1	1	1	1	6	7	1	1	1				1		
NEW	SITE PLAN - ROGO SF	1	1						1	0	3	3								
NEW	SITE PLAN - ROGO MF	1	1	1	1				1	0	5	5								
NEW	SITE PLAN - NROGO	1	1	1	1				1	0	5	5								
115	SITE WORK	1	1	1	1	1	1	1	1	0	9	9	1					1		
33	SOLAR UNITS	1	LANG			1	1	1		3	4	1	1					1		
44-A	SPALLING/EXT CONCRETE REPAIRS		LANG			1				2	1	-1	1					1		
100	STAIRS		1			1				2	2	0	1			COM		1		
425	STUCCO		LANG			1				2	1	-1	1					1		
TEMP USE	TEMP USE/STRUCT PERMIT		1		1	1	1			5	4	-1	1							

Default Review Stops by Permit Type

Code	Permit Type	REVIEW STOPS									AUTO Stops **		D I F F	BLDG OFFICIAL	Manually Add As Needed					
		BIO (Setback/ Use Water)	LDR / PLAN (Setback/ Use Land, and/or Historic) Any COM permit goes to PLAN	STORM WATER (ENG)	FIRE	EXAM (Structu ral)	ELECT	MECH (GAS)	PLUMB	FLOOD	Current # of Auto Review Stops	NEW # of Auto Review Stops			STORM WATER (By BIO)	WASTE WATER w/ HOLD on Parcel (By CustSer Rep)	FIRE	CODE (By CustSer Rep) When HOLD on Parcel - only CODE can NA)	FLOOD (6- 107) (By CustSer Rep based upon Parcel Info)	ROGO/NR OGO (By CustSer Rep)
95	TENNIS COURT - COMMERCIAL	1		1		1	1				5	4	-1	1				1	NROGO	
94	TENNIS COURT - RESIDENTIAL	1				1	1				3	3	0	1	1			1		
32	TIE DOWNS (EXISTING STRUCTURE)		LANG			1					2	1	-1	1				1		
81	TRAILER-CONSTRUCT/SALES	1			1	1	1	1			3	6	3	1	1			1		
22-TTE	TREE REMOVAL/TRIM EXOTICS ONLY	1									3	1	-2	1						
22-TT	TREE REMOVAL/TRIM	1									3	1	-2	1						
73	WAREHOUSE	1	1	1	1	1	1	1	1	1	9	9	0	1		1		1	NROGO	
200	WINDOW REPLACEMENT		LANG			1					2	1	-1	1				1		

PLANNING RELATED PERMIT TYPES:

AV	ADMINISTRATIVE VARIANCE		1						1		2							Manually	1	
USE CHANGE	CHANGE USE / ADD USE		1		1				1		3			1				Manually	1	
HO	HOME OCCUPATIONAL		1						1		2							Manually	1	
	SPECIAL EVENTS/TENTS																			
VR	VACATION RENTAL		1								1							Manually		

FEMA INSPECTIONS																				
999	FEMA INSP COMPLIANCE PROGRAM								1	1	1	0	1						1	
999P	FEMA INSP PRIVATE INSPECTOR								1	0	1	1							1	
999B	FEMA INSP SALE COUNTY INSPECTOR								1	0	1	1	1	1					1	



BUILDING PERMIT APPLICATION MONROE COUNTY GROWTH MANAGEMENT DIVISION

INTERNAL USE ONLY	DATE:	Rec'd by:	PERMIT #	
	Complete if applicable: <input type="checkbox"/> Emergency <input type="checkbox"/> Walk-Thru <input type="checkbox"/> DEMO(<input type="checkbox"/> Asbestos) <input type="checkbox"/> Revision			
	PARCEL INFORMATION		Deemed Development (Planning/BIO): <input type="checkbox"/> YES <input type="checkbox"/> NO	
	LU District:	FLUM District:	Flood Zone & Elevation:	Flood Panel:

JOB SITE INFORMATION

RE #: (Tax Folio #)	---	Job Address:	
Legal Description	Lot Block/Unit	Location Information	Key: _____ MM _____ Subdiv

OWNER INFORMATION Note: ALL OWNER BUILDERS MUST APPLY IN PERSON - F.S.489.103(7)

Name		Phone: ()
Address (mailing) City, State, Zip		-
Fee Simple Titleholder's (if applicable - other than owner), Address, City, State, Zip		Phone: ()
Mortgage Lender's Name and Address		

Email Address Preference: Yes No If YES, please provide email address that communication, including correction requests, should be sent: _____

<i>CONTRACTOR INFORMATION (if applicable)</i>	<i>SUB & Other CONTRACTOR (if applicable)</i>
---	---

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Construction Business Name</td><td></td></tr> <tr><td>Contact</td><td></td></tr> <tr><td>License #</td><td></td></tr> <tr><td>Mailing Address</td><td></td></tr> <tr><td>Email</td><td></td></tr> <tr><td>Phone</td><td></td></tr> <tr><td>Bonding Company Name, Address</td><td></td></tr> <tr><td>City, State</td><td></td></tr> <tr><td>Private Provider</td><td></td></tr> </table>	Construction Business Name		Contact		License #		Mailing Address		Email		Phone		Bonding Company Name, Address		City, State		Private Provider		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Other</td><td></td></tr> <tr><td>Electrical</td><td></td></tr> <tr><td>Elevator</td><td></td></tr> <tr><td>Mechanical</td><td></td></tr> <tr><td>Plumbing</td><td></td></tr> <tr><td>Pool</td><td></td></tr> <tr><td>Roofing</td><td></td></tr> <tr><td>Architect/Engineer Name</td><td></td></tr> <tr><td>Address</td><td></td></tr> <tr><td>City, State</td><td></td></tr> <tr><td>Type of Private Provider</td><td> <input type="checkbox"/> Plan Review & Inspections <input type="checkbox"/> Plan Review Only <input type="checkbox"/> Inspection Only (application) </td></tr> </table>	Other		Electrical		Elevator		Mechanical		Plumbing		Pool		Roofing		Architect/Engineer Name		Address		City, State		Type of Private Provider	<input type="checkbox"/> Plan Review & Inspections <input type="checkbox"/> Plan Review Only <input type="checkbox"/> Inspection Only (application)
Construction Business Name																																									
Contact																																									
License #																																									
Mailing Address																																									
Email																																									
Phone																																									
Bonding Company Name, Address																																									
City, State																																									
Private Provider																																									
Other																																									
Electrical																																									
Elevator																																									
Mechanical																																									
Plumbing																																									
Pool																																									
Roofing																																									
Architect/Engineer Name																																									
Address																																									
City, State																																									
Type of Private Provider	<input type="checkbox"/> Plan Review & Inspections <input type="checkbox"/> Plan Review Only <input type="checkbox"/> Inspection Only (application)																																								

SCOPE OF WORK - Describe Job/Project

JOB DETAILS	GROSS SQUARE FT:	ESTIMATED TOTAL COST: \$
Change in Occupancy/Use: <input type="checkbox"/> YES <input type="checkbox"/> NO	Check Roofing Permit: <input type="checkbox"/> NEW <input type="checkbox"/> RE-ROOF <input type="checkbox"/> RE-COVER	
Change in Footprint: <input type="checkbox"/> YES <input type="checkbox"/> NO		
Construction debris will be removed by <input type="checkbox"/> Applicant <input type="checkbox"/> Specialty Contractor (Name):		

WARNING TO OWNER:

- A Notice of Commencement must be recorded & posted on the job site before the first inspection, and copy to the Building Dept.
- Failure to post the Notice of Commencement at the job site will result in the inability of our inspectors to offer an approved inspection.
- Your failure to record a Notice of Commencement may result in your paying twice for improvements to your property
- If you intend to obtain financing, consult with your lender or an attorney before commencing work or recording your Notice of Commencement.

ASBESTOS AGREEMENT: (Initial If Applicable: _____)

As owner/contractor/agent of record for the construction applied for in this application, I agree that I will comply with the provisions of the Florida Statute 469.003 and to notify the DEP of my intent to demolish/remove a structure at the above address and remove asbestos, when applicable, in accordance with state and federal law.

SOLID WASTE ASSESSMENT:

Upon completion of the project for which I have made application for a Building Permit, I must pay the pro-rated residential solid waste assessment, or show proof of commercial service with a franchised commercial collector prior to a Certificate of Occupancy being issued.

OWNER'S AFFIDAVIT:

- Application is hereby made to obtain a permit to do the work and installations as indicated.
- I certify that no work or installation has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction.

"Notice: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies or federal agencies."

I hereby certify that I have read and examined this application and know that same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any local, state or federal laws regulating construction or the performance of construction.

Owner (print) _____ Qualifier (print) _____
 Signature: _____ Signature: _____
 Date: _____ Date: _____

NOTARY as to Owner
 Sworn to & subscribed to before me this _____
 day of _____, 20____, he/she is
 personally known to me or has produced
 _____ as
 identification and who did (did not) take an oath.

NOTARY as to Qualifier
 Sworn to & subscribed to before me this _____
 day of _____, 20____, he/she is
 personally known to me or has produced
 _____ as
 identification and who did (did not) take an oath.

My Commission Expires on _____ My Commission Expires on _____

*****INTERNAL USE ONLY BELOW*****

FLOODPLAIN ROUTING CHECKS								Staff:	Date:
Check codes that exist on the GROUND floor of the site proposed for permit:								Section 6-107: If ANY <u>starred</u> code to the left is checked > Route to Floodplain FIRST Section 122-6: If ANY of the codes to the left are checked then >Check if SOLD after 6/01/04 > Route to Floodplain >Check if current owner had the sale inspection > No Insp Req'd	
CODES →	FL? *	EPB *	LLF *	GBF	GBU	SBF	SBU		
Other Departments	Fee	Building			Fee	Plan Review	ED	Other	Fee
PLAN & ENVIR	Education Fee	\$			Building	\$	\$	Floodplain	\$
	Bio Planner	\$			Electrical	\$	\$	Code (ATF)	\$
	Planner	\$			Plumbing	\$	\$	Tech	\$3 or \$20
ENG	Plan Review	\$			Mechanical	\$	\$	Contractor Invest.	\$
	Administration	\$			Roof	\$	\$	DBPR	\$
	Site Inspection	\$			Fuel/Gas	\$	\$	DBPR ED	\$
	Wastewater	\$	SubTotal: 100% Fees Only 50%(PP Insp)					DCA	\$
	Research	\$	Subtotal: All Building (Fee+PR+ED+DBPR/DCA)					DCA ED	\$
FIRE	Plan Review	\$	FEE Credit: Application - (\$)			Impact Fee \$		Total DBPR/DCA	\$
	Administration	\$	Receipt #		GRAND TOTAL Permit Fee Due (Other Dept + All Building + Other) – Fee Credit \$				

BUILDING OFFICIAL/ ASSISTANT BUILDING OFFICIAL:

APPROVED FOR ISSUANCE _____ on DATE _____



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: Joseph Haberman, AICP, Planning & Development Review Manager

Date: July 18, 2011

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-19, RATE OF GROWTH ORDINANCE (ROGO), 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, 138-26 EVALUATION PROCEDURES FOR RESIDENTIAL DWELLING UNIT ALLOCATION, 138-28, EVALUATION CRITERIA, 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, 138-52, APPLICATION PROCEDURES FOR NROGO, AND 138-55, EVALUATION CRITERIA (NROGO); ESTABLISHING NEW MONROE COUNTY CODE SECTIONS 138-29, ROGO SITE PLAN APPROVAL PROCESS AND 138-56, NROGO SITE PLAN APPROVAL PROCESS; RENUMBERING EXISTING MONROE COUNTY CODE SECTION 138-56, EMPLOYEE HOUSING FAIR SHARE IMPACT FEE TO SECTION 138-57, ELIMINATING SECTIONS 110-142, COMPLIANCE REQUIREMENTS FOR BUILDING PERMIT APPLICATIONS REQUIRING A ROGO OR NROGO ALLOCATION AWARD OR SUBMITTED UNDER PRIVATIZED PLAN REVIEW, AND 110-143, DEADLINES FOR SUBMISSION OF BUILDING PERMIT APPLICATIONS TO BE ENTERED INTO THE RESIDENTIAL AND NONRESIDENTIAL PERMIT ALLOCATION SYSTEMS; TO ELIMINATE THE REQUIREMENT THAT A BUILDING PERMIT BE "APPROVED" PRIOR TO ENTERING ROGO OR NROGO AND REPLACE THAT REQUIREMENT WITH A REQUIREMENT THAT APPLICANTS SEEKING ROGO OR NROGO ALLOCATIONS OBTAIN A SITE PLAN APPROVAL PRIOR TO ENTERING ROGO OR 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.*

Meeting: September 14, 2011

1
2
3
4
5

I REQUEST

The Planning & Environmental Resources Department is proposing amendments to the text of the Monroe County Code concerning the County's Rate of Growth Ordinance (ROGO)

1 and Nonresidential Rate of Growth Ordinance (NROGO). The general purpose of the
2 amendments is to eliminate the regulations that require an applicant to have a building permit
3 application be approved and “ready to issue” prior to entering ROGO or NROGO and replace
4 the existing regulations with new regulations that would not require full building plans to be
5 submitted prior to ROGO/NROGO application. The current requirement to have both the
6 site and building plans approved would be replaced with a requirement that applicants
7 seeking ROGO/NROGO allocations obtain only site plan approval prior to entering the
8 respective ROGO/NROGO permit allocation system.
9

10 **II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:**

11
12 The ROGO was implemented within the Monroe County Code as required by Monroe
13 County Comprehensive Plan Policy 101.2.13.
14

15 The ROGO was first adopted in 1992 by Ordinance #016-1992. It has been effective from
16 July 1992 to present. In order to carry out several miscellaneous amendments, MCC Chapter
17 138, Article II, ROGO has been amended several times from its adoption to present date. Of
18 these amendments, it is important to note that in order to implement the tier scoring system,
19 the ROGO regulations were amended in 2006 by Ordinance #009-2006.
20

21 As set forth in MCC §138-19(b), the purposes and intent of the ROGO are: 1) to facilitate
22 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating
23 to protection of residents, visitors and property in the county from natural disasters,
24 specifically including hurricanes; 2) to limit the annual amount and rate of residential
25 development commensurate with the county's ability to maintain a reasonable and safe
26 hurricane evacuation clearance time; 3) to regulate the rate and location of growth in order to
27 further deter deterioration of public facility service levels, environmental degradation and
28 potential land use conflicts; 4) to allocate the limited number of dwelling units available
29 annually hereunder, based upon the goals, objectives and policies set forth in the
30 Comprehensive Plan; and 5) to implement goal 105 of the Comprehensive Plan.
31

32 The NROGO was carried out as required by Monroe County Comprehensive Plan Policy
33 101.3.1.
34

35 The NROGO was first adopted in 2001 by Ordinance #032-2001. It has been effective from
36 July 2001 to present. In order to carry out several miscellaneous amendments, MCC Chapter
37 138, Article III, NROGO has been amended several times from its adoption to present date.
38 Of these amendments, it is important to note that in order to implement the tier scoring
39 system, the NROGO regulations were amended in 2006 by Ordinance #011-2006.
40

41 As set forth in MCC §138-47(b), the purposes and intent of the NROGO are: 1) to facilitate
42 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating
43 to maintaining a balance between residential and nonresidential growth; 2) to maintain a ratio
44 of approximately 239 square feet of nonresidential floor area for each new residential permit
45 issued through the ROGO; 3) to promote the upgrading and expansion of existing small-size
46 businesses and to retain the predominately small scale character of nonresidential

1 development in the Florida Keys; 4) to regulate the rate and location of nonresidential
2 development in order to eliminate potential land use conflicts; and 5) to allocate the
3 nonresidential floor area annually hereunder, based on the goals, objectives and policies of
4 the Comprehensive Plan and the Livable CommuniKeys master plans.

5 6 III REVIEW

7
8 Since the adoption of ROGO and NROGO, Monroe County has required applicants for
9 allocations to obtain an approved building permit prior to applying for an allocation. The
10 existing process requires an applicant to submit a full plan set for the site and all buildings as
11 part of building permit application, as well as application fees for the building permit and
12 corresponding plan review.

13
14 As with any other building permit not requiring an ROGO/NROGO allocation, approval of
15 the building permit application by the following county staff is required:

- 16 ○ Planning
- 17 ○ Environmental Resources
- 18 ○ Plumbing
- 19 ○ Mechanical
- 20 ○ Electrical
- 21 ○ Floodplain Management
- 22 ○ Fire Marshal
- 23 ○ Engineering
- 24 ○ Building Official

25
26 Development approved by a building permit should be compliant with the most current codes
27 in place at time of issuance. However, under the current system, applicants are required to
28 seek building permit approval prior to application for a ROGO and/or NROGO allocation.
29 Since the reviews by various disciplines occur at the beginning of a process that may take
30 some time (ROGO/NROGO are competitive, point-based systems and applications may
31 remain in the systems for several years), it is possible that the building permit application that
32 was reviewed and approved under the codes at time of application may become non-
33 compliant with the current code requirements on the date of building permit issuance.

34
35 In addition, the expense to an applicant to prepare plans and pay building permit fees is
36 extensive. Staff has observed that some applicants submit “typical” plans for buildings they
37 do not intend to build so they can enter ROGO and/or NROGO. These applicants then
38 immediately revise the plans once an allocation is awarded and a building permit is issued.
39 The administrative staff time it takes to review full building permit applications is extensive.

40
41 To alleviate these issues, staff is proposing to create a ROGO and NROGO Site Plan
42 Approval processes to remove the requirement to have a fully approved building permit prior
43 to application for ROGO or NROGO.

44
45 Staff is also proposing this new requirement be effective in January of 2012, so that
46 applicants who have already entered the process (building permit application approved) may

1 complete that process, but applicants that apply after the effective date may apply for a site
2 plan approval instead of a building permit.

3
4 The site plan approval process shall determine whether the site being proposed for an
5 allocation is “buildable” and/or “developable”, without the full requirement for having a
6 building permit application approved prior to entering the ROGO and/or NROGO permit
7 allocation system.

8
9 Therefore, staff recommends the following changes (Deletions are ~~stricken-through~~ and
10 additions are underlined. Text to remain the same is in black):

11
12 **Sec. 138-19. Residential rate of growth ordinance (ROGO).**

13
14 (a) *Definitions.* The following words, terms and phrases, when used in this section, shall
15 have the meanings ascribed to them in this subsection, except where the context clearly
16 indicates a different meaning:

17
18 *Allocation period* means a defined period of time within which applications for the
19 residential ROGO allocation will be accepted and processed.

20
21 *Annual allocation period* means the 12-month period beginning on July 13, 1992, (the
22 effective date of the original dwelling unit allocation ordinance), and subsequent one-year
23 periods.

24
25 *Annual residential ROGO allocation* means the maximum number of dwelling units for
26 which building permits may be issued during an annual allocation period.

27
28 *Buildable lot or parcel* means a lot or parcel which must contain a minimum of 2,000
29 square feet of upland, including any disturbed wetlands that can be filled pursuant to this
30 ~~chapter~~ Land Development Code.

31
32 *Controlling date* means the date and time a ROGO application is submitted. This date
33 shall be used to determine the annual anniversary date for receipt of a perseverance point
34 and shall determine precedence when ROGO applications receive identical ranking
35 scores. A new controlling date shall be established based upon the resubmittal date and
36 time of any withdrawn or revised application, except pursuant to section 138-25(h).

37
38 *Lawfully established for ROGO/NROGO exemption* means a unit or floor area that has
39 received a permit or other official approval from the division of growth management for
40 the units and/or floor area.

41
42 *Quarterly allocation period* means the three-month period beginning on July 13, 1992, or
43 such other date as the board may specify, and successive three-month periods.

44
45 *Quarterly residential ROGO allocation* means the maximum number of dwelling units
46 for which building permits may be issued in a quarterly allocation period.

1
2 *Residential dwelling unit* means a dwelling unit as defined in section 101-1, and
3 expressly includes the following other terms also specifically defined in section 101-1:
4 ~~lawfully established hotel rooms~~ rooms, hotel or motel, campground spaces, mobile
5 homes, transient residential units, institutional residential units (except hospital rooms)
6 and ~~live-aboards~~ live-aboard vessels.

7
8 *Residential ROGO allocation* means the maximum number of dwelling units for which
9 building permits may be issued in a given time period.

10
11 *Residential ROGO allocation award* means the approval of a residential ROGO
12 application for the issuance of a building permit.

13
14 *ROGO application* means the residential ROGO application submitted by applicants
15 seeking allocation awards.

16
17 *ROGO Site Plan* means a document that demonstrates that proposed development
18 required to be approved by the planning director prior to entering the ROGO permit
19 allocation system.

20
21 (b) *Purpose and intent.* The purposes and intent of residential ROGO are:

- 22 (1) To facilitate implementation of goals, objectives and policies set forth in the
23 comprehensive plan relating to protection of residents, visitors and property in the
24 county from natural disasters, specifically including hurricanes;
25 (2) To limit the annual amount and rate of residential development commensurate with
26 the county's ability to maintain a reasonable and safe hurricane evacuation clearance
27 time;
28 (3) To regulate the rate and location of growth in order to further deter deterioration of
29 public facility service levels, environmental degradation and potential land use
30 conflicts;
31 (4) To allocate the limited number of dwelling units available annually hereunder, based
32 upon the goals, objectives and policies set forth in the comprehensive plan; and
33 (5) To implement goal 105 of the **comprehensive plan**.

34
35 * * * * *

36
37 **Sec. 138-25. Application procedures for residential ROGO.**

38
39 (a) *Application for allocation.* In each quarterly allocation period, the department of planning
40 and environmental resources shall accept applications to enter the residential ROGO
41 system on forms prescribed by the planning director. Except for allocations to be reserved
42 and awarded under section 138-24(b), the ROGO application form must be accompanied
43 by an approved ~~building permit application~~ ROGO Site Plan and a nonrefundable
44 processing fee in order to be considered in the current allocation period. The planning
45 director shall review the ROGO application for completeness. If the application is
46 determined to be incomplete, the planning director shall reject the ROGO application and

1 notify the applicant of such rejection, and the reasons therefore, within ten working days.
2 The application shall be assigned a controlling date that reflects the time and date of its
3 submittal unless the application is determined to be incomplete. If the application is
4 rejected, then the new controlling date shall be assigned when a complete application is
5 submitted.

6
7 (b) *Fee for review of application.* Each ROGO application shall be accompanied by a
8 nonrefundable processing fee as may be established by resolution of the board of county
9 commissioners. Additional fees are not required for successive review of the same
10 ROGO application unless the application is withdrawn and resubmitted.

11
12 (c) *Compliance with other requirements.* The ROGO application shall not constitute an
13 indication of ~~indicate~~ whether or not the applicant for a residential dwelling unit
14 allocation has satisfied and complied with all county, state and federal requirements
15 otherwise imposed by the county regarding conditions precedent to issuance of a building
16 permit ~~and shall require that the applicant certify to such compliance.~~ Those
17 requirements shall be examined after an allocation is awarded during the building permit
18 process.

19
20 (d) *Noncounty time periods.* The county shall develop necessary administrative procedures
21 and, if necessary, enter into agreements with other jurisdictional entities which impose
22 requirements as a condition precedent to development in the county, to ensure that such
23 noncounty approvals, certifications and/or permits are not lost due to the increased time
24 requirements necessary for the county to process and evaluate residential dwelling unit
25 applications and issue allocation awards. The county may permit evidence of compliance
26 with the requirements of other jurisdictional entities to be demonstrated by "coordinating
27 letters" in lieu of approvals or permits.

28
29 (e) *Limitation on number of applications.*

30 (1) An individual entity or organization may submit only one ROGO application per unit
31 in each quarterly allocation period.

32 (2) There shall be no limit on the number of separate parcels for which ROGO
33 applications may be submitted by an individual, entity or organization.

34 (3) A ROGO application for a given parcel shall not be for more dwelling units than are
35 permitted by applicable zoning or land use regulations or the comprehensive plan.

36
37 (f) *Expiration of allocation award.* Except as provided for in this article, an allocation award
38 shall expire ~~when its corresponding building permit is not picked up after 60 days of~~
39 ~~notification by certified mail of the award or after issuance of the building permit, upon~~
40 ~~expiration of the permit:~~ 1) upon failure by an applicant to submit a building permit
41 application to the building department for the residential dwelling unit requiring the
42 ROGO allocation within 180 days from the date of the ROGO allocation award; 2) upon
43 failure by an applicant to obtain an issued building permit within 360 days from the date
44 of the ROGO allocation award; or 3) when its corresponding building permit is deemed
45 to expire or after 60 days of mailing of notification for the award of the allocation.

1 Within 90 days of expiration, this timeframe may be extended only by resolution of the
2 board of county commissioners.
3

4 (g) *Borrowing from future housing allocations.*

- 5 (1) The planning commission may award additional units from future annual dwelling
6 unit allocations to fully grant an application for residential units in a project if such an
7 application receives an allocation award for some, but not all, of the units requested.
8 (2) The board of county commissioners, in approving affordable housing allocations
9 pursuant to section 138-24(b), may reserve and award additional units from future
10 annual dwelling unit allocations if the number of available allocations is insufficient
11 to meet specific project needs.
12 (3) The planning commission shall not reduce any future market rate quarterly allocation
13 by more than 20 percent and shall not apply these reductions to more than the next
14 five annual allocations or 20 quarterly allocations.
15 (4) The board of county commissioners, upon recommendation of the planning
16 commission, may make available for award up to 100 percent of the affordable
17 housing allocations available over the next five annual allocations or 20 quarterly
18 allocations.
19

20 (h) *Revisions of ROGO applications and awards.*

- 21 (1) An applicant may elect to revise a ROGO application to increase the competitive
22 points in the application without prejudice or change in the controlling date if a
23 revision is submitted on a form approved by the planning director to the planning and
24 environmental resources department no later than 30 days following the planning
25 commission approval of the previous ROGO rankings. Any such revision shall not
26 involve changes to the approved ~~building permit application~~ ROGO Site Plan. All
27 other applications that are withdrawn and resubmitted that do not increase the
28 competitive points or involve revisions to the approved ~~building permit application~~
29 ROGO Site Plan shall be considered new, requiring payment of appropriate fees and
30 receiving a new controlling date.
31 (2) After receipt of an allocation award, and either before or after receipt of a building
32 permit, but prior to receipt of a certificate of occupancy, no revisions shall be made to
33 any aspect of the proposed residential development which formed the basis for the
34 evaluation review, determination of points and allocation rankings, unless such
35 revision would have the effect of increasing the points awarded.
36

37 (i) *Clarification of application data.*

- 38 (1) At any time during the dwelling unit allocation review and approval process, the
39 applicant may be requested by the ~~director of~~ planning director or the planning
40 commission to submit additional information to clarify the relationship of the
41 allocation application, or any elements thereof, to the evaluation criteria. If such a
42 request is made, the ~~director of~~ planning director shall identify the specific evaluation
43 criterion at issue and the specific information needed and shall communicate such
44 request to the applicant.
45 (2) Upon receiving a request from the ~~director of~~ planning director for such additional
46 information, the applicant may provide such information, or the applicant may

1 decline to provide such information and allow the allocation application to be
2 evaluated as submitted.

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6 **Sec. 138-28. Evaluation criteria (ROGO).**

7
8 The point values established on the following pages are to be applied cumulatively:

- 9
10 (1) *Tier designation.* The following points are intended to discourage development in
11 environmentally sensitive areas and to direct and encourage development in
12 appropriate infill areas, while recognizing that any development has an impact on the
13 carrying capacity of the Florida Keys:

<i>Point Assignment</i>	<i>Criteria</i>
+0	An application which proposes a dwelling unit within an area designated tier I on Big Pine Key or No Name Key.
+10	An application which proposes a dwelling unit within an area designated tier I (natural area).
+10	An application which proposes development within an area designated tier II (transition and sprawl reduction area) on Big Pine Key or No Name Key.
+20	An application which proposes development within an area designated tier III (infill area) on Big Pine Key or No Name Key.
+20	An application which proposes the clearing of any upland native habitat vegetation that is part of a one acre or larger upland native habitat within an area designated tier III-A (special protection area).
+30	An application which proposes development within an area designated tier III (infill area) outside of Big Pine Key or No Name Key.

- 14
15 (2) *Big Pine Key and No Name Key only.* The following additional negative points shall
16 be cumulatively assigned to allocation applications and are intended to implement the
17 Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan
18 for Big Pine Key and No Name Key:-

<i>Point Assignment</i>	<i>Criteria</i>
- 10	An application which proposes a dwelling unit on No Name Key.
- 10	An application which proposes development in designated Lower Keys Marsh Rabbit habitat or buffer areas as designated in the community master plan.
- 10	An application which proposes development in Key Deer Corridor as designated in the community master plan.

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(3) *Lot aggregation.* The following points are intended to encourage the voluntary reduction of density through aggregation of vacant, legally platted, buildable lots with density allocation by lot:-

<i>Point Assignment*</i>	<i>Criteria*</i>
+4	An application which aggregates a contiguous vacant, legally platted, vacant, buildable lot, zoned IS, IS-D, URM, URM-L, or CFV, located within a tier III designated area together with the parcel proposed for development. Each additional vacant, legally platted, buildable lot which is aggregated that meets the above requirements will earn the application the additional points as specified.
+3	On Big Pine Key and No Name Key. An application which aggregates a contiguous vacant, legally platted, vacant, buildable lot, zoned IS, IS-D, URM, URM-L, or CFV, located within a tier II or tier III designated area together with the parcel proposed for development. Each additional vacant, legally platted, buildable lot which is aggregated that meets the above requirements will earn the application the additional points as specified.
<i>Additional requirements</i>	
	1. The proposed development shall not involve the clearing of upland native vegetation of more than 5,000 square feet of upland native vegetation or the open space requirements of section 118-9, whichever is less.
	2. The application shall include, but not be limited to, the following: (a) An affidavit of ownership of all affected parcels, acreage or land; and (b) A legally binding, restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of the county and enforceable by the county, subject to the approval of the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.
*Exception: No points for aggregation shall be awarded for any application that proposes the clearing of any native upland habitat in a tier III-A (Special Protection Area) area. No aggregation of lots will be permitted in tier I.	

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(4) *Land dedication.* The following points are intended to encourage the voluntary dedication of vacant, buildable land within tier I and tier II (Big Pine Key and No Name Key) areas for the purposes of conservation, resource protection, restoration or density reduction, and, if located within tier III, for the purpose of providing land for affordable housing, where appropriate:-

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application which includes the dedication to the county of one vacant, legally platted buildable lot, zoned SC, IS, IS-D,

	URM, URM-L, or CFV, or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+2	On Big Pine Key and No Name Key, An application which includes the dedication to the county of one vacant, legally platted buildable lot, zoned SC, IS, IS-D, URM, URM-L, or CFV, or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application <u>application</u> the additional points as specified.
+1 for each 5,000 square feet of lot area	An application which includes the dedication to the county of a vacant, legally platted, buildable lot of 5,000 square feet or more within a suburban residential district (SR) or suburban residential-limited district (SR-L) within a designated tier I area. Each additional vacant, legally platted, buildable lot of 5,000 square feet or more that meets the above requirements will earn points as specified.
+0.5	An application which includes the dedication to the county of one vacant, legally platted, buildable lot of 5,000 square feet or more within a native area district (NA) or sparsely settled district (SS) in a designated tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half-point as specified.
+4	An application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
<i>Additional requirements:</i>	
	1. The application shall include, but not be limited to, the following: (a) An affidavit of ownership of all affected lots, parcels, acreage or land; and (b) A statutory warranty deed that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.

	2. Lots or parcels dedicated for positive points under this paragraph shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.
	3. Lots or parcels donated for points in Big Pine Key or No Name Key must be located within tier I or tier II lands in Big Pine Key or No Name Key

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(5) *Market rate housing in employee or affordable housing project.* The following points are intended to provide further incentives for provision of market rate housing within employee housing projects:

<i>Point Assignment</i>	<i>Criteria</i>
+6	An application for market rate housing unit which is part of employee or affordable housing project.
<i>Additional requirements:</i>	
	The market rate dwelling unit must be part of an approved employee or affordable housing project and meet all the requirements and conditions pursuant to section 130-161(a) and (f) and this ordinance

(6) *Special flood hazard area.* The following points are intended to discourage development within high risk special flood hazard zones:

<i>Point Assignment</i>	<i>Criteria</i>
-4	An application which proposes development within a "V" zone on the FEMA flood insurance rate map.

(7) *Central wastewater treatment system availability.* The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application for which development is required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the state legislature.

(8) *Perseverance points.* The following points are intended to reward an application based upon the number of years spent in the residential ROGO system without receiving an allocation award:

<i>Point Assignment</i>	<i>Criteria</i>
+1	A point shall be awarded on the anniversary controlling date for each year that the application remains in the ROGO system up to a maximum of four years.

(9) *Payment to land acquisition fund.* Up to two points shall be awarded for a monetary payment to the county's land acquisition fund for the purchase by the county of lands for conservation and retirement of development rights. Points for payment to this fund shall be assigned as follows:

<i>Point Assignment</i>	<i>Criteria</i>
+ 1 to + 2	Proposes payment to the county's land acquisition fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased, up to a maximum of two points.
<i>Additional requirements:</i>	
	1. The monetary value of each point shall be established annually by resolution of the board of county commissioners.
	2. The monetary value of each point shall be based upon the average fair market value of privately-owned, buildable, vacant, IS/URM, platted lots in tier I divided by four.
	3. Payment to the county's land acquisition fund shall be prior to the issuance of any building permit pursuant to the allocation award.

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(10) *Rescoring of applications not receiving allocations.* All applications in the ROGO system on the effective date of the ordinance from which this article is derived that do not receive an allocation award in quarter 4, ROGO year 14, ending July 13, 2006, shall be rescored in quarter 1, ROGO year 15, pursuant to the above provisions as modified by the vesting provisions of subsection ~~subsection~~ (11) of this section.

(11) *Retroactive vesting provisions.* Notwithstanding the provisions of this article, upon the effective date of the ordinance from which this article is derived, the following vesting provisions shall apply to the scoring of applications in the ROGO system prior to the effective date of the ordinance from which this article is derived:

1. All applications shall be eligible to continue to receive perseverance points beyond the first four years in the system, at an annual rate of +2 points for each year that the application remains in the ROGO system.
2. If any application, prior to the effective date of the ordinance from which this article is derived, had been withdrawn and reentered the ROGO system and the application had been revised solely to increase its point total through lot aggregation or land dedication without revising the approved ~~building permit application~~ ROGO Site Plan, the controlling date of the application shall be restored to the controlling date of the application prior to the application's withdrawal. The application shall also be entitled to any perseverance points lost due to the withdrawal.
3. If any application received points for aggregation, which would not be authorized under the new aggregation provisions of subsection (3) of this section, the applicant shall receive +4 points for each aggregated lot, except that all applications received after September 27, 2005 that are on file with the county must be rescored prior to receiving an allocation pursuant to the mandate by the Florida Administrative Commission by Rule Nos. 28-20.110 and 28-20.120, effective September 27, 2005.
4. All applicants in the ROGO system upon the effective date of the ordinance from which this article is derived shall be notified by regular mail within 30 days from the effective date of the ordinance from which this article is derived by the county

1 planning and environmental resources department of the new ROGO scoring
2 system. In this notification, applicants shall be informed that they have 30 days
3 from the date of the notification, if they so ~~chese~~ choose, to submit a revision to
4 their ROGO application to receive positive points through aggregation, land
5 dedication, or payment of fees to the land acquisition fund. Within this one-time,
6 30-day time period, applicants shall be able to revise their applications without
7 payment of fees or a change in their controlling date upon condition that their
8 approved ~~building permit application~~ ROGO Site Plan is not revised.

9
10 * * * * *

11
12 **Sec. 138-29. ROGO site plan approval process.**

13
14 (a) ROGO Site Plan application. Any application for a ROGO allocation within
15 unincorporated Monroe County subject to this Land Development Code shall require site
16 plan approval prior to ROGO application submittal in accordance with this section.

17
18 (b) ROGO Site Plan application requirements. An application shall be submitted to the
19 planning director in a form provided by the planning and environmental resources
20 department.

21
22 (1) The application shall be received by the planning department at least 30 days prior to
23 the end of an allocation period.

24 (2) The application shall be accompanied by the required application fee, which shall be
25 established by resolution of the board of county commissioners.

26 (3) The application shall include a) the name(s) and address(s) of the property owner(s)
27 of record, b) the property record card(s) from the Monroe County Property Appraiser,
28 c) a location map, d) a written legal description of the property proposed for
29 development, e) a statement and confirmation that no new structures shall exceed or
30 otherwise violate the height and floodplain management limitations of this Land
31 Development Code, f) a boundary survey of the property proposed for development,
32 prepared by a surveyor registered in the State of Florida, showing the boundaries of
33 the site, elevations, bodies of water or wetlands on the site and adjacent to the site,
34 existing structures including all paved areas, existing easements, total acreage and
35 total acreage by habitat and g) the site plan.

36 (4) If a conditional use permit is required in accordance with this Land Development
37 Code for the development applied for, the conditional use permit shall be obtained
38 and effective prior to submittal of any ROGO Site Plan application. A copy of the
39 recorded development order shall be submitted with the ROGO Site Plan application.

40 (5) The site plan shall be prepared and sealed by a professional architect, engineer, or any
41 other professional licensed in the State of Florida to prepare site plan. The site plan
42 shall be drawn to a scale of one inch equals twenty feet. At a minimum, the site plan
43 shall depict the following features and information:

44 a. Date, north point and graphic scale;

45 b. Boundary lines of site, including all property lines and mean high-water lines in
46 accordance with Florida Statutes;

- 1 c. All attributes from the boundary survey, excluding only existing structures to be
2 removed as part of a redevelopment;
3 d. Future Land Use Map (FLUM) designation(s) of the site;
4 e. Land Use (Zoning) District designation(s) of site;
5 f. Tier designation(s) of the site;
6 g. Flood zones pursuant to the Flood Insurance Rate Map;
7 h. Setback lines as required by this Land Development Code;
8 i. Locations and dimensions of all existing and proposed structures, including all
9 paved areas and clear site triangles;
10 j. Size and type of buffer yards and parking lot landscaping areas, including the
11 species and number of plants;
12 k. Extent and area of wetlands, open space preservation areas and conservation
13 easements;
14 l. Delineation of habitat types to demonstrate buildable area on the site, including
15 any heritage trees identified and any potential species that may use the site
16 (certified by an approved biologist and based on the most current professionally-
17 recognized mapping by the U.S. Fish and Wildlife Service;
18 m. Drainage plan including existing and proposed topography, all drainage
19 structures, retention areas, drainage swales and existing and proposed permeable
20 and impermeable areas;
21 n. Location of existing and proposed fire hydrants or fire wells;
22 o. The location of existing public utilities, including location of the closest available
23 water supply system or collection lines and the closest available wastewater
24 collection system or collection lines (with wastewater system provider) or on-site
25 system proposed to meet required County and State of Florida wastewater
26 treatment standards; and
27 p. A table providing the total land area of the site, the total buildable area of the site,
28 the type and square footage of all nonresidential land uses, the type and number of
29 all residential dwelling units, setbacks required and provided, the total amount of
30 off-street parking required and provided, the amounts of impervious and pervious
31 areas, and calculations for land use intensity, open space ratio, and off-street
32 parking.
33 As reasonably required, if deemed necessary to complete a full review of the
34 application, the planning director may request additional information or coordination
35 letters from other agencies.

36
37 (c) *ROGO Site Plan application required review:*

- 38
39 (1) The planning director, in accordance with the procedures, standards and limitations of
40 this article and subject to such rights of appeal as are provided, has the authority to
41 approve ROGO Site Plan applications.
42 (2) The ROGO Site Plan application shall be initially reviewed by planning and
43 environmental resources department for compliance with this Land Development
44 Code, the Comprehensive Plan, any applicable Livable CommuniKeys master plan
45 and any other plan that would affect the proposed land use and intensity.

- 1 (3) Each department that reviews the application shall respond with written comments
2 and recommendations to the planning director, or his or her designee, who shall
3 maintain a file on the application. For applications to approve multi-family
4 developments only, once determined complete and in compliance by the planning and
5 environmental resources department, the planning director, or his or her designee,
6 shall route the application to the following departments for review: the office of the
7 fire marshal and the engineering (project management) department.
8 (4) Upon receiving written comments and recommendations of approval by all of the
9 reviewing departments, the planning director shall approve the ROGO Site Plan
10 application. At that time, the planning and environmental resources department shall
11 notify the applicant in writing and the applicant may then submit the additional
12 application for a ROGO allocation and enter the ROGO permit allocation system.
13 (5) In the event that the ROGO Site Plan application is found deficient and/or non-
14 compliant to a required regulation or policy, the planning director shall notify the
15 applicant by certified mail of such deficiency or additionally needed information.
16 The applicant shall have an opportunity to remedy any deficiency by filing a revision
17 to the application within 60 days of the date of the notification by the County of the
18 deficiency. If the applicant does not submit a revision to the application with 60
19 days, the planning director shall deny the ROGO Site Plan application.
20 (6) The applicant, an adjacent property owner, or any aggrieved or adversely affected
21 person, as defined by F.S. § 163.3215(2), may appeal the decision of the planning
22 director. Such an appeal shall be conducted by the planning commission in
23 accordance with the provisions of section 102-185(e).

24
25 * * * * * * *

26
27 **Sec. 138-47. Nonresidential rate of growth ordinance (NROGO).**

- 28
29 (a) Definitions. The following words, terms and phrases, when used in this section, shall
30 have the meanings ascribed to them in this subsection, except where the context clearly
31 indicates a different meaning:

32
33 *Allocation date* means the specific date and time by which applications for the NROGO
34 allocation will be accepted and processed.

35
36 *Annual allocation period* means the 12-month period beginning on July 14, 2001, and
37 subsequent one-year periods that is used to determine the amount of nonresidential floor
38 area to be allocated based on the number of ROGO allocations to be issued in the
39 upcoming ROGO year.

40
41 *Annual nonresidential ROGO allocation* means the maximum floor area for which
42 building permits may be issued during an annual allocation period.

43
44 *Buildable lot or parcel* means the lot or parcel which must contain a minimum of 2,000
45 square feet of uplands, including any disturbed wetlands that can be filled pursuant to this
46 ~~chapter~~ Land Development Code.

1
2 *Community master plan* means a plan adopted by the board of county commissioners as
3 part of the Monroe County Livable CommuniKeys Program.
4

5 *Controlling date* means the same as defined in section 138-19(a), except it shall apply to
6 NROGO applications under this article.
7

8 *Covered walkways* means a covered area of any length but no wider than five feet that is
9 used for providing weather protected pedestrian access from one part of a property to
10 another part of the same property.
11

12 *Historic resources* means a building, structure, site, or object listed or eligible for listing
13 individually or as a contributing resource in a district in the National Register of Historic
14 Places, the state inventory of historic resources or the county register of designated
15 historic properties.
16

17 *Infill* means the development or redevelopment of land that has been bypassed, remained
18 vacant, and/or underused in otherwise built up areas which are serviced by existing
19 infrastructure.
20

21 *Nonresidential floor area* means the sum of the gross floor area for a nonresidential
22 building or structure, as defined in section 101-1, any areas used for the provision of food
23 and beverage services and seating, whether covered or uncovered, and all covered,
24 unenclosed areas. Walkways, stairways, entryways, parking, and loading areas are not
25 considered nonresidential floor area. Additionally, boat barns, covered and unenclosed
26 boat racks with three or fewer sides not associated with retail sales of boats which do not
27 exceed 50 percent of the net buildable area of the lot/parcel are not considered
28 nonresidential floor area. The term "nonresidential floor area" does not include space
29 occupied by transient residential and institutional residential principal uses.
30

31 *Nonresidential ROGO allocation*, also referred to as NROGO allocation, means the
32 maximum amount of nonresidential floor area for which building permits may be issued
33 in a given time period.
34

35 *Nonresidential ROGO allocation award*, also referred to as NROGO allocation award,
36 means the approval of a nonresidential ROGO application ~~for the~~ prior to the application
37 and subsequent issuance of a building permit to authorize construction of new
38 nonresidential floor area.
39

40 NROGO Site Plan means a document that demonstrates that proposed development
41 required to be approved by the planning director prior to entering the NROGO permit
42 allocation system.
43

44 *Site* means the parcels of land required to be aggregated under section 130-130 to be
45 developed or from which existing nonresidential floor area is to be transferred or
46 received.

1
2 *Storage area* means the outside storage of vehicles, recreational vehicles, boats, campers,
3 equipment, goods and materials for more than 24 hours. The term "storage area" includes
4 a contractor's equipment storage, but does not include outdoor retail sales. This is
5 considered a light industrial use and does not include waste transfer stations, junkyards,
6 yards or other heavy industrial uses.
7

8 *Sunshade* means an unenclosed structure used as protection from the weather.
9

10 (b) *Purpose and intent.* The purposes and intent of the nonresidential rate of growth
11 ordinance are:

- 12 (1) To facilitate implementation of goals, objectives and policies set forth in the
13 comprehensive plan relating to maintaining a balance between residential and
14 nonresidential growth.
15 (2) To maintain a ratio of approximately 239 square feet of nonresidential floor area for
16 each new residential permit issued through the residential rate of growth ordinance
17 (ROGO).
18 (3) To promote the upgrading and expansion of existing small-size businesses and to
19 retain the predominately small scale character of nonresidential development in the
20 Florida Keys.
21 (4) To regulate the rate and location of nonresidential development in order to eliminate
22 potential land use conflicts.
23 (5) To allocate the nonresidential floor area annually hereunder, based on the goals,
24 objectives and policies of the comprehensive plan and the Livable CommuniKeys
25 master plans.
26

27 * * * * *
28

29 **Sec. 138-52. - Application procedures for NROGO.**
30

31 (a) *Application for allocation.* The planning department shall accept applications to enter the
32 NROGO system on forms provided by the planning director. The NROGO application
33 form must be accompanied by an approved ~~building permit application~~ NROGO Site
34 Plan in order to be considered in the current annual allocation period. The application
35 must state for which allocation category an award is being sought, either 2,500 square
36 feet or less, or ~~more than 2,500~~ 2,501 square feet or more. The planning director shall
37 review the NROGO application for completeness. If the application is determined to be
38 incomplete, the planning director shall reject the NROGO application and notify the
39 applicant of such rejection, and the reasons therefor, within ten working days. If
40 determined to be complete, the application shall be assigned a controlling date.
41

42 (b) *Fee for review of application.* Each NROGO application shall be accompanied by a
43 nonrefundable processing fee as may be established by resolution of the board of county
44 commissioners. Additional fees are not required for successive review of the same
45 NROGO application unless the application is withdrawn and resubmitted.
46

- 1 (c) *Compliance with other requirements.* The NROGO ~~applications~~ application shall ~~indicate~~
2 not constitute an indication of whether or not the applicant for the nonresidential floor
3 area allocation has satisfied and complied with all county, state, and federal requirements
4 otherwise imposed by the county regarding conditions precedent to issuance of a building
5 permit ~~and shall require that the applicant certify to such compliance.~~ Those
6 requirements shall be examined after an allocation is awarded during the building permit
7 process.
8
- 9 (d) *Time of review.* ~~Notwithstanding the time periods set forth in section 110-142, the~~
10 ~~director of~~ The planning director may retain the allocation application and its associated
11 ~~building permit~~ NROGO Site Plan application for review pursuant to the evaluation
12 procedures and criteria set forth in section 138-53 and section 138-55.
13
- 14 (e) *Noncounty time periods.* The county shall develop necessary administrative procedures
15 and, if necessary, enter into agreements with other jurisdictional entities which impose
16 requirements as a condition precedent to development in the county, to ensure that such
17 noncounty approvals, certifications and/or permits are not lost due to the increased time
18 requirements necessary for the county to process and evaluate ~~residential dwelling unit~~
19 nonresidential floor area applications and issue allocation awards. The county may permit
20 evidence of compliance with the requirements of other jurisdictional entities to be
21 demonstrated by coordination letters in lieu of approvals or permits.
22
- 23 (f) *Limitation on number of applications.*
24 (1) An individual entity or organization may have only one active NROGO application
25 per site in the annual allocation period.
26 (2) There shall be no limit on the number of separate projects for which NROGO
27 applications may be submitted by an individual, entity or organization.
28
- 29 (g) *Expiration of allocation award.* An allocation award shall expire ~~when:~~ 1) upon failure
30 by an applicant to submit a building permit application to the building department for the
31 nonresidential development requiring the NROGO allocation within 180 days from the
32 date of the NROGO allocation award; 2) upon failure by an applicant to obtain an issued
33 building permit within 360 days from the date of the NROGO allocation award; or 3)
34 when its corresponding building permit is deemed to expire ~~pursuant to chapter 102,~~
35 ~~article VII or after 60 days of mailing of notification for the award of the allocation of~~
36 ~~nonresidential floor area.~~ Within 90 days of expiration, this timeframe may be extended
37 only by resolution of the board of county commissioners.
38
- 39 (h) *Withdrawal of NROGO application.* An applicant may elect to withdraw a NROGO
40 application without prejudice at any time up to finalization of the evaluation rankings by
41 the planning commission. Revision and resubmission of the withdrawn application must
42 be in accordance with subsection (i) of this section.
43
- 44 (i) *Revisions to applications and awards.*
45 (1) Upon submission of a NROGO application, an applicant may revise the application if
46 it is withdrawn and resubmitted prior to the allocation date for the allocation period in

1 which the applicant wishes to compete. Resubmitted applications shall be considered
2 new, requiring payment of appropriate fees and receiving a new controlling date.

3 (2) After receipt of an allocation award, and either before or after receipt of a building
4 permit being obtained, but prior to receipt of a certificate of occupancy or final
5 inspection, no revisions shall be made to any aspect of the proposed nonresidential
6 development which formed the basis for the evaluation review, determination of
7 points and allocation rankings, unless such revision would have the effect of
8 increasing the points awarded.

9 (3) After the receipt of an allocation award, a building permit and a certificate of
10 occupancy or final inspection, no revision shall be made to any aspect of the
11 completed nonresidential development which formed the basis for the evaluation,
12 review, determination of points and allocation rankings, unless such revisions are
13 accomplished pursuant to a new building permit and unless such revisions would
14 have the net effect of either maintaining or increasing the number of points originally
15 awarded.

16
17 (j) *Clarification of application data.*

18 (1) At any time during the NROGO allocation review and approval process, the applicant
19 may be requested by the ~~director of~~ planning director or the planning commission, to
20 submit additional information to clarify the relationship of the allocation application,
21 or any elements thereof, to the evaluation criteria. If such a request is made, the
22 ~~director of~~ planning director shall identify the specific evaluation criterion at issue
23 and the specific information needed and shall communicate such request to the
24 applicant.

25 (2) Upon receiving a request from the ~~director of~~ planning director for such additional
26 information, the applicant may provide such information; or the applicant may
27 decline to provide such information and allow the allocation application to be
28 evaluated as submitted.

29
30 * * * * *

31
32 **Sec. 138-55. - Evaluation criteria (NROGO).**

33
34 (a) Evaluation point values. The following point values established are to be applied
35 cumulatively except where otherwise specified:

36
37 (1) *Tier designation.* The following points are intended to discourage nonresidential
38 development in environmentally sensitive areas and areas without sufficient
39 infrastructure and to direct and encourage nonresidential development in appropriate
40 infill areas, while recognizing that any development has affects on the carrying
41 capacity of the Florida Keys:

<i>Point Assignment</i>	<i>Criteria</i>
0	An application which proposes nonresidential development within an area designated tier I (natural area), except for the expansion of existing, lawfully established nonresidential floor area provided under the exception below.

+10	An application which proposes nonresidential development within an area designated tier II (transition and sprawl reduction area) on Big Pine and No Name Key.
+10	An application which proposes nonresidential development within an area designated tier III-A (special protection area) that proposes to clear any portion of an upland native habitat patch of one acre or greater in size.
+20	An application which proposes nonresidential development within an area designated tier III (infill area).
<i>Exception:</i>	
Any application for the expansion of existing, lawfully established nonresidential floor area shall be assigned +20 points contingent upon no further clearing of upland native habitat and no addition to and/or expansion of the existing lot or parcel upon which the existing use is located.	

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(2) *Intensity Reduction.* The following points are intended to encourage the voluntary reduction of intensity:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application proposes development that reduces the permitted floor area ratio (FAR) to 23 percent or less.
<i>Additional Requirements:</i>	
A legally binding restrictive covenant running in favor of the county that restricts the floor area ratio of the property to a maximum of 23 percent for a period of ten years shall be approved by the growth management director and county attorney and recorded in the office of the county clerk prior to the issuance of any building permit pursuant to an allocation award.	

(3) *Land dedication.* The following points are intended to encourage the voluntary dedication of vacant, buildable land within tier I and tier II (Big Pine Key and No Name Key) areas for the purposes of conservation, resource protection, restoration or density reduction, and, if located within tier III, for the purpose of providing land for affordable housing where appropriate:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application which includes the dedication to the county of one vacant, legally platted, buildable lot, zoned SC, IS, IS-D, IS-M, URM, URM-L, or CFV or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to the county of one vacant, legally platted, buildable lot, zoned SC, IS, IS-D, IS-M, URM, URM-L, or CFV, or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above

	requirements will earn the application the additional points as specified.
+1 for each 5,000 square feet of lot area	An application which includes the dedication to the county of a vacant, legally platted, buildable lot of 5,000 square feet or more within a suburban residential district (SR) or suburban residential-limited district (SR-L) in a designated tier I area. Each additional vacant, legally platted, buildable lot of 5,000 square feet or more that meets the above requirements will earn points as specified.
+0.5	An application which includes the dedication to the county of one vacant, legally platted lot of 5,000 square feet or more within a native area district (NA) or sparsely settled district (SS) within a designated tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half-point as specified.
+4	An application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
<i>Additional requirements:</i>	
1. The application shall include, but not be limited to, the following: (a) An affidavit of ownership of all affected lots, parcels, acreage or land; and (b) A statutory warranty deed that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.	
2. Lots or parcels dedicated for positive points under this subsection shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.	
3. Only lots or parcels on Big Pine Key and No Name Key dedicated for positive points under this subsection will allow for positive points for applications on Big Pine Key and No Name Key.	

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(4) *Special flood hazard area.* The following points are intended to discourage development within high risk special flood hazard zones:

<i>Point Assignment</i>	<i>Criteria</i>
-4	An application which proposes development within a "V" zone on the FEMA flood insurance rate map.

1 (5) *Perseverance points.* The following points are intended to reward an application
 2 based upon the number of years spent in the nonresidential ROGO system without
 3 receiving an allocation award.

<i>Point Assignment</i>	<i>Criteria</i>
+1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the NROGO system, up to four years.
+2	Points shall be awarded on the anniversary of the controlling date for each year over four that the application remains in the NROGO system.

4
 5 (6) *Highway access.* The following points are intended to encourage connections
 6 between commercial uses and reduction of the need for trips and access onto U.S.
 7 Highway 1:

<i>Point Assignment</i>	<i>Criteria</i>
+3	The project eliminates an existing driveway or accessway to U.S. Highway 1.
+2	The projects does not provide for a new driveway or accessway to U.S. Highway 1.

8
 9 (7) *Landscaping and water conservation.* The following points are intended to encourage
 10 the planting of native vegetation and promote water conservation

<i>Point Assignment</i>	<i>Criteria</i>
+3	The project provides a total of 200 percent of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	25 percent of the native plants provided to achieve the three point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of 100 percent native plants for vegetation, collection and direction of rainfall to landscaped areas, or application of reused wastewater or treated seawater for watering landscaped plants.
<i>Additional requirements:</i>	
Prior to the issuance of a certificate of occupancy for the building permit authorized by an allocation award, the applicant shall:	
(a) Post a two-year performance bond in accordance with this chapter to ensure maintenance of the native plants; and,	
(b) Sign an affidavit acknowledging that he is subject to code enforcement action should the native plants not be maintained.	

1 (8) *Central wastewater treatment system availability.* The following points shall be
 2 assigned to encourage development in areas served by central wastewater treatment
 3 systems

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application for which development is required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the state legislature.

4
 5 (9) *Employee housing.* The following points, up to a maximum of four, shall be assigned
 6 to allocation applications that make provisions for employee housing units:

<i>Point Assignment</i>	<i>Criteria</i>
+2 per unit	Proposes an employee housing unit which is located on the parcel with the nonresidential floor space requested in the allocation application. Up to a maximum of four points may be awarded.
<i>Additional requirements:</i>	
1. The employee housing unit shall be required to meet the applicable provisions of section 130-161.	
2. The proposed employee housing unit shall be included in the development approval for the nonresidential development proposed in the allocation application.	
3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award, but shall not be issued prior to the certificate of occupancy for the employee housing units.	

7
 8 (10) *Payment to land acquisition fund.* Up to two points shall be awarded for a
 9 monetary payment to the county's land acquisition fund for the purchase by the
 10 county of lands for conservation and retirement of development rights. Points for
 11 payment to this fund shall be assigned as follows:

<i>Point Assignment</i>	<i>Criteria</i>
+ 1 to + 2	Proposes payment to the county's land acquisition fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased, up to a maximum of two points.
<i>Additional requirements:</i>	
	1. The monetary value of each point shall be established annually by resolution of the board of county commissioners.
	2. The monetary value of each point shall be based upon the average market value of privately-owned, buildable, vacant, IS/URM, platted lots in tier I, divided by four.
	3. Payment to the county's land acquisition fund shall be prior to the issuance of any building permit pursuant to the allocation award.

12
 13 (b) *Rescoring of applications not receiving allocations.* All applications in the NROGO
 14 system on the effective date of the ordinance from which this article is derived that do not
 15 receive an allocation award in quarter 4, ROGO year 14, ending July 13, 2006, shall be

1 rescored in quarter 1, ROGO year 15, pursuant to the provisions of subsection (a) of this
2 section, as modified by the vesting provisions of subsection (c) of this section.
3

4 (c) *Retroactive vesting provisions.* Notwithstanding the provisions of subsection (a) of this
5 section, upon the effective date of the ordinance from which this article is derived, the
6 following vesting provision shall apply to the scoring of applications in the ROGO
7 system prior to the effective date of the ordinance from which this article is derived:

- 8 (1) All applicants in the NROGO system upon the effective date of the ordinance from
9 which this article is derived shall be notified by regular mail within 30 days from the
10 effective date of the ordinance from which this article is derived by the county
11 planning and environmental resources department of the new NROGO scoring
12 system.
- 13 (2) In such notification, applicants shall be informed that they have 30 days from the date
14 of the notification, if they so ~~ehose~~ choose, to submit a revision to their NROGO
15 application to receive positive points through aggregation, land dedication, or
16 payment of fees to the land acquisition fund.
- 17 (3) Within this one-time, 30-day time period, applicants shall be able to revise their
18 applications without payment of fees or a change in their controlling date, upon
19 condition that their approved ~~building permit application~~ NROGO Site Plan is not
20 revised to involve any further clearing of upland native habitat.

21 * * * * *

22
23
24 **Sec. 138-56. NROGO site plan approval process.**

25
26 (a) NROGO Site Plan application. Any application for a NROGO allocation within
27 unincorporated Monroe County subject to this Land Development Code shall require site
28 plan approval prior to NROGO application submittal in accordance with this section.

29
30 (b) NROGO Site Plan application requirements. An application shall be submitted to the
31 planning director in a form provided by the planning and environmental resources
32 department.

- 33
34 (1) The application shall be received by the planning department at least 30 days prior to
35 the end of an allocation period.
- 36 (2) The application shall be accompanied by the required application fee, which shall be
37 established by resolution of the board of county commissioners.
- 38 (3) The application shall include a) the name(s) and address(s) of the property owner(s)
39 of record, b) the property record card(s) from the Monroe County Property Appraiser,
40 c) a location map, d) a written legal description of the property proposed for
41 development, e) a statement and confirmation that no new structures shall exceed or
42 otherwise violate the height and floodplain management limitations of this Land
43 Development Code, f) a boundary survey of the property proposed for development,
44 prepared by a surveyor registered in the State of Florida, showing the boundaries of
45 the site, elevations, bodies of water or wetlands on the site and adjacent to the site,

1 existing structures including all paved areas, existing easements, total acreage and
2 total acreage by habitat and g) the site plan.

3 (4) If a conditional use permit is required in accordance with this Land Development
4 Code for the development applied for, the conditional use permit shall be obtained
5 and effective prior to submittal of any NROGO Site Plan application. A copy of the
6 recorded development order shall be submitted with the NROGO Site Plan
7 application.

8 (5) The site plan shall be prepared and sealed by a professional architect, engineer, or any
9 other professional licensed in the State of Florida to prepare site plan. The site plan
10 shall be drawn to a scale of one inch equals twenty feet. At a minimum, the site plan
11 shall depict the following features and information:

12 a. Date, north point and graphic scale;

13 b. Boundary lines of site, including all property lines and mean high-water lines in
14 accordance with Florida Statutes;

15 c. All attributes from the boundary survey, excluding only existing structures to be
16 removed as part of a redevelopment;

17 d. Future Land Use Map (FLUM) designation(s) of the site;

18 e. Land use district (Zoning) designation(s) of site;

19 f. Tier designation(s) of the site;

20 g. Flood zones pursuant to the Flood Insurance Rate Map;

21 h. Setback lines as required by this Land Development Code;

22 i. Locations and dimensions of all existing and proposed structures, including all
23 paved areas and clear site triangles;

24 j. Size and type of buffer yards and parking lot landscaping areas, including the
25 species and number of plants;

26 k. Extent and area of wetlands, open space preservation areas and conservation
27 easements;

28 l. Delineation of habitat types to demonstrate buildable area on the site, including
29 any heritage trees identified and any potential species that may use the site
30 (certified by an approved biologist and based on the most current professionally-
31 recognized mapping by the U.S. Fish and Wildlife Service);

32 m. Drainage plan including existing and proposed topography, all drainage
33 structures, retention areas, drainage swales and existing and proposed permeable
34 and impermeable areas;

35 n. Location of existing and proposed fire hydrants or fire wells;

36 o. The location of existing public utilities, including location of the closest available
37 water supply system or collection lines and the closest available wastewater
38 collection system or collection lines (with wastewater system provider) or on-site
39 system proposed to meet required County and State of Florida wastewater
40 treatment standards; and

41 p. A table providing the total land area of the site, the total buildable area of the site,
42 the type and square footage of all nonresidential land uses, the type and number of
43 all residential dwelling units, setbacks required and provided, the total amount of
44 off-street parking required and provided, the amounts of impervious and pervious
45 areas, and calculations for land use intensity, open space ratio, and off-street
46 parking.

1 As reasonably required, if deemed necessary to complete a full review of the
2 application, the planning director may request additional information or coordination
3 letters from other agencies.

4
5 (c) NROGO Site Plan application required review:

- 6
7 (1) The planning director, in accordance with the procedures, standards and limitations of
8 this article and subject to such rights of appeal as are provided, has the authority to
9 approve NROGO Site Plan applications.
- 10 (2) The NROGO Site Plan application shall be initially reviewed by planning and
11 environmental resources department for compliance with this Land Development
12 Code, the comprehensive plan, any applicable Livable CommuniKeys master plan
13 and any other plan that would affect the proposed land use and intensity.
- 14 (3) Each department that reviews the application shall respond with written comments
15 and recommendations to the planning director, or his or her designee, who shall
16 maintain a file on the application. For applications to approve multi-family
17 developments only, once determined complete and in compliance by the planning and
18 environmental resources department, the planning director, or his or her designee,
19 shall route the application to the following departments for review: the office of the
20 fire marshal and the engineering (project management) department.
- 21 (4) Upon receiving written comments and recommendations of approval by all of the
22 reviewing departments, the planning director shall approve the NROGO Site Plan
23 application. At that time, the planning and environmental resources department shall
24 notify the applicant in writing and the applicant may then submit the additional
25 application for a Nonresidential ROGO allocation and enter the NROGO permit
26 allocation system.
- 27 (5) In the event that the NROGO Site Plan application is found deficient and/or non-
28 compliant to a required regulation or policy, the planning director shall notify the
29 applicant by certified mail of such deficiency or additionally needed information.
30 The applicant shall have an opportunity to remedy any deficiency by filing a revision
31 to the application within 60 days of the date of the notification by the County of the
32 deficiency. If the applicant does not submit a revision to the application with 60
33 days, the planning director shall deny the NROGO Site Plan application.
- 34 (6) The applicant, an adjacent property owner, or any aggrieved or adversely affected
35 person, as defined by F.S. § 163.3215(2), may appeal the decision of the planning
36 director. Such an appeal shall be conducted by the planning commission in
37 accordance with the provisions of section 102-185(e).

38
39 * * * * *

40
41 **Sec. ~~138-57~~ 138-56. Employee housing fair share impact fee.**

- 42
43 (a) *Purpose.* All new nonresidential floor area, including commercial/business, institutional,
44 and industrial development, creates a direct or indirect requirement for employee
45 housing. The availability and stability of employee housing stock is essential for the
46 economic health of the county. Therefore, all applicants for new or transferred

1 nonresidential floor area shall be assessed a fee to be used by the county to address
2 employee housing issues.

3
4 (b) *Type of development affected.* The following types of development are affected by the
5 impact fee:

6 (1) All new nonresidential floor area under section 138-49(a); and

7 (2) The following development activities exempted under section 138-50 are subject to
8 the employee housing fair share impact fee:

9 a. Nonresidential development in areas exempted from residential ROGO, per
10 section 138-50(2);

11 b. Development activity for certain not-for-profit organizations, per section 138-
12 50(4);

13 c. Vested rights, per section 138-50(5);

14 d. De minimis expansion of nonresidential floor area, per section 138-50(6);

15 e. Industrial uses, per section 138-50(7); and

16 f. Transfer and redevelopment off site of lawfully established nonresidential floor
17 area which has not operated commercially for three years or more, per section
18 138-50(10).

19
20 (c) *Establishment of fee schedule.* An applicant for any new nonresidential floor area
21 identified in subsection (b) of this section shall pay, prior to the issuance of a building
22 permit, a fair share employee housing fee as established by the following schedule:
23

Structures for nonresidential uses of one to 1,999 square feet	\$1.00 per square foot
Structures for nonresidential uses of 2,000 to 2,999 square feet*	\$2.00 per square foot
Structures for nonresidential uses of 3,000 square feet or greater*	\$3.00 per square foot
*The fee is calculated on the total new or transferred nonresidential floor area subject to subsection (a)(2)f. of this section.	

24
25 (d) *Proceeds.* Proceeds from the impact fees collected shall be deposited in the employee
26 housing fair share impact fee account and used exclusively to offset the cost of required
27 permitting and connection fees related to the development of new employee housing, in
28 accordance with a schedule and procedures recommended by the planning commission
29 and approved by the board of county commissioners.

30
31 * * * * *

32
33 ~~Sec. 110-142. -- Compliance requirements for building permit applications requiring a~~
34 ~~ROGO or NROGO allocation award or submitted under privatized plan review.~~

35
36 ~~Prior to submittal of an application for a building permit requiring a ROGO or NROGO~~
37 ~~allocation award under this chapter or submitted under the provisions of F.S. ch. 553 or~~
38 ~~privatized plan review, the building permit application shall be first submitted to the planning~~

1 ~~director for compliance review with the requirements of this chapter, the comprehensive~~
2 ~~plan, and chapter 13. The planning director shall determine within 15 working days if the~~
3 ~~building permit application is in compliance and can be processed by the building department~~
4 ~~or needs to be revised before it can be accepted and processed. If an evaluation of an HEI and~~
5 ~~site plan visit is required, the number of working days to complete the review may be more~~
6 ~~than 15 working days. The compliance determination of the planning director shall be in~~
7 ~~writing.~~

8
9 * * * * *

10
11 **~~Sec. 110-143. -- Deadlines for submission of building permit applications to be entered~~**
12 **~~into the residential and nonresidential permit allocation systems.~~**

13
14 ~~No approved building permit application requiring a ROGO or NROGO allocation award,~~
15 ~~including applications submitted under privatized plan review as provided for by F.S. ch. 553~~
16 ~~shall be accepted for entry into the ROGO or NROGO systems under this chapter, unless the~~
17 ~~building permit application is submitted to the building department 30 days prior to the end~~
18 ~~of the allocation period appropriate for that application.~~

19
20 **IV RECOMMENDATION**

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

30
31 Staff recommends that the Board of County Commissioners amend the Monroe
32 County Code as stated in the text of this staff report.

ROGO AND NROGO SITE PLAN REVIEW FEE ESTIMATION

SINGLE FAMILY (SF)

1	<i>Est. Costs for SF to Apply for ROGO Site Plan Approval</i>	<i>Current</i>	<i>Proposed</i>
	Site Plan		\$1,500
	DOH Design	\$2,000	
	Architectural Building Plans	\$5,000	
	Survey	\$450	\$450
	Site Plan Application (County)		\$3,089
	Wastewater Application (DOH/Sewer Utility)	\$1,250	
	Electric Certificate (average between KES and FKEC)	\$500	
	Water Certificate (FKAA)	\$4,860	
	Building Permit Application (County)	\$750	
	Building Permit Reviews (County)	\$2,000	
Step 1 Sub-Total		\$16,810	\$5,039
2	<i>Est. Costs for SF to Entering ROGO System</i>	<i>Current</i>	<i>Proposed</i>
	ROGO Application (County)	\$768	\$4,409
Step 2 Sub-Total		\$768	\$9,448
EST. TOTAL COST PRIOR TO BUILDING PERMIT SUBMITTAL (Step 1+2)		\$17,578	\$14,487
3	<i>Est. Costs for SF After ROGO Allocation is Awarded</i>	<i>Current</i>	<i>Proposed</i>
	DOH Design		\$2,000
	Architectural Building Plans		\$5,000
	Wastewater Application (DOH/Sewer Utility)		\$1,250
	Electric Certificate (average between KES and FKEC)		\$500
	Water Certificate (FKAA)		\$4,860
	Building Permit Application (County)		\$750
Building Permit Reviews (County)		\$2,000	
Step 3 Sub-Total		\$0	\$16,360
EST. GRAND TOTAL COST (Step 1+2+3)		\$17,578	\$30,847

MULTI FAMILY (MF) - 2 units only estimated

1	<i>Est. Costs for MF to Apply for ROGO Site Plan Approval</i>	<i>Current</i>	<i>Proposed</i>
	Site Plan**		\$2,500
	DOH Design**	\$2,000	
	Architectural Building Plans**	\$5,000	
	Survey	\$450	\$450
	Site Plan Application (County)		\$5,080
	Wastewater Application (DOH/Sewer Utility)*	\$1,250	
	Electric Certificate (average between KES and FKEC)*	\$500	
	Water Certificate (FKAA)*	\$4,860	
	Building Permit Application (County)*	\$1,500	
	Building Permit Reviews (County)	\$6,000	
Step 1 Sub-Total		\$21,560	\$8,030
2	<i>Est. Costs for MF Prior to Entering ROGO System</i>	<i>Current</i>	<i>Proposed</i>
	ROGO Application (County)*** \$4409 per unit assuming 2 units	\$1,536	\$8,818
Step 2 Sub-Total		\$1,536	\$16,848
EST. TOTAL COST PRIOR TO BUILDING PERMIT SUBMITTAL (Step 1+2)		\$23,096	\$24,878
3	<i>Est. Costs for MF After ROGO Allocations are Awarded</i>	<i>Current</i>	<i>Proposed</i>
	DOH Design**		\$2,000
	Architectural Building Plans**		\$5,000
	Wastewater Application (DOH/Sewer Utility)*		\$1,250
	Electric Certificate (average between KES and FKEC)*		\$500
	Water Certificate (FKAA)*		\$4,860
	Building Permit Application (County)*		\$1,500
Building Permit Reviews (County)		\$3,000	
Step 3 Sub-Total		\$0	\$18,110
EST. GRAND TOTAL COST (Step 1+2+3)		\$23,096	\$42,988

*Fees denoted with asterisk are per unit

**Fees associated with plan preparation may increase notably with each additional unit.

*** Fees denoted with asterisk are per unit times 2 units

NONRESIDENTIAL/MIXED USE (N/MU)

1	<i>Est. Costs for N/MU to Apply for NROGO Site Plan Approval</i>	<i>Current</i>	<i>Proposed</i>
	Site Plan**		\$3,000
	DOH Design**	\$4,000	
	Architectural Building Plans**	\$10,000	
	Survey	\$450	\$450
	Site Plan Application (County)		\$5,080
	Wastewater Application (DOH/Sewer Utility)	\$1,800	
	Electric Certificate (average between KES and FKEC)	\$18,500	
	Water Certificate (FKAA)	\$10,000	
	Building Permit Application (County)	\$1,500	
	Building Permit Reviews (County)	\$3,000	
Step 1 Sub-Total		\$49,250	\$8,530
2	<i>Est. Costs for N/MU Prior to Entering NROGO/ROGO system</i>	<i>Current</i>	<i>Proposed</i>
	NROGO Application (County)	\$774	\$1,870
Step 2 Sub-Total		\$774	\$10,400
EST. TOTAL COST PRIOR TO BUILDING PERMIT SUBMITTAL (Step 1+2)		\$50,024	\$18,930
3	Estimated Costs for Nonresidential After NROGO/ROGO Allocation is Awarded	Current	Proposed
	DOH Design**		\$4,000
	Architectural Building Plans**		\$10,000
	Wastewater Application (DOH/Sewer Utility)		\$1,800
	Electric Certificate (average between KES and FKEC)		\$18,500
	Water Certificate (FKAA)		\$10,000
	Building Permit Application (County)		\$1,500
	Building Permit Reviews (County)		\$3,000
Step 3 Sub-Total		\$0	\$48,800
EST. GRAND TOTAL COST (Step 1+2+3)		\$50,024	\$67,730

**Fees associated with plan preparation may increase notably with each additional unit.

FEE SCHEDULE WORKSHEET

APPLICATION/SERVICE	GMD 97	PD 72	CPM 65	PP 56	SP/P 51	BIO 56	PT 43	PCC 41	GIS	ADMIN 40	CENG 94	AENG 45	ENGAD MIN 40	FM 104	AFM 58	FMADMIN 40	SHF 100	ATT 74	Proposed Fee	Current Fee <i>(Resolution #134-2011)</i>	Change in Fee
Alcoholic Beverage Special Use Permit		1	1		4		16	2		2								1	1265	1264	1
Administrative Appeal	1	8	1	8	16			2		2								6	2608	1500	1108
Administrative Relief	2	2		2		4	4			2								1	1000	1011	-11
Beneficial Use	2	5			8	8				3								40	4490	4490	0
Biological Site Visit						5													280	280	0
Boundary Determination		1	1		1		20			2								1	1202	1201	1
Comp Plan, FLUM Amendment	4	8	14		40	16		4		10								2	5522	5531	-9
Comp Plan, Text Amendment	4	8	14		40	16		4		10								2	5522	5531	-9
LDC, Text Amendment	2	6	14		40	16	4	3		2								3	5069	5041	28
CUP, Major, New/Amendment	2	12	8	16	72	24		6		2	2	16	2	0.5	14	2		4	10044	10014	30
CUP, Minor, New/Amendment	1	10	8	16	50	24		4		2	2	16	2	0.5	14	2		2	8451	8484	-33
CUP, Minor Deviation		4	1	6	4	4		1		1	1	4	1	0.5	2	1		1	1794	1768	26
CUP, Transfer of Nonresidential Floor Area (TRE)	0	2	1	6	16	6		2		2								1	1933	1944	-11
CUP, Time Extension		2	1	4	6			2		2								1	975	986	-11
Development Agreement	24	60	10	32	16	16		6		10								20	12928	12900	28
Letter of Development Rights Determination		4	1	2	24	4	2			1								2	2187	2209	-22
DRI	24	60	10	32	16	16		6		10	60	32	10	60	32	10		20	28904	28876	28
DOAH Appeal								12		2								4	868	816	52
Home Occupation Special Use Permit		1	1		1		6			1									486	498	-12
LUD Map, Amendment, Nonresidential	2	6	14		40	16		4		4								1	4870	4929	-59
LUD Map, Amendment, Residential	2	6	8		32	16		4		4								1	4072	4131	-59
Letter of Current Site Conditions						16				1									936	936	0
NROGO Application	0.5	1	0	0	20	1	0	0	0	15	0	0	0	0	0	0	0	1	1870.5	774	1096.5
Planning Site Visit					1.2	1.22													129.52	129	0.52
Parking Agreement		1	1	1	2	2				1	4		2		1		1		1001	1013	-12
Platting, 5 Lots or Less	2	6	2	4	8			4		10	2	16	2	0.5	14	2		1	3958	4017	-59
Platting, 6 Lots or More	2	8	2	8	12			4		10	2	16	2	0.5	14	2		1	4530	4613	-83
Pre-app w/ LOU		2	2		3	2	2			1									665	689	-24
Pre-app w/o LOU		1	1		1	1				1									284	289	-5
Public Assembly Permit		1	1																137	149	-12
Road Abandonment	2	3	1		1	2	4	2		1	0.5	1	1	0.5	1	1	1	3	1536	1533	3
ROGO Application	1	2	0	0	37	1	0	1	0	25	0	0	0	0	0	0	0	16	4409	748	3661
Letter of ROGO Exemption								5											215	215	0
ROGO Lot/Parcel Dedication Letter						3.5				1									236	236	0
ROGO Site Plan (Multi Family)	1	6	0	12	30	20	0	0	0	10	2	1	1	2	0	5	0	2	5080	0	5080
ROGO Site Plan (Single Family)	1	6	0	2	20	5	0	0	0	15	0	0	0	0	0	10	0	2	3089	0	3089
ROGO-NROGO Site Plan (Nonresidential/Mixed Use)	1	6	0	12	30	20	0	0	0	10	2	1	1	2	0	5	0	2	5080	0	5080
Variance, PC, Signage		1	1	1			16	2		1								1	1077	1076	1
CUP, Minor (TDR)		1	1	2	8	8		2		1									1227	1239	-12
CUP, Minor (TRE)		2	1	6	12	6		2		2								1	1729	1740	-11
Vacation Rental (Initial)		1	1				8												481	493	-12
Vacation Rental Manager			1				0.5			0.5									106.5	106	0.5
Variance, PC, Other than Signage		4	1	2		4	16	2		1								1	1573	1608	-35
Variance, Administrative		6	1		2	2	8	1		2									1176	1248	-72
Vested Rights Determination	4	4	2	6	6	4		2		2								6	2278	2248	30
Front Yard Setback Waiver, Administrative		6	1		2	2	8	1		2									1176	1248	-72
Dock Length Variance		6	1			6		1		2									954	1026	-72
Tier Map Amendment, Other than IS/URM Lot	2	6	14		32	16	0	4		4								2	4536	4131	405
Grant of Conservation Easement				1		2				1								1	282	269	13

Position Reference

Growth Management Director	GMD	Senior Planner/Planner	SP/P	Assorted Admin Staff	ADMIN	Fire Marshal	FM
Planning Director	PD	Biologist	BIO	County Engineer	CENG	Assistant Fire Marshal	AFM
Comprehensive Planning Mgr.	CPM	Planning Technician	PT	Assistant Engineer	AENG	Fire Marshal Admin	FMADMIN
Principal Planner	PP	Planning Comm. Coord.	PCC	Engineering Admin	ENGADMIN	Sherriff (flat fee for services)	SHF
						Attorney	ATT

County of Monroe

Growth Management Division

Office of the Director

2798 Overseas Highway
Suite #400
Marathon, FL 33050
Voice: (305) 289-2517
FAX: (305) 289-2854



Board of County Commissioners

Mayor Heather Carruthers, Dist. 3
Mayor Pro Tem David Rice, Dist. 4
Kim Wigington, Dist. 1
George Neugent, Dist. 2
Sylvia Murphy, Dist. 5

We strive to be caring, professional and fair

August 16, 2011

Mr. Brad G. Loar, CFM, Director
Mitigation Division
Federal Emergency Management Agency
Department of Homeland Security, Region IV
3003 Chamblee Tucker Road
Atlanta, GA 30341

Dear Mr. Loar:

As you know, Monroe County has three primary floodplain compliance programs to assure illegal post-FIRM enclosures of structures below base flood elevation are remedied as follows:

1. Pilot Inspection Program – whereby insured residents are required to obtain an inspection of their downstairs enclosures for continuance of flood insurance
2. Inspection upon request for building permit
3. Inspection upon sale

These three programs resulted from an April 16, 2003 resolution by the Monroe County Board of County Commissioners that included a remedial plan (attached). The remedial plan has been implemented through the County Code of Ordinances.

In 2011, the State of Florida Legislature passed Chapter 2011-82 Laws of Florida (House Bill 407) (attached), which prohibits the County from requiring an inspection of other areas not the subject of a building permit. This pre-emptive legislation prevents Monroe County from inspecting downstairs enclosures upon application for a building permit if the downstairs enclosure is not directly impacted by the proposed work.

Under Section 6-107 of the Monroe County Code, which was adopted as part of performance under the remedial plan, the process for inspection upon building permit is as follows:

1. Homeowner asks for building permit and must submit property record card with application.
2. Staff reviews property record card to determine if living area exists in downstairs, then writes letter to property owner notifying them of need for inspection.

3. Property owner calls for inspection.
4. Perform inspection.
5. If not in compliance with floodplain management ordinances, owners are notified of required remedies.
6. If permit that was applied for originally was for something irrelevant to the downstairs enclosures (e.g. roof, fence, etc.), permit is issued after inspection of downstairs area.
7. If not in compliance, and no remedy is made for downstairs enclosure in time period given (3-6 months depending upon severity of violation (plumbing/electric requires permitting so longer time period given), violation is referred to Code Enforcement.
8. Code Enforcement sends Notice of Violation (explaining violation, suggested solutions, and who to contact to remedy) and sets hearing before Special Magistrate.
9. Special Magistrate hears case
 - a. If there is a finding that property is not in compliance:
 - i. Gives new compliance date
 - ii. Sets fines starting day after compliance date
 - iii. Property owner has 30 days to initiate appeal process
 - b. If there is a finding that property is in compliance case is dismissed.

The above process will be unenforceable due to Chapter 2011-82 Laws of Florida. You indicated to County staff and at least one of our Commissioners that under HB407, Monroe County has until July 1, 2012 to adopt an ordinance that will provide for an alternative to Monroe County Code Sec. 6-107. You have indicated this must be approved by FEMA. The following proposal is offered to modify Monroe County Code Sec. 6-107, which includes the Implementation Plan, per FEMA's requirements, for continuing participation in the NFIP.

The Monroe County Board of County Commission did discuss this alternative proposal, and I am requesting written confirmation that FEMA considers this alternative adequate prior to our embarking on developing ordinances and processing them through a public hearing process.

Proposed Certificate of Compliance Program to replace Inspection on Building Permit Program:

The County is seeking to obtain definitive data from the Monroe County Property Appraiser which will identify all single family residences which contain enclosures that are identified as living area on the ground floor. Once this data is captured, our technical staff will deduct all the parcels that have already received inspections via the pilot program or other programs, and been made compliant.

The remaining property owners will be notified that an inspection will be required in order to verify compliance with the Monroe County Floodplain Ordinance.

Once the owners obtain this inspection, and are compliant, they will receive a Certificate of Compliance. This is a proactive opportunity for property owners to receive evidence that they have a compliant structure which will create a positive market condition. If owners have a non-compliant structure, they will be notified of all the required corrections to the enclosure to become compliant with the permit authorizing the construction, OR the violation will be forwarded to the Code Compliance Department for prosecution.

Finally, once a property is compliant, the County will provide a non-conversion agreement (with a corresponding drawing attached) to be signed by the property owner and recorded by the county in the County land records so buyers of properties understand what has been approved for areas below base flood elevation.

This non-conversion agreement will provide protection to future buyers through title work. Every two years an updated potential ground floor enclosure list will be reviewed, and any changes to the Property Record that indicate illegal construction below base flood elevation will go through the inspection process outlined above again.

The County may also consider obtaining a list of all properties that have transferred ownership and any such property that failed to obtain the required inspection will be contacted for inspection.

In addition, all new construction that contains any type of below base flood elevation enclosure will be required to record a "Notice of Non-Conversion" to the property, which should alleviate this problem in the future.

I am attaching:

1. An underline/strikethrough of a proposed amended Resolution that includes a Remedial Plan amendment, originally approved to alleviate Monroe County being on probation or suspension from the National Flood Insurance Program (NFIP).
2. A clean version of the proposed amended Resolution that includes a Remedial Plan amendment, originally approved to alleviate Monroe County being on probation or suspension from the National Flood Insurance Program (NFIP).

We are seeking written confirmation that FEMA considers these changes to the Remedial Plan acceptable as well. This is the same program County staff discussed with FEMA representatives in Washington DC. Susan Wilson was included in that meeting, by telephone.

Monroe County staff is willing to travel to Atlanta to discuss this alternative proposal in person if FEMA officials feel this is necessary, prior to sending written verification that this alternative is acceptable.

Please let us know if this program meets with your approval.

Sincerely,

MONROE COUNTY



Christine Hurley, AICP
Growth Management Division Director

Enclosures
CH/mt

RESOLUTION 152-2003

A RESOLUTION AMENDING RESOLUTION NO. ~~187-2002~~ 152-2003 OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY APPROVING A REVISED IMPLEMENTATION PLAN FOR THE FLOOD INSURANCE INSPECTION AND COMPLIANCE PROGRAM FOR SUBMITTAL TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, the Board of County Commissioners ("BOCC") adopted Resolution No. ~~187-2002~~ 152-2003 on April ~~17~~ 16, 2002~~3~~, approving a revised remedial plan for submittal to the Federal Emergency Management Administration (FEMA), called the "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program" to meet one of the requirements identified in a letter from FEMA's Region IV Director, dated January 14, 2002; and,

WHEREAS, the revised "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program" was subsequently approved by FEMA; and,

~~**WHEREAS**, as required in revised implementation plan, the County through the offices of State Representative Ken Sorenson, requested, but was unable to obtain any relief from the Florida Legislature to amend provisions of the Florida Statutes barring the County from directly bringing non-compliant downstairs enclosures with non-compliant improvements of more than four years old into compliance; and;~~

~~**WHEREAS**, the State of Florida Legislature adopted House Bill 407 (attached as Exhibit 2) that has rendered Section 1 under "**Actions to Ensure No New Additional Non-conforming Structures**" unenforceable; and,~~

~~**WHEREAS**, Monroe County received confirmation from FEMA officials that if House Bill 407 was passed by the Florida Legislature FEMA would consider and alternative replacement remedial action to continue to assure the elimination of illegal enclosures below base flood elevation; and~~

WHEREAS, the Growth Management Division staff prepared draft amendments to the County's floodplain regulations in accordance with the implementation plan; and,

~~**WHEREAS**, significant legal and political concerns regarding the proposed amendments to the existing floodplain regulations were raise during the public hearing process, particularly requirements for the imposition of restrictive covenants to allow County compliance inspections; and;~~

~~**WHEREAS**, the Board of County Commissioners tabled the adoption of the proposed amendments and directed the County Growth Management Division staff in coordination with the Commission's FEMA liaison and County Attorney to prepare an alternative approach that meets FEMA's concerns about the enforceability of the County's floodplain regulations; and;~~

~~**WHEREAS**, a County delegation headed by the Commission's FEMA's Liaison met with FEMA Region IV officials on March 18th, 2003, and received tentative approval from FEMA for the County's alternative proposal;~~

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

Section 1. The BOCC hereby amends Resolution No. ~~187-2002~~ 152-2003, by replacing Exhibit 1, "2011 Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program", with a new Exhibit 1 which is attached hereto.

Section 2. The County Administrator is directed to expeditiously transmit this Resolution and attached exhibit to the Region IV Office of FEMA.

Section 3. The Growth Management Division staff is directed to prepare new amendments to the County's floodplain regulations based on Exhibit 1 and re-initiate the process for consideration of these text amendments ~~starting with the Planning Commission.~~

PASSED AND ADOPTED Board of County Commissioners of Monroe County at a regular meeting of said Board held on the 16th day of April, A.D., 2003.

_____	Mayor Dixie Spehar	yes
_____	Mayor Pro Tem Murray Nelson	yes
_____	Commissioner Charles "Sonny" McCoy	yes
_____	Commissioner George Neugent	yes
_____	Commissioner David Rice	yes

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

EXHIBIT 1
~~2011 REVISED~~ IMPLEMENTATION PLAN FOR THE MONROE COUNTY
FLOOD INSURANCE INSPECTION AND COMPLIANCE PROGRAM

Flood Insurance Inspection Program

- Prior to March 14, 2002, the Growth Management Division staff submitted a complete list of the names and addresses of owners (policy holders provided by FEMA) of all structures less than four years old that may contain possible violations of the County's floodplain regulations to the Federal Emergency Flood Insurance and Mitigation Division (FEMA/NFIP).
- In June, 2002, the County Growth Management Division staff began submitting monthly to FEMA/NFIP, the names and addresses of approximately 50 owners (policy holders) of structures with possible conflicts with violations of the County's floodplain regulation. The compiled lists are being sent to FEMA, starting with the newest structures working back through to the oldest structures. In November, 2010, the last of the policy holders were submitted to FEMA/NFIP and
- ~~The County's Building and Code Enforcement staff is conducting inspections and implementing the Flood Insurance Inspection and Compliance Program as outlined in the Federal Register. [As of March 21, 2003, the County staff has conducted 54 inspections, identified 27 structures with code conflicts and brought 7 structures into compliance with the floodplain regulations.]~~
- ~~As an element of the inspection program, the County staff is collecting and recording the amount and number of flood insurance claims submitted for each inspected structure to be supplemented by data produced from County required inspections and property tax records. [This information will be used for calibrating and updating the flood damage model and to assist underwriters in setting insurance rates for structures with downstairs enclosures.]~~
- In addition to the Floodplain Compliance program in the Federal Register, the County has developed two additional Floodplain Compliance Programs to gain compliance with Floodplain regulations:
 1. Inspection on Transfer Program; and
 2. Certificate of Compliance Program

Florida Keys Flood Damage Model

~~At the county's request, FEMA had its engineering consultant complete an evaluation of the validity and accuracy of the existing Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for Monroe County and found them to be technically valid and accurate. As more updated information becomes available from the County's Flood Insurance Inspection program,~~

compliance inspections, and the property tax records, FEMA is requested to use this information in the recalculation of insurance risk assessments and rates.

Remediation of Non-conforming Structures Including Those Older than Four Years

- ~~There is no 4 year bar of prosecution for structures that do not meet floodplain regulations, that did not receive permits and were constructed illegally and therefore, Monroe County shall enforce floodplain requirements for any structure that has been constructed or improved without benefit of a permit or approval from Monroe County to the greatest extent enforceable by law. As agreed upon in its initial Implementation Plan for the Flood Insurance Inspection and Compliance Program, Monroe County through State Representative Ken Sorenson did attempt to seek legislative relief from the statute of limitations barring code enforcement prosecution of violations of the County's floodplain regulations more than four years old; however, the County was rebuffed by the legislature's General Counsel and Director of Bill Drafting.~~

~~For the foreseeable future the stature of limitations is not going to be modified by an act of the Florida Legislature. As such, any structures with unpermitted improvements of more than four years old are considered by judicial ruling to be "defacto" non-conforming. Therefore, any efforts on the County's part to bring these non conforming structures into compliance must be consistent with provisions of Section 95.11(3), Florida Statutes.~~

- ~~The County's inspection program includes of all post-FIRM structures, even those structures with unpermitted improvements more than four years old. The County Commission and its Growth Management Division staff believe that a significant percentage of structures with unpermitted, non-conforming below base flood elevation improvements will voluntarily come into compliance through this multiyear flood insurance inspection program.~~

~~As these structures with potential unpermitted improvements that conflict with the floodplain regulations are identified by the County staff through the flood insurance inspection program, the County will provide a list to FEMA of those structures. If the owners of these structures refuse the inspection, their insurance may not be renewed by their insurer.~~

~~The property owner of any structure inspected by the County that is determined to have an unpermitted improvement will have six months, if the violation is more than four years old, or two months, if the improvement is less than four years old, to obtain a permit to bring the structure into compliance. If the owner of a property with an identified conflict with the code chooses not to obtain the permit by the deadline established above, or obtains the permit but no approved final inspection occurs within 60 days after issuance of the permit, the County will pursue one of the following actions as applicable:~~

- ~~1) If the violation is less than four years old, the County will expeditiously pursue code enforcement action and will formally submit a declaration for denial of the property owner's insurance to FEMA pursuant to Section 1316 of the National Flood Insurance Act if the structure is not brought into compliance.~~
- ~~2) If the violation is beyond the four year stature of limitations, the County will submit a declaration for denial of the property owner's insurance to FEMA pursuant to Sections 1316 of the National Flood Insurance Act.~~

- ~~o In situations where an unpermitted improved downstairs enclosure is found to be occupied by a very low to moderate income household during the Flood Insurance Inspection and Compliance Program, the County will provide the opportunity for the property owner to apply for additional compliance time in accordance with the FEMA approved "Plan and Procedures for Allowing an Extension from Compliance Deadlines under the Monroe County Flood Insurance Inspection Program for Eligible Non-compliant Below Base Flood Enclosures Used for Affordable Housing" adopted by Board of County Commissioners' Resolution #397-2002.~~

Actions to Ensure No New Additional Non-conforming-Illegal Structures

- ~~o Although the County is currently limited by the four-year statute of limitations as to code enforcement action, ~~t~~The County through its County Growth Management Division will implement the following actions, consistent with the Florida Statutes, to ensure that any new conflicts between the way structures were originally permitted and with the floodplain regulations are resolved ~~in a timely manner and do not become subject to the four-year statute of limitations barring code enforcement prosecution:~~~~
- 1) ~~Amend~~ **Inspection on Transfer of Ownership Program.** ~~Maintain~~ the existing floodplain regulations and appropriate sections of the County Code to require that any residential structure having a downstairs enclosure with an opaque wall covering have a County compliance inspection prior to transfer of property ~~or prior to the issuance of a building permit for any structural alteration or expansion of the elevated portion of the structure;~~ and to provide that such inspections required prior to the transfer of property can be conducted, at the discretion of the property owner, by either the County staff or a registered architect or professional engineer. [The requirement for an inspection prior to the transfer of property does not also require that the property be brought into compliance prior to transfer or, subsequent to transfer; ~~however, if the unpermitted improvement is less than four years old, it may be subject to code enforcement action (see No.5).~~ The sole intent of this inspection is to provide information for recording and monitoring improvements to downstairs enclosures subject to the County's floodplain regulations. This inspection is not intended to be used to identify or prosecute any other unpermitted improvements that are not subject to the floodplain regulations.]
- ~~2) Amend the existing floodplain regulations to specifically require that the issuance of any permit to a downstairs enclosure, other than a demolition permit or a permit to remedy a life safety hazard, be contingent upon bringing the downstairs enclosure into compliance with the floodplain regulations.~~
- 2) ~~Amend~~ **Maintain** the existing floodplain regulations to allow the expansion or structural alteration of the elevated portion of any residential structure non-conforming with the floodplain regulations contingent upon the following conditions as appropriate: a) the improvement is not substantial as defined under the floodplain regulations; b) a pre-permitting inspection is completed by the County to document the extent of the non-conformity; and, c) if within a "V" zone, the submittal of a professional engineer's or registered architect's sealed certification that the non-conforming improvements to the downstairs enclosure do not subject the elevated portion of the structure to increases structural damage.

3) **Certificate of Compliance Program.** Amend the existing floodplain regulations to implement a Certificate of Compliance Program including:

- a. Obtaining data from the Monroe County Property Appraiser which will identify all single family residences which contain enclosures that are identified as living area on the ground floor. Once this data is captured, technical staff will deduct all the parcels that have already received inspections via the pilot program, transfer of ownership program, or the previously applicable inspection on building permit program, and been made compliant.
 - b. The remaining property owners will be notified via mail that an inspection is required in order to verify compliance with the Monroe County Floodplain Ordinance.
 - c. Once the owners obtain this inspection, and are compliant, they will receive a Certificate of Compliance. This is a proactive opportunity for property owners to receive evidence that they have a compliant structure which will create a positive market condition. If an owner has a non-compliant structure, they will be notified of all the required corrections to the enclosure to become compliant with the permit authorizing the construction, OR the violation will be forwarded to the Code Compliance Department for prosecution.
 - d. Once a property is compliant, the County will provide a non-conversion agreement (with a corresponding drawing attached) to be signed by the property owner and recorded by the county in the County land records so buyers of properties understand what has been approved for areas below base flood elevation.
 - e. This non-conversion agreement will provide protection to future buyers through title work. Every two years an updated potential ground floor enclosure list will be reviewed, and any changes to the Property Record that indicate illegal construction below base flood elevation will go through the inspection process outlined above again.
 - f. The County may also consider obtaining a list of all properties that have transferred ownership and any such property that failed to obtain the required inspection will be contacted for inspection.
- 3)g. New construction that contains any type of below base flood elevation enclosure, will be required to record a "Notice of Non-Conversion" to the property, which should alleviate this problem in the future.

- 4) Conduct required inspections of downstairs enclosures as stipulated in Actions #1 - #3 above.
- 5) Continue to vigorously pursue code enforcement action for violation of the County floodplain regulations, ~~for properties developed after the Flood Insurance Rate Maps were implemented,~~ through code enforcement and the normal permitting process, including prosecution of owners of structures, where property tax records and/or evidence from inspections provide probable cause of a ~~violation that is less than four years old.~~
- 6) Request that FEMA provide the County with a "Submit to Rate" for any applications for new flood insurance policies on previously uninsured properties with a possible violation, so that the County may pursue compliance under code enforcement proceedings, ~~if the violation is less than four years old, or if older than four years,~~ through a Section 1316 declaration.
- 7) ~~Amend the~~Maintain existing floodplain regulations to only allow enclosing with opaque materials of downstairs enclosures of 299 square feet or less in area.
- 8) Request the Monroe County Appraiser to provide the County Growth Management Division with an annual update by residential property owner from the County property tax records of the changes in the habitable floor area of downstairs enclosures, if feasible and practical.
- 9) Identify and compile for Monroe County's flood insurance inspection and compliance program a list of all structures that fail to come into compliance and submit a quarterly progress report to FEMA beginning July, 2003.
- 10) Evaluate Monroe County's Flood Insurance Inspections and Compliance Program by June 2004, and if necessary, develop and implement further remedial actions with FEMA's approval, to ensure enforcement of the County's floodplain regulations.

The County Growth Management Division staff has the sufficient resources to implement the above program ~~over six year period.~~

RESOLUTION

A RESOLUTION AMENDING RESOLUTION NO. 152-2003 OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY APPROVING A REVISED IMPLEMENTATION PLAN FOR THE FLOOD INSURANCE INSPECTION AND COMPLIANCE PROGRAM FOR SUBMITTAL TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, the Board of County Commissioners ("BOCC") adopted Resolution No. 152-2003 on April 16, 2003, approving a revised remedial plan for submittal to the Federal Emergency Management Administration (FEMA), called the "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program" to meet one of the requirements identified in a letter from FEMA's Region IV Director, dated January 14, 2002; and,

WHEREAS, the revised "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program" was subsequently approved by FEMA; and,

WHEREAS, the State of Florida Legislature adopted House Bill 407 (attached as Exhibit 2) that has rendered Section 1 under "**Actions to Ensure No New Additional Non-conforming Structures**" unenforceable; and,

WHEREAS, Monroe County received confirmation from FEMA officials that if House Bill 407 was passed by the Florida Legislature FEMA would consider an alternative replacement remedial action to continue to assure the elimination of illegal enclosures below base flood elevation; and

WHEREAS, the Growth Management Division staff prepared draft amendments to the County's floodplain regulations in accordance with the implementation plan; and,

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

Section 1. The BOCC hereby amends Resolution No. 152-2003, by replacing Exhibit 1, "2011 Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program", with a new Exhibit 1 which is attached hereto.

Section 2. The County Administrator is directed to expeditiously transmit this Resolution and attached exhibit to the Region IV Office of FEMA.

Section 3. The Growth Management Division staff is directed to prepare new amendments to the County's floodplain regulations based on Exhibit 1 and re-initiate the process for consideration of these text amendments.

PASSED AND ADOPTED Board of County Commissioners of Monroe County at a regular meeting of said Board held on the day of , A.D.,.

EXHIBIT 1
2011 IMPLEMENTATION PLAN FOR THE MONROE COUNTY
FLOOD INSURANCE INSPECTION AND COMPLIANCE PROGRAM

Flood Insurance Inspection Program

- Prior to March 14, 2002, the Growth Management Division staff submitted a complete list of the names and addresses of owners (policy holders provided by FEMA) of all structures less than four years old that may contain possible violations of the County's floodplain regulations to the Federal Emergency Flood Insurance and Mitigation Division (FEMA/NFIP).

In June, 2002, the County Growth Management Division staff began submitting monthly to FEMA/NFIP, the names and addresses of approximately -50 owners (policy holders) of structures with possible conflicts with violations of the County's floodplain regulation. The

compiled lists are being sent to FEMA, starting with the newest structures working back through to the oldest structures. In November, 2010, the last of the policy holders were submitted to FEMA/NFIP and the County's Building and Code Enforcement staff is conducting inspections and implementing the Flood Insurance Inspection and Compliance Program as outlined in the Federal Register.

- In addition to the Floodplain Compliance program in the Federal Register, the County has developed two additional Floodplain Compliance Programs to gain compliance with Floodplain regulations:
 1. Inspection on Transfer Program; and
 2. Certificate of Compliance Program

Remediation of Non-conforming Structures Including Those Older than Four Years

There is no 4 year bar of prosecution for structures that do not meet floodplain regulations, that did not receive permits and were constructed illegally and therefore, Monroe County shall enforce floodplain requirements for any structure that has been constructed or improved without benefit of a permit or approval from Monroe County to the greatest extent enforceable by law

Actions to Ensure No New Additional Illegal Structures

- The County through its County Growth Management Division will implement the following actions, consistent with the Florida Statutes, to ensure that any new conflicts between the way structures were originally permitted and with the floodplain regulations are resolved timely:
 - 1) **Inspection on Transfer of Ownership Program.** Maintain the existing floodplain regulations and appropriate sections of the County Code to require that any residential structure having a downstairs enclosure with an opaque wall covering have a County compliance inspection prior to transfer of property; and to provide that such inspections required prior to the transfer of property can be conducted, at the discretion of the property owner, by either the County staff or a registered architect or professional engineer. [The requirement for an inspection prior to the transfer of property does not also require that the property be brought into compliance prior to transfer or, subsequent to transfer. The sole intent of this inspection is to provide information for recording and monitoring improvements to downstairs enclosures subject to the County's floodplain regulations. This inspection is not intended to be used to identify or prosecute any other unpermitted improvements that are not subject to the floodplain regulations.]
 - 2) Maintain the existing floodplain regulations to allow the expansion or structural alteration of the elevated portion of any residential structure non-conforming with the floodplain regulations contingent upon the following conditions as appropriate: a) the improvement is not substantial as defined under the floodplain regulations; b) a pre-permitting inspection is completed by the County to document the extent of the non-conformity; and, c) if within a "V" zone, the submittal of a professional engineer's or registered architect's sealed certification that the non-conforming improvements to the downstairs enclosure do not subject the elevated portion of the structure to increases structural damage.

- 3) **Certificate of Compliance Program**. Amend the existing floodplain regulations to implement a Certificate of Compliance Program including:
- a. Obtaining data from the Monroe County Property Appraiser which will identify all single family residences which contain enclosures that are identified as living area on the ground floor. Once this data is captured, technical staff will deduct all the parcels that have already received inspections via the pilot program, transfer of ownership program, or the previously applicable inspection on building permit program, and been made compliant.
 - b. The remaining property owners will be notified via mail that an inspection is required in order to verify compliance with the Monroe County Floodplain Ordinance.
 - c. Once the owners obtain this inspection, and are compliant, they will receive a Certificate of Compliance. This is a proactive opportunity for property owners to receive evidence that they have a compliant structure which will create a positive market condition. If an owner has a non-compliant structure, they will be notified of all the required corrections to the enclosure to become compliant with the permit authorizing the construction, OR the violation will be forwarded to the Code Compliance Department for prosecution.
 - d. Once a property is compliant, the County will provide a non-conversion agreement (with a corresponding drawing attached) to be signed by the property owner and recorded by the county in the County land records so buyers of properties understand what has been approved for areas below base flood elevation.
 - e. This non-conversion agreement will provide protection to future buyers through title work. Every two years an updated potential ground floor enclosure list will be reviewed, and any changes to the Property Record that indicate illegal construction below base flood elevation will go through the inspection process outlined above again.
 - f. The County may also consider obtaining a list of all properties that have transferred ownership and any such property that failed to obtain the required inspection will be contacted for inspection.
 - g. New construction that contains any type of below base flood elevation enclosure, will be required to record a "Notice of Non-Conversion" to the property, which should alleviate this problem in the future.

- 4) Conduct required inspections of downstairs enclosures as stipulated in Actions #1 - #3 above.
- 5) Continue to vigorously pursue code enforcement action for violation of the County floodplain regulations, for properties developed after the Flood Insurance Rate Maps were implemented, through code enforcement and the normal permitting process, including prosecution of owners of structures, where property tax records and/or evidence from inspections provide probable cause of a.
- 6) Request that FEMA provide the County with a "Submit to Rate" for any applications for new flood insurance policies on previously uninsured properties with a possible violation, so that the County may pursue compliance under code enforcement proceedings, through a Section 1316 declaration.
- 7) Maintain existing floodplain regulations to only allow enclosing with opaque materials of downstairs enclosures of 299 square feet or less in area.
- 8) Request the Monroe County Appraiser to provide the County Growth Management Division with an annual update by residential property owner from the County property tax records of the changes in the habitable floor area of downstairs enclosures, if feasible and practical.
- 9) Identify and compile for Monroe County's flood insurance inspection and compliance program a list of all structures that fail to come into compliance and submit a quarterly progress report to FEMA beginning July, 2003.
- 10) Evaluate Monroe County's Flood Insurance Inspections and Compliance Program by June 2004, and if necessary, develop and implement further remedial actions with FEMA's approval, to ensure enforcement of the County's floodplain regulations.

The County Growth Management Division staff has the sufficient resources to implement the above program.

RESOLUTION 152-2003

A RESOLUTION AMENDING RESOLUTION NO. 187-2002 OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY APPROVING A REVISED IMPLEMENTATION PLAN FOR THE FLOOD INSURANCE INSPECTION AND COMPLIANCE PROGRAM FOR SUBMITTAL TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, the Board of County Commissioners ("BOCC") adopted Resolution No. 187-2002 on April 17, 2002, approving a revised remedial plan for submittal to the Federal Emergency Management Administration (FEMA), called the "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program" to meet one of the requirements identified in a letter from FEMA's Region IV Director, dated January 14, 2002; and,

WHEREAS, the revised "Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program" was subsequently approved by FEMA; and,

WHEREAS, as required in revised implementation plan, the County through the offices of State Representative Ken Sorenson, requested, but was unable to obtain any relief from the Florida Legislature to amend provisions of the Florida Statutes barring the County from directly bringing non-compliant downstairs enclosures with non-compliant improvements of more than four-years old into compliance; and,

WHEREAS, the Growth Management Division staff prepared draft amendments to the County's floodplain regulations in accordance with the implementation plan; and,

WHEREAS, significant legal and political concerns regarding the proposed amendments to the existing floodplain regulations were raised during the public hearing process, particularly requirements for the imposition of restrictive covenants to allow County compliance inspections; and,

WHEREAS, the Board of County Commissioners tabled the adoption of the proposed amendments and directed the County Growth Management Division staff in coordination with the Commission's FEMA Liaison and County Attorney to prepare an alternative approach that meets FEMA's concerns about the enforceability of the County's floodplain regulations; and,

WHEREAS, a County delegation headed by the Commission's FEMA Liaison met with FEMA Region IV officials on March 18, 2003, and received tentative approval from FEMA for the County's alternative proposal;

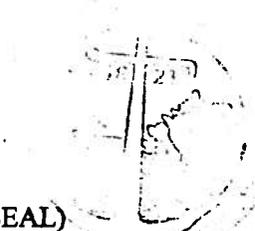
NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA that:

Section 1. The BOCC hereby amends Resolution No. 187-2002, by replacing Exhibit 1, "Implementation Plan for the Monroe County Flood Insurance Inspection and Compliance Program", with a new Exhibit 1 which is attached hereto.

Section 2. The County Administrator is directed to expeditiously transmit this Resolution and attached exhibit to the Region IV Office of FEMA.

Section 3. The Growth Management Division staff is directed to prepare new amendments to the County's floodplain regulations based on Exhibit 1 and re-initiate the process for consideration of these text amendments starting with the Planning Commission.

PASSED AND ADOPTED Board of County Commissioners of Monroe County at a regular meeting of said Board held on the 16th day of April, A.D., 2003.



Mayor Dixie Spehar	<u>yes</u>
Mayor Pro Tem Murray Nelson	<u>yes</u>
Commissioner Charles "Sonny" McCoy	<u>yes</u>
Commissioner George Neugent	<u>yes</u>
Commissioner David Rice	<u>yes</u>

(SEAL)
ATTEST: Danny K. Kolhage, Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By: Isabel C. DeSantis
Deputy Clerk

By: Dixie M. Spehar
Mayor/Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY [Signature]
Attorney's Office

FILED FOR RECORD
2003 MAY -6 PM 1:37
DANNY K. KOLHAGE
CLK. CIR. CL.
MONROE COUNTY, FLA.

EXHIBIT 1
REVISED IMPLEMENTATION PLAN FOR
THE MONROE COUNTY
FLOOD INSURANCE INSPECTION AND
COMPLIANCE PROGRAM

Flood Insurance Inspection Program

- O** Prior to March 14, 2002, the Growth Management Division staff submitted a complete list of the names and addresses of owners (policy holders provided by FEMA) of all structures less than four years old that may contain possible violations of the County's floodplain regulations to the Federal Emergency Flood Insurance and Mitigation Division (FEMA/NFIP).
- O** In June, 2002, the County Growth Management Division staff began submitting monthly to FEMA/NFIP, the names and addresses of approximately-50 owners (policy holders) of structures with possible conflicts with violations of the County's floodplain regulations. The compiled lists are being sent to FEMA, starting with the newest structures working back through to the oldest structures.
- O** The County's Building and Code Enforcement staff is conducting inspections and implementing the Flood Insurance Inspection and Compliance Program as outlined in the Federal Register. [As of March 21, 2003, the County staff has conducted 54 inspections, identified 27 structures with code conflicts and brought 7 structures into compliance with the floodplain regulations.]
- O** As an element of the inspection program, the County staff is collecting and recording the amount and number of flood insurance claims submitted for each inspected structure to be supplemented by data produced from County required inspections and property tax records. [This information will be used for calibrating and updating the flood damage model and to assist underwriters in setting insurance rates for structures with downstairs enclosures.]

Florida Keys Flood Damage Model

At the County's request, FEMA had its engineering consultant complete an evaluation of the validity and accuracy of the existing Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for Monroe County and found them to be technically valid and accurate. As more updated information becomes available from the County's Flood Insurance Inspection program, compliance inspections, and the property tax records, FEMA is requested to use this information in the recalculation of insurance risk assessments and rates.

Remediation of Non-conforming Structures Including Those Older than Four Years

- O** As agreed upon in its initial Implementation Plan for the Flood Insurance Inspection and Compliance Program, Monroe County through State Representative Ken Sorenson did attempt to seek legislative relief from the statute of limitations barring code enforcement prosecution of violations of the County's floodplain regulations more than four years old; however, the County was rebuffed by the Legislature's General Counsel and Director of Bill Drafting.

For the foreseeable future the statute of limitations is not going to be modified by an act of the Florida Legislature. As such, any structures with unpermitted improvements of more than four years old are considered by judicial ruling to be "defacto" non-conforming. Therefore, any efforts on the County's part to bring these non-conforming structures into compliance must be consistent with provisions of Section 95.11(3), Florida Statutes.

- O** The County's inspection program includes of all post-FIRM structures, even those structures with unpermitted improvements more than four-years old. The County Commission and its Growth Management Division staff believe that a significant percentage of structures with unpermitted, non-conforming below base flood elevation improvements will voluntarily come into compliance through this multi-year flood insurance inspection program.

As these structures with potential unpermitted improvements that conflict with the floodplain regulations are identified by the County staff through the flood insurance inspection program, the County will provide a list to FEMA of those structures. If the owners of these structures refuse the inspection, their insurance may not be renewed by their insurer.

The property owner of any structure inspected by the County that is determined to have an unpermitted improvement will have six months, if the violation is more than four years old, or two months, if the improvement is less than four years old, to obtain a permit to bring the structure into compliance. If the owner of a property with an identified conflict with the code chooses not to obtain the permit by the deadline established above, or obtains the permit but no approved final inspection occurs within 60 days after issuance of the permit, the County will pursue one of the following actions as applicable:

- 1) If the violation is less than four-years old, the County will expeditiously pursue code enforcement action and will formally submit a declaration for denial of the property owner's insurance to FEMA pursuant to Section 1316 of the National Flood Insurance Act if the structure is not brought into compliance.

- 2) If the violation is beyond the four-year statute of limitations, the County will submit a declaration for denial of the property owner's insurance to FEMA pursuant to Section 1316 of the National Flood Insurance Act.
- O** In situations where an unpermitted improved downstairs enclosure is found to be occupied by a very low to moderate income household during the Flood Insurance Inspection and Compliance Program, the County will provide the opportunity for the property owner to apply for additional compliance time in accordance with the FEMA approved "Plan and Procedures for Allowing an Extension from Compliance Deadlines under the Monroe County Flood Insurance Inspection Program for Eligible Non-compliant Below Base Flood Enclosures Used for Affordable Housing" adopted by Board of County Commissioners' Resolution #397-2002.

Actions to Ensure No New Additional Non-conforming Structures

- O** Although the County is currently limited by the four-year statute of limitations as to code enforcement action, the County through its County Growth Management Division will implement the following actions, consistent with the Florida Statutes, to ensure that any new conflicts with the floodplain regulations are resolved in a timely manner and do not become subject to the four-year statute of limitations barring code enforcement prosecution:
- 1) Amend the existing floodplain regulations and appropriate sections of the County Code to require that any residential structure having a downstairs enclosure with an opaque wall covering have a County compliance inspection prior to transfer of property or prior to the issuance of a building permit for any structural alteration or expansion of the elevated portion of the structure; and to provide that such inspections required prior to the transfer of can be conducted, at the discretion of the property owner, by either the County staff or a registered architect or professional engineer. [The requirement for an inspection prior to the transfer of property does not also require that the property be brought into compliance prior to transfer or, subsequent to transfer; however, if the unpermitted improvement is less than four years old, it may be subject to code enforcement action (see No.5). The sole intent of this inspection is to provide information for recording and monitoring improvements to downstairs enclosures subject to the County's floodplain regulations. This inspection is not intended to be used to identify or pre prosecute any other unpermitted improvements that are not subject to the floodplain regulations.]
 - 2) Amend the existing floodplain regulations to specifically require that the issuance of any permit to a downstairs enclosure, other than a demolition permit or a permit to remedy a life safety hazard, be contingent upon

bringing the downstairs enclosure into compliance with the floodplain regulations.

- 3) Amend the existing floodplain regulations to allow the expansion or structural alteration of the elevated portion of any residential structure non-conforming with the floodplain regulations contingent upon the following conditions as appropriate: a) the improvement is not substantial as defined under the floodplain regulations; b) a pre-permitting inspection is completed by the County to document the extent of the non-conformity; and, c), if within a "V" zone, the submittal of a professional engineer's or registered architect's sealed certification that the non-conforming improvements to the downstairs enclosure do not subject the elevated portion of the structure to increased structural damage.
- 4) Conduct required inspections of downstairs enclosures as stipulated in Actions #1-#3 above.
- 5) Continue to vigorously pursue code enforcement action for violation of the County floodplain regulations through code enforcement and the normal permitting process, including prosecution of owners of structures, where property tax records and/or evidence from inspections provide probable cause of a violation that is less than four years old.
- 6) Request that FEMA provide the County with a "Submit to Rate" for any applications for new flood insurance policies on previously uninsured properties with a possible violation, so that the County may pursue compliance under code enforcement proceedings, if the violation is less than four years old, or if older than four years, through a Section 1316 declaration.
- 7) Amend the existing floodplain regulations to only allow enclosing with opaque materials of downstairs enclosures of 299 square feet or less in area.
- 8) Request the Monroe County Appraiser to provide the County Growth Management Division with an annual update by residential property owner from the County property tax records of the changes in the habitable floor area of downstairs enclosures, if feasible and practical.
- 9) Identify and compile for Monroe County's flood insurance inspection and compliance program a list of all structures that fail to come into compliance and submit a quarterly progress report to FEMA beginning July, 2003.
- 10) Evaluate Monroe County's Flood Insurance Inspection and Compliance Program by June 2004, and if necessary, develop and implement further

remedial actions with FEMA's approval, to ensure enforcement of the County's floodplain regulations.

The County Growth Management Division staff has the sufficient resources to implement the above program over a six year period.

ENROLLED
CS/HB 407

2011 Legislature

1 A bill to be entitled

2 An act relating to residential building permits; amending
3 s. 553.79, F.S.; prohibiting local enforcing agencies and
4 building code officials or entities from requiring certain
5 inspections of buildings, structures, or real property as
6 a condition of issuance of certain residential building
7 permits; providing for application; providing for
8 conditional repeal; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (17) is added to section 553.79,
13 Florida Statutes, to read:

14 553.79 Permits; applications; issuance; inspections.—

15 (17) (a) A local enforcing agency, and any local building
16 code administrator, inspector, or other official or entity, may
17 not require as a condition of issuance of a one- or two-family
18 residential building permit the inspection of any portion of a
19 building, structure, or real property that is not directly
20 impacted by the construction, erection, alteration,
21 modification, repair, or demolition of the building, structure,
22 or real property for which the permit is sought.

23 (b) This subsection does not apply to a building permit
24 sought for:

25 1. A substantial improvement as defined in s. 161.54 or as
26 defined in the Florida Building Code.

27 2. A change of occupancy as defined in the Florida
28 Building Code.

ENROLLED

CS/HB 407

2011 Legislature

29 3. A conversion from residential to nonresidential or
30 mixed use pursuant to s. 553.507(2)(a) or as defined in the
31 Florida Building Code.

32 4. An historic building as defined in the Florida Building
33 Code.

34 (c) This subsection does not prohibit a local enforcing
35 agency, or any local building code administrator, inspector, or
36 other official or entity, from:

37 1. Citing any violation inadvertently observed in plain
38 view during the ordinary course of an inspection conducted in
39 accordance with the prohibition in paragraph (a).

40 2. Inspecting a physically nonadjacent portion of a
41 building, structure, or real property that is directly impacted
42 by the construction, erection, alteration, modification, repair,
43 or demolition of the building, structure, or real property for
44 which the permit is sought in accordance with the prohibition in
45 paragraph (a).

46 3. Inspecting any portion of a building, structure, or
47 real property for which the owner or other person having control
48 of the building, structure, or real property has voluntarily
49 consented to the inspection of that portion of the building,
50 structure, or real property in accordance with the prohibition
51 in paragraph (a).

52 4. Inspecting any portion of a building, structure, or
53 real property pursuant to an inspection warrant issued in
54 accordance with ss. 933.20-933.30.

55 (d) This subsection is repealed upon receipt by the
56 Secretary of State of the written certification by the chair of

ENROLLED

CS/HB 407

2011 Legislature

57 | the Florida Building Commission that the commission has adopted
58 | an amendment to the Florida Building Code which substantially
59 | incorporates this subsection, including the prohibition in
60 | paragraph (a), as part of the code and such amendment has taken
61 | effect.

62 | Section 2. This act shall take effect July 1, 2012.

County of Monroe

Growth Management Division

Planning & Environmental Resources
Commissioners

Department

2798 Overseas Highway, Suite 410
Marathon, FL 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County

Mayor Heather Carruthers, Dist. 3
Mayor Pro Tem David Rice, Dist. 4
Kim Wigington, Dist. 1
George Neugent, Dist. 2
Sylvia J. Murphy, Dist. 5

We strive to be caring, professional and fair

MEMO

September 20, 2011

TO: Board of County Commissioners
Roman Gastesi, County Administrator

THROUGH: Christine Hurley; Growth Management Division Director

FROM: Michael Roberts, Sr. Administrator/Environmental Resources

RE: SUMMARY OF MONROE COUNTY ALTERNATIVES FOR
COMPENSATORY MITIGATION OPTIONS IN THE FLORIDA KEYS

Development activities that result in impacts to wetlands and other surface waters require permits from State and Federal agencies as well as approval from Monroe County. In both the State and Federal permit review process, the applicant must first demonstrate that the proposed wetland impact is unavoidable, and that the impacts proposed have been reduced or minimized to the greatest extent practicable. Once the applicant has demonstrated that the proposed project meets these criteria, then they must compensate for any functional loss of wetland habitat value. This compensation is referred to as wetland mitigation. Wetland mitigation can be provided by the applicant through (1) the restoration or creation of wetlands on the same site as the impact (on-site mitigation), (2) the restoration or creation of wetlands at a location other than the impact site (off-site mitigation), or (3) through the purchase of credits through a permitted wetland mitigation bank, Regional Offsite Mitigation Area (ROMA) or In-Lieu Fee program.

In the Keys, mitigation for impacts to aquatic resources (including wetlands) associated with single family residential development, including boat docks, seawalls, etc., has most often been provided through a slightly different approach than those listed above. In 1981 an environmental mitigation Trust Fund was established as a result of a Federal case involving wetland impacts. The Fund is administered by the Audubon Society and overseen by the U.S. Army Corps of Engineers (ACOE). This Fund eventually became known as the Keys Environmental Restoration Fund (KERF) and payment to KERF by permit applicants has been

accepted by the ACOE and the Florida Department of Environmental Protection (DEP) as mitigation for wetland impacts associated with single family residential construction, including docks and seawalls (like an In-Lieu Fee program). Due to a wide array of problems associated with on-site mitigation, most property owners in the Keys opt to pay into the Fund as mitigation for impacts to wetlands and other surface waters.

It is important to note that the South Florida Water Management District does NOT accept payment into the fund as mitigation. However, SFWMD regulates commercial and multi-family development – not single family homes. While commercial and other non-residential development projects may also use KERF to mitigate for Federally regulated impacts, if the project requires permitting through SFWMD the applicants typically provide permittee responsible mitigation.

Due to a lack of success in the small scale mitigation projects generally undertaken for on-site mitigation, the U.S. Army Corps of Engineers and the Environmental Protection Agency issued regulations governing compensatory mitigation in 2008 (Federal Mitigation Rule) that established a preference for mitigation banks and provided performance standards for all types of mitigation. The Federal rule required that mitigation banks and In-Lieu Fee programs meet a specific set of performance criteria in order to continue to sell credits. KERF was informed by the ACOE that they do not meet the minimum criteria contained in the Rule and they must meet the standards provided in the rule by June of 2013 in order to continue to provide mitigation for single family residential development and other development in conjunction with ACOE dredge and fill permits. FDEP and the SFWMD have also stated that KERF must come into compliance with State requirements regulating a ROMA in order to continue to provide mitigation.

At this time County staff does not have a clear picture of exactly how far along KERF is in being able to comply with the Federal ILF rule or the State of Florida ROMA regulations. Correspondence provided by the Florida Department of Environmental Protection states in part:

“The current agreement between Florida Audubon Society and the COE does not meet the requirements of 373.4135, F.S. The proposed “Responsibility for Mitigation Funded Restoration Projects” provides additional information, but is not sufficient to proceed with securing a sponsor. In particular, the proposal does not include an overall plan of proposed mitigation sites with ecological characterization, description, assessments of current and proposed conditions using Uniform Mitigation Assessment Method (UMAM), quantification of ecological improvement, success criteria and timeframe in which they would be met, along with management plans for each of those mitigation sites. Once this information is clear, then the issues of obtaining permits and other authorizations, full cost accounting, acquisition and preservation, monitoring, responsible entity, and other requirements will need to be addressed for each of the mitigation sites or the overall plan (if the mitigation projects are relatively homogeneous in nature)”.

Due to the uncertainty of KERF's future ability to provide a mitigation option to the residents of Monroe County, the U.S. Army Corps of Engineers has encouraged the County to pursue an In-Lieu Fee program of their own, or to assist KERF in gaining compliance with the Federal Rule.

In addition to this request, FDEP and the SFWMD have asked the County to evaluate the possibility of acting as a sponsor for a ROMA in accordance with State statutes governing off-site mitigation programs. A ROMA or a mitigation bank are the only mitigation options available under State regulations that allow a permittee to pay a fee rather than provide the mitigation independently.

Monroe County staff has met with the USACOE, FDEP and SFWMD to discuss the possibility of acting as sponsor for the State permit (ROMA) and assisting KERF in pursuit of Federal approval. In addition, the County has met with representatives of KERF to initiate conversation on how the County and KERF might work together to assure that our property owners have options available for wetland mitigation.

The options available for Monroe County are grouped into 3 basic areas: (1) Enter into a Memorandum of Agreement with the state and establish a federal ILF agreement to create and manage our own mitigation program by ROMA and In-Lieu Fee programs; (2) Enter into a Memorandum of Agreement with the state to create a ROMA and contract with KERF (or possibly another mitigation provider TBD) to accomplish the approved mitigation projects and provide support in the establishment of a Corps permitted In-Lieu Fee program; or (3) Do nothing.

Alternative 1 – County as Mitigation Provider

- File application with the State to create & operate a Regional Off-site Mitigation Area (**ROMA**) and prepare a MOA in accordance with State statutes (373.4135, F.S.). At a minimum, the memorandum of agreement must address the following for each project authorized:
 1. A description of the work that will be conducted on the site and a timeline for completion of such work.
 2. A timeline for obtaining any required environmental resource permit.
 3. The environmental success criteria that the project must achieve.
 4. The monitoring and long-term management requirements that must be undertaken for the project.
 5. An assessment of the project in accordance with s. 373.4136(4)(a)-(i), until the adoption of the uniform wetland mitigation assessment method pursuant to s. 373.414(18).
 6. A designation of the entity responsible for the successful completion of the mitigation work.
 7. A definition of the geographic area where the project may be used as mitigation established using the criteria of s. 373.4136(6).

8. Full cost accounting¹ of the project, including annual review and adjustment.
 9. Provision and a timetable for the acquisition of any lands necessary for the project.
 10. Provision for preservation of the site.
 11. Provision for application of all moneys received solely to the project for which they were collected.
 12. Provision for termination of the agreement and cessation of use of the project as mitigation if any material contingency of the agreement has failed to occur.
 13. Provision in the agreement for additional projects to be added and evaluated as they are identified.
- File prospectus with U.S. Army Corps of Engineers and the Interagency Review Team (IRT) to create and operate an In-Lieu Fee (ILF) program in accordance with the Federal mitigation rule.

Requirements for Mitigation Bank and In-Lieu Fee Program Instruments

Mitigation bank and in-lieu fee program instruments must include the following information:

1. Description of the proposed service area(s) in this case the Florida Keys
2. Accounting procedures
3. Provision stating that legal responsibility for providing mitigation lies with the sponsor once a permittee secures credits from the sponsor
4. Default and closure provisions
5. Reporting protocols
6. Any other information deemed necessary by the district engineer

For an in-lieu fee program, a complete instrument must also include the following information:

1. Compensation planning framework (33 CFR 332.8(c)/40 CFR 230.98(c));
2. Specification of the amount of advance credits (33 CFR 332.8(n)/40 CFR 230.98(n)) and the fee schedule for these credits;
3. Methodology for determining future project-specific credits and fees;
4. Description of the in-lieu fee program account (33 CFR 332.8(i)/40 CFR 230.98(i)).

A brief summary of the advantages and disadvantages of this alternative is provided below:

Advantages

- Allows Monroe County to control the mitigation program and not rely on the performance (either technical or financial) of a 3rd party provider (such as KERF or other mitigation contractor)

¹ ROMA instruments must ensure that mitigation costs provide for the full cost accounting of the project, including the project activities, land costs, and administration. However, ROMAs designated for mitigation use by private, single-family residential construction (not incorporated residential development) only, the full cost accounting provision is not required. In either case, moneys received for a ROMA project may only be used for that project, and no other purpose.

- Eliminates the potential for having to advertise for a mitigation provider
- Monroe County *could* contract with a qualified 3rd party provider as mitigation contractor to implement some or all of the approved mitigation activities and monitoring requirements at any time during the life of the MOA
- Monroe County could exercise the option in 373.4135(7) and limit the mitigation to single family residences. This would limit the potential for the ROMA to be perceived by the public as a service to the development community rather than a needed alternative for our community

Disadvantages

- Will require substantial Monroe County staff resources to complete the MOA, Prospectus and applicable Environmental Resource Permits
- Requires the County to be responsible for the implementation and long term (in perpetuity) success of the mitigation areas
- Requires staff resources to locate, design and permit the appropriate mitigation areas

Alternative 2 – County’s MOA and ILF includes a 3rd Party Mitigation Provider (KERF or other TBD)

The county would file an application with the State to create & operate a Regional Off-site Mitigation Area (**ROMA**) and prepare a MOA in accordance with State statutes (373.4135, F.S.), specifying in that application that Keys Environmental Restoration Fund (KERF) would be establishing, implementing, and monitoring the mitigation areas, and would be responsible for meeting both the state and federal requirements of full cost accounting and other technical documentation requirements

This alternative will require the development of a detailed memorandum of understanding (or contract) between Monroe County and the ultimate 3rd party provider (KERF as mitigation contractor) that stipulates the performance criteria that we will require of the provider as well as the criteria spelled out in the rules referred to above.

Advantages

- If we are able to Sponsor KERF and reach agreement on performance criteria, this alternative has the best chance meeting the Federal deadline of June 2013 and not leaving a window of time when off site mitigation is not available in Monroe County
- KERF has a proven track record in providing the required services as well as the relationships with land managers throughout the Keys to identify potential mitigation projects
- Limits the amount of Monroe County staff resources required to oversight and management rather than the technical involvement required in Alternative 1.

Disadvantages

- Leaves Monroe County vulnerable to lack of performance by the selected Contractor and the subsequent liability of the permit conditions
- Potential liability for long term maintenance of mitigation areas which may not have adequate maintenance funding
- If we do not advertise, potential repercussions from other mitigation providers

NOTE: Purchasing procedures need to be evaluated to determine whether an RFP/RFQ is required for 3rd party contractor or if the County can sole-source with KERF as the mitigation provider.

Alternative 3 – Take no County Action

This alternative is simply the County not getting involved in the provision of wetland mitigation. KERF would need to meet the Federal requirements for an ILF by June 2013 or cease to provide mitigation for Federally regulated impacts.

In addition, KERF would need to find another governmental entity to serve as Sponsor and would need meet State's requirements for a ROMA without the assistance or input of Monroe County.

Advantages

- No requirement for staff resources
- Monroe County assumes no liability for any mitigation project or oversight

Disadvantages

- If KERF does not find a sponsor and is not able to achieve compliance with Federal regulations, residents of Monroe County will not have an off-site mitigation alternative available after June 2013
- Without off-site mitigation, most homeowners will not be able to meet mitigation requirements for docks or single family residences that impact wetlands



MONROE COUNTY GROWTH MANAGEMENT BUILDING DEPARTMENT

Main Office: 2798 Overseas Highway, Marathon, FL (305) 289-2501

Upper Keys Office: 102050 Overseas Highway, Key Largo, FL (305) 453-8800

Lower Keys Office: 5503 College Rd., Key West, (305)295-3990

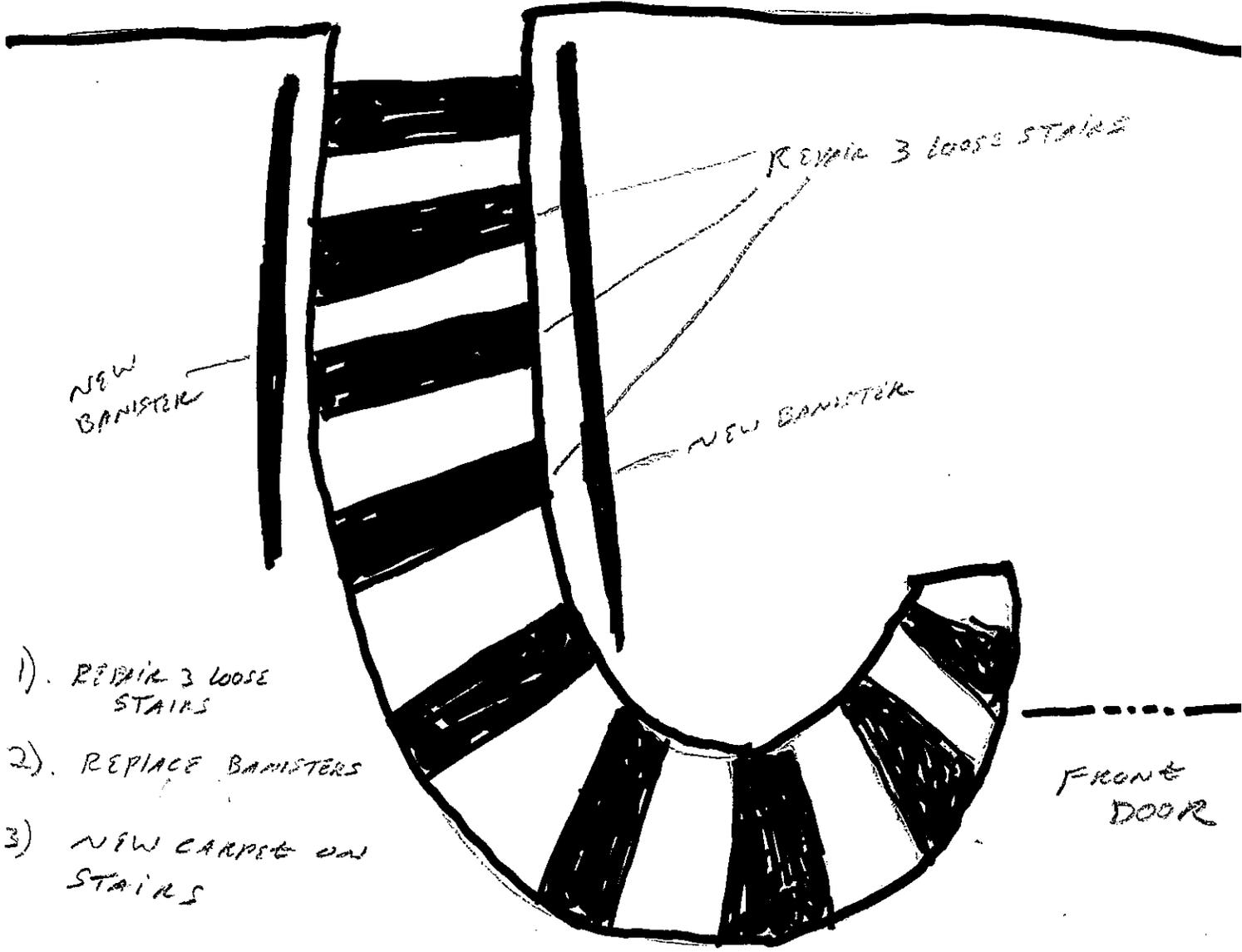
SITE PLAN and/or SURVEY SUBMISSION REQUIREMENTS GUIDELINES

Site Plans submitted for building permit application shall be:

- Prepared and sealed by a professional architect, engineer, or any other professional licensed in the State of Florida to prepare site plans.
- Drawn to a **scale of one inch equals twenty feet.**
- At a minimum, the site plan and/or survey shall depict the following features and information:
 - Date, **Property Address, RE# and Legal Description**, north arrow and graphic scale;
 - Boundary lines of site, including all property lines and mean high-water lines in accordance with Florida Statutes;
 - All attributes from the boundary survey, excluding only existing structures to be removed as part of a redevelopment;
 - Future Land Use Map (FLUM) designation(s) of the site;
 - Land use district designation(s) of site;
 - Tier designation(s) of the site;
 - Flood zones pursuant to the Flood Insurance Rate Map;
 - Setback lines as required;
 - Locations and dimensions of all existing and proposed structures, including all paved areas;
 - Pre- and Post- Construction Elevation and statement and confirmation that no new structures shall exceed or otherwise violate the height and floodplain management limitations; "A" Zone elevation from top surface of first floor; "V" Zone bottom surface of lowest horizontal structural member**
 - Size and type of buffer yards and parking lot landscaping areas, including the species and number of plants;
 - Extent and area of wetlands, open space preservation areas and conservation easements;
 - Delineation of habitat types to demonstrate buildable area on the site, including any heritage trees identified and any potential species that may use the site (certified by an approved biologist and based on the most current professionally-recognized mapping by the U.S. Fish and Wildlife Service)
 - Street Trees????**
 - Drainage plan including existing and proposed topography, all drainage structures, retention areas, drainage swales and existing and proposed permeable and impermeable areas;
 - Location of existing and proposed fire hydrants or fire wells;
 - The location of existing public utilities, including location of the closest available water supply system or collection lines and the closest available wastewater collection system or collection lines (with wastewater system provider) or on-site system proposed to meet required County and State of Florida wastewater treatment standards; and
 - A table providing:
 - the total land area of the site
 - the total buildable area of the site
 - the type and square footage of all nonresidential land uses
 - the type and number of all residential dwelling units
 - setbacks required and provided
 - the total amount of off-street parking required and provided
 - the amounts of impervious and pervious areas
 - calculations for land use intensity, open space ratio, and off-street parking, **shoreline/rear open space**
 - Land clearing calculation including 5' construction impact zone**

As reasonably required, if deemed necessary to complete a full review of the application, the planning director may request additional information or coordination letters from other agencies.

2nd floor



- 1) REPAIR 3 LOOSE STAIRS
- 2) REPLACE BANISTERS
- 3) NEW CARPET ON STAIRS

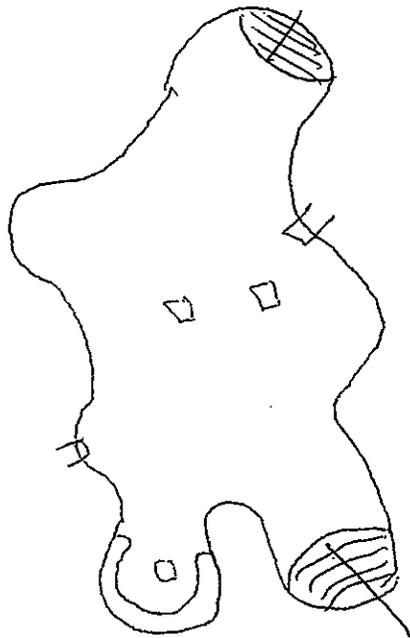


10307344
site

RECEIVED

DEC 10 2010

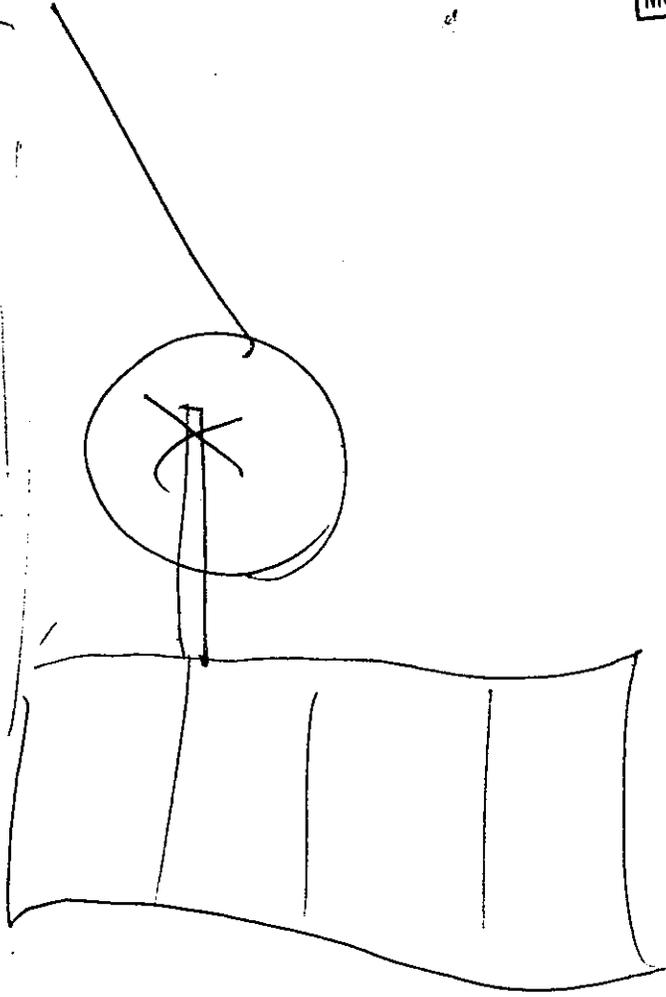
MONROE CO. BUILDING DEPT.



BUILDING DEPARTMENT
SUBJECT TO FLORIDA BUILDING CODE
QA 12/13/10
Surface 2025 sqft
Perimeter 243 LF
Volume 60,550 gal

RECEIVED
JUL 02 2009
MONROE CO. BUILDING DEPT.

*1 pack -
H-1 corner
of overhang*



Deck House Corbel -

09-3-2507

FIRE MARSHAL APPROVAL

**SUBJECT TO: Florida Building & Fire Prevention
Codes, N.F.P.A. 1. Life Safety Code "101" &
Monroe County & State Codes**

Monroe County Planning
Approved as per/Monroe
County Code see permit
conditions:
By *BB* Date *7/6/09*

1.6.09
Date

[Signature]
Fire Marshal

REF

137345



REF

1373423



1373 931



REF 1373946

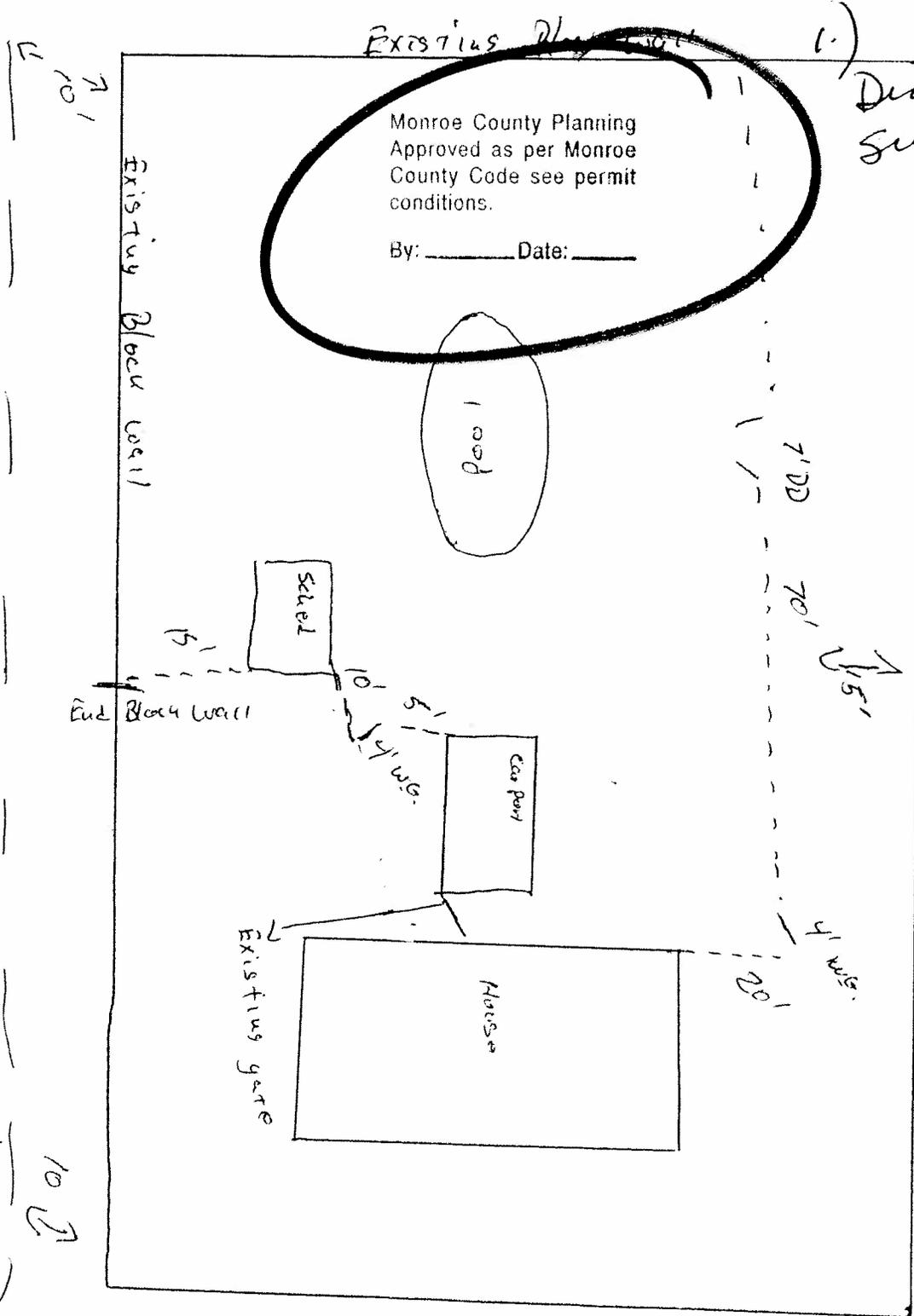
111-4265
SITE

LU. DIST. IS PAGE GFS FLOOD ZONE DESIGNATION AE
PLAN AREA BY DATE BASE FLOOD ELEVATION 10
PLANNING REQUIREMENTS PANEL NO. 1532K (GFS)
BY EM DATE 9-1-11 BY EM DATE 9-1-11

BUILDING APPROVED
SUBJECT TO FLORIDA BUILDING CODE
9/13/11

5 Diamond

PROPERTY



1.) Didn't sign plans

Canal

4' High concrete
with 3 walldgates
120' or fence

**MONROE COUNTY GROWTH MANAGEMENT
BUILDING DEPARTMENT
2-YEAR EXTENSION REQUEST FOR BUILDING PERMITS
Chapter 2011-139 Laws of Florida (HB 7207)**

Instructions

- **Please Complete FORM A (Section 73) if your permit was:**
 - **Previously approved with a 2-year permit extension provided under Section 14, Chapter 2009-96 (SB 360), reauthorized under Section 46, Chapter 2010-147 (SB 1752). (Chapter 2011-139 Laws of Florida (HB 7207) – Section 73)**
 - **Current expiration date does not prohibit extension request.**
 - **The total of any extensions granted may not exceed a total of 4 years. If previous extensions totaled 4 years, permit expiration date cannot be extended.**

- **Please Complete FORM B (Section 79) if your permit has:**
 - **An expiration date between 1/1/2012 to 1/1/2014.**
 - **The total of any extensions granted may not exceed a total of 4 years. If previous extensions totaled 4 years, permit expiration date cannot be extended.**

The application for extension must be received no later than 3:00 p.m., December 31, 2011 along with a \$250.00 processing fee.



MONROE COUNTY GROWTH MANAGEMENT
BUILDING DEPARTMENT
2-YEAR EXTENSION FOR BUILDING PERMIT
REQUEST FORM

Chapter 2011-139 Laws of Florida (HB 7207) – Section 73

This application is to be used only for permits with an approved 2-year permit extension provided under Section 14, Chapter 2009-96 (SB 360), reauthorized under Section 46, Chapter 2010-147 (SB 1752).

The application for this extension must be received no later than **3:00 p.m., December 31, 2011** along with a **\$250.00 processing fee.**

Current expiration date does not prohibit extension request.
The maximum extension period authorized by all bills cannot exceed 4 years.

_____ is requesting a
(Name)

two (2) year extension to Permit # _____ ,

which expired on _____ or will expire on _____.

I acknowledge that if I begin work and request an inspection on this permit after this extension is granted, the two (2) year extension becomes null and void and my permit will revert to the requirement of obtaining approved inspections every 180 days per the Florida Building Code.

(Owner/Contractor)

(Date)

Effective date of extension _____

Next REQUIRED inspection _____

Approved

Date

Monroe County Building Department
Joseph M. Paskalik, Sr. Director/Building Official
Monroe County Regional Service Center, 2798 Overseas Highway, Marathon, FL (305) 289-2501
Upper Keys offices: 102050 Overseas Hwy., Key Largo, FL (305) 453-8800
Lower Keys offices: 5503 College Rd., Key West, FL (305)295-3990



**MONROE COUNTY GROWTH MANAGEMENT
BUILDING DEPARTMENT
2-YEAR EXTENSION FOR BUILDING PERMIT
REQUEST FORM**

Chapter 2011-139 Laws of Florida (HB 7207) – Section 79

***This application is to be used for a permit with
an expiration date between 1/1/2012 to 1/1/2014.***

The application for this extension must be received no later than
3:00 p.m., December 31, 2011 along with a \$250.00 processing fee.

The maximum extension period authorized by all bills cannot exceed 4 years.

_____ is requesting a
(Name)

two (2) year extension to Permit # _____ ,

which expired on _____ or will expire on _____.

I acknowledge that if I begin work and request an inspection on this permit after this extension is granted, the two (2) year extension becomes null and void and my permit will revert to the requirement of obtaining approved inspections every 180 days per the Florida Building Code.

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Effective date of extension _____

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Date

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BOARD OF COUNTY COMMISSIONERS

Mayor Heather Carruthers, District 3
Mayor Pro Tem David Rice, District 4
Kim Wigington, District 1
George Neugent, District 2
Sylvia J. Murphy, District 5



Topic:

City of Marathon septic tank abandonment inspections and processing, and analysis of whether Monroe County Building Department can perform this function in the County

Per Bill Brookman, Supervisor of Environmental Health with Dept. of Health:

1. County would have to be responsible for **all** aspects of abandonment process – not only the inspection. This would include researching each property to determine how many tanks and/or injection wells are on the site. At this time, the customer presents the approved DOH permit at the counter and this research has already been completed by DOH staff member.
2. During the abandonment process, many owners are choosing to convert their tanks into cisterns. In order for this request to be processed, samples of the tank would need to be taken and delivered to the lab in Marathon (Marathon City obviously has an advantage being that close). There is an additional fee of \$67 for this request. Based on the results of these tests, the request is approved (or possibly re-tested).
3. Final notification reporting would need to be developed and provided to Dept. of Health.

The comparison of the City of Marathon to un-incorporated Monroe County is really apples to oranges. The city is its own utility. In the upper keys we have a great partnership with our utility Key Largo Wastewater Treatment District and the Dept. of Health to ensure that all wastewater collection systems are properly installed and abandoned. If the building Dept. were to undertake this process the fees would have to be raised substantially, most likely beyond the current charge that the Health Dept. charges. The DOH cost of \$97 would not cover the cost of resources needed to perform this function.

County of Monroe

Growth Management Division

Building Department
102050 Overseas Highway
Key Largo, Florida 33037
Voice (305) 453-8800
FAX: (305) 453-8818



Board of County Commissioners
Mayor Heather Carruthers, Dist. 3
Mayor Pro Tem David Rice, Dist. 4
Kim Wigington, Dist. 1
George Neugent, Dist. 2
Sylvia Murphy, Dist. 5

We strive to be caring, professional and fair

LATERAL HOOKUP GUIDANCE

To all owner builders and plumbing contractors

Here are some items that have been brought to my attention about sewer laterals.

There have been no changes to the code. If consultation is needed prior to issuance of a permit arrangements can be made for an onsite visit to discuss the issue or potential problem. Lower Keys: Corey 305-289-2549, Upper Keys: Paul 305-453-8722

Backwater valve is required for each building drain coming out of the building where lateral is being replaced.

Backwater valves are required on new or substantially improved buildings, and may be located at tie-in location on old existing pipe to new lateral.

Placing Backwater valves located beyond five feet from the building is up to the inspector, these judgments are decided on case by case bases.

Paul Tugwell, Plumbing Inspector

From: Shillinger-Bob
Sent: Monday, August 22, 2011 6:18 PM
To: Hurley-Christine
Cc: Paskalik-Joe; Pleasant-Karen; Granger-Lisa; Grimsley-Susan; Hutton-Suzanne
Subject: Application for a Building Permit by an architect or engineer

Christine:

You asked for my opinion on the issue of whether Florida law authorizes an architect or engineer to apply for a building permit or whether the statutes limit that privilege to licensed contractors and, within limited parameters, owner builders. In short, there is no clear answer to this question set forth in Florida Statutes however there is some support for permitting licensed design professions to apply for, as opposed to being issued, building permits.

Section 489.103 sets forth exemptions from the rules governing construction contracting. Subsections (11) and (16) are the only two portions of that statute which are relevant to this inquiry. Part I of chapter 489 on construction contracting "does not apply to:

(11) A registered architect or engineer acting within the scope of his or her practice or any person exempted by the law regulating architects and engineers, including persons doing design work as specific in s. 481.229(1)(b); provided, however, that an architect or engineer shall not act as a contractor unless properly licensed under this chapter.

[or]

(16) An architect or landscape architect licensed pursuant to 481 or an engineer licensed pursuant to chapter 471 who offers or renders design build services which may require the services of a contractor certified or registered pursuant to the provisions of this chapter, as long as the contractor services to be performed under the terms of the design-build contract are offered and rendered by a certified or registered general contractor in accordance with this chapter."

While not giving explicit authorization to apply for building permits, these two subsections can be read to be consistent with that practice. Both subsections contemplate that licensed design professionals engage in conduct that constitutes construction contracting in the normal course of their practices thus the need to be exempted from the licensing requirements of chapter 489. The Courts have held that in "order to give effect to legislative intent, and to avoid a construction of the statutory language which would lead to an absurd result, [the] analysis must focus upon a consideration of the statute as a whole. . . . This includes `the evil to be corrected, the language of the act,, including its title, the history of its enactment, and the state of the law already in existence bearing on the subject.'" State v. Summerlot, 711 So.2d 589, 592 (Fla. 3d DCA 1998). In some states, this is referred to as the "mischief rule" in that the reviewing court looks to see what mischief or purpose the legislature had in mind when drafting the statute. Stated differently, when interpreting statutes, the salient question is often as simple as "what's the point of this statute." It seems clear that the point of subsections (11) and (16) is that architects and engineers, in the normal, accepted scope of their practices may and will step into an area that also falls within the scope of the regulated industry of construction contracting. Accordingly, the Legislature, in

enacting subsections (11) and (16), appears to have recognized that design professionals will often cross that line, has approved of that practice, and has carved out an explicit exception to the licensing requirements to engage in that field to a limited degree within the scope of their licenses. In short, it appears that the “mischief” that the Legislature wanted to correct was a prohibition against design professionals engaging in conduct that crossed over into construction contracting. Otherwise, one must ask what would be the point of those two subsections.

Adding to this conclusion is the limiting language set forth in the latter portions of both subsections. Both contain language that implies that actual construction work would have to be performed by licensed contractors, not design professionals who hold only their respective professional licenses under chapters 471 and 481. Once again, what would be the point of this language except for a recognition that these design professionals may engage in conduct, such as applying for permits, which would normally fall within the bailiwick of a licensed contractor.

Curiously, I found no statute which explicitly sets forth a list of classes of individuals who can apply for building permits. Section 713.135 is the only statute that clearly sets forth requirements for building permit applications and the introductory language in subsection (1) simply refers to “any person appl[ying] for a building permit”. Because of this dearth of authority, I posed the question to other county attorneys through the Florida Association of County Attorneys listserv board. That inquiry revealed that at least some other counties permit licensed design professions to apply for building permits, leaving the contractor information to be filled in prior to issuance. One colleague suggested that I follow up with the Department of Business and Professional Regulations since that entity licenses architects and engineers. Unfortunately, the person handling the inquiry at DBPR offered no guidance and advised that the department does not interpret statutes as that is the province of the local government. Therefore, this question falls back into the Building Official’s bailiwick to interpret what is required to apply for a permit.

I can advise him that the statutes appear to contemplate allowing licensed design professionals to apply for building permits; the contractor information would have to be completed prior to issuance of the permit. If he prefers to have an ordinance to rely upon, this office can help draft one that will give him the explicit authority to accept permit applications from licensed design professionals.

Bob Shillinger
Chief Assistant County Attorney
Monroe County Attorney's Office
1111 12th Street, Suite 408
Key West, FL 33040
(305) 292-3470
(305) 292-3516 (facsimile)

Please note that Florida has a broad public records law and that any communication with the County could be considered a public record. If you do not wish for your email address to become a public record, use the telephone or some other method of conveying your message.