

ORDINANCE NO. ____ - 2007

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTION 9.5-120.5, EXTENDING THE MORATORIUM ON NEW TRANSIENT UNITS, SUCH AS HOTEL OR MOTEL ROOMS, OR CAMPGROUND, RECREATIONAL VEHICLE OR TRAVEL TRAILER SPACES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR TRANSMITTAL FOR CODIFICATION.

WHEREAS, the Board of County Commissioners makes the following Findings of Fact:

1. The Board of County Commission previously adopted Ordinance No. 001-2002, to extend the moratorium on new transient units from January 1, 2002 to December 31, 2006.
2. The prohibition on new transient units is necessary for staff to formulate a strategy to address the impacts associated with the development of new transient units.
3. Any strategy to permit new transient units must address the impacts of transient units on hurricane evacuation, workforce/employee housing, wastewater treatment, traffic volumes and the natural environment through increase in use of the reefs, and the waters off the Florida Keys.
4. The Planning Commission, at a regularly scheduled public hearing on December 19, 2006, recommended that the moratorium be extended.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:

Section 1. Chapter 9.5 Article VII, Division 2, Monroe County Code, is hereby amended as follows:

Sec. 9.5-120.5 Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces shall be eligible for residential ROGO allocations until ~~December 31, 2006~~ December 31, 2008 or until new Land Development Regulations are adopted to permit new transient units.

Section 2. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Repeal of Conflicting Provisions.

The provisions of the Monroe County code and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date.

This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administrative Commission approving ordinance pursuant to Chapter 380, Florida Statutes.

Section 5. Transmittal for Codification

The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto and shall be appropriately numbered to conform to the uniform numbering system of the Code.

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PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the _____ day of _____, 2007.

Mayor Mario DiGennaro
Mayor Pro Tem Dixie Spehar
Commissioner George Neugent
Commissioner Charles "Sonny" McCoy
Commissioner Sylvia Murphy

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor Mario DiGennaro

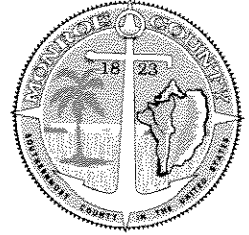
(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
[Signature]
Date: 01-3-2007

MEMORANDUM
MONROE COUNTY PLANNING DEPARTMENT

We strive to be caring, professional and fair



To: Board of County Commissioners

Through: Aref Joulani, Senior Director of Planning & Environmental Resources

From: Jose Papa, AICP, Comprehensive Planning Manager

Date: December 22, 2006

RE: Extension of Moratorium for Transient Residential Units

1 **BACKGROUND**

2

3 The Monroe County Planning and Environmental Resources Department is proposing an
4 amendment to Section 9.5-120.5 of the Monroe County Land Development Regulations
5 (LDRs) to extend the moratorium on new transient residential units from December 31,
6 2006 to December 31, 2008 or until new Land Development Regulations are adopted to
7 regulate new transient residential units.

8

9 Currently, the Monroe County Comprehensive Plan has a policy prohibiting new
10 transient residential units including hotel or motel rooms, campground spaces, or spaces
11 for parking a recreational vehicle or travel trailer until December 2006¹. This prohibition
12 on new transient units is to extend until the Permit Allocation System is revised to
13 allocate a percentage of residential growth to transient units.

14

15 For purposes of this staff report hotel/motel rooms, campground spaces, or spaces for
16 parking a recreational vehicle or travel trailer will be referred to as Transient Residential
17 Units (TRUs).

18

19 The proposed moratorium extension as well as a discussion of issues associated with new
20 TRUs was presented to the Planning Commission on December 19, 2006. At this
21 meeting, the Planning Commission voted to recommend to the BOCC that the
22 moratorium be extended. Furthermore, the Planning Commission acknowledged staff's
23 recommendation that a market analysis needs to be conducted to analyze the
24 supply/demand for new TRUs.

25

26 The Planning Commission stated that before any ordinance is brought forward to permit
27 new TRUs, an analysis of the current conditions and future trend in TRUs must be
28 completed. Additionally, members of the Planning Commission expressed the need to
29 possibly limit the size of "hotel rooms" and to possibly redefine or clarify "hotel rooms".

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BOCC.doc

1 The concern expressed by members of the Planning Commission, is that when hotel
2 rooms are redeveloped, they are redeveloped into much larger units with two or three
3 bedrooms plus a kitchen. Furthermore, the conversion of hotel/motel units to
4 condominium ownership (condo hotels) sometimes in a gated complex, leads to its
5 limited use as a short term transient unit.
6

7 **ISSUES**

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9 The development of new TRUs will have an impact on a number of health, safety and
10 quality of life issues such as: hurricane evacuation, workforce/employee housing,
11 wastewater treatment (water quality), traffic volumes and increased demand on the
12 natural environment through increase use of the reefs, and the waters off the Florida
13 Keys. One of the main objectives of creating an ordinance to promote redevelopment
14 and/or permit new TRUs is to mitigate and if possible eliminate the negative impacts of
15 new TRUs.
16

17 **Effects on Hurricane Evacuation**

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19 In analyzing the impact of permitting new transient units on hurricane evacuation,
20 policies need to be established as to the most appropriate time necessary to evacuate the
21 population of Monroe County and the most appropriate method for evacuation. Based on
22 the establishment of a goal or policy for hurricane evacuation, the development of new
23 TRUs should not cause hurricane evacuation time to exceed this adopted goal.
24

25 **Employee\Workforce Housing**

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27 The current costs of housing (for rent or sale) in the Florida Keys have led hotels/motels
28 and other service employers to hire workers who have to commute anywhere from 1 to 3
29 hours from the mainland. With the creation of new TRUs, this demand for more
30 affordable employee\workforce housing will increase. One anecdotal statement from a
31 hotelier indicates that the creation of 1 transient unit creates a demand for 1 employee or
32 1 employee residential unit.
33

34 It should be the goal of any ordinance to permit new TRUs to also mitigate the demand
35 for affordable employee\workforce housing. This can be accomplished by requiring the
36 redevelopment/development of new TRUs to provide employee\workforce housing by
37 providing the units as part of their project (on-site or off-site) or by payment into an
38 affordable housing fund.
39

40 **Wastewater Treatment**

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42 Monroe County is under a state mandate to have a central wastewater system by 2010.
43 The development of new TRUs should not be permitted unless the development can meet
44 the standards and requirement of the Year 2010 mandate. Therefore, new development
45 of TRUs should be directed and only encouraged in those areas with central wastewater
46 systems or will have central wastewater systems when the project is completed.

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Traffic Volumes

The addition of new TRUs would also mean the addition of new traffic. The design of new TRUs should be such that their traffic impact should be minimized as much as possible. New TRUs should be designed such that visitors who use these facilities would be provided with amenities on site that would limit their need to drive to other amenities such as restaurants, retail stores, or other attractions. Furthermore, new TRU developments should be encouraged to locate adjacent to existing amenities such as restaurants, or retail stores.

Another strategy would be to encourage visitors to use other modes of transportation such as walking, bicycling, or a trolley service. This could mean construction of bicycle-pedestrian facilities that provide a connection to surrounding amenities, providing trolley service for guests, or providing transit amenities such as bus shelters.

Environmental Impacts

The addition of new TRUs would also mean an impact on the environment of the Florida Keys. Additional tourists/guests would mean more people on the reefs, more people on the waterways (more boaters unfamiliar with local conditions = grounding of boats on seagrasses).

It is the natural features and the availability of the reefs and the waters that attract visitors to the area. Any impact that diminishes the quality of these amenities eventually impacts the attractiveness of the Florida Keys to potential visitors.

Developers of TRU should be encouraged to promote eco-friendly activities and should be encouraged to apply “green building” standards or Leadership in Energy and Environmental Design (LEED) standards.²

APPROACH TO PROMOTING\PERMITTING TRUs

Outlined below are three alternatives for promoting redevelopment of TRUs, a mechanism for permitting new TRUs, and a combination of strategies that would encourage redevelopment and permitting of new TRUs.

Alternative A

Intent: Promote the redevelopment of transient units by protecting their existing density. This is a “no net gain or no net loss” policy. All “new” transient units could only come from the transfer of existing units.

Under current regulations, the density of transient units is not protected. If the site is redeveloped, the non-conforming density (# of units over the permitted amount) must be transferred or can be sold to other developers who can accommodate the additional

1 density. This policy has generally discouraged the redevelopment of transient sites and
2 has discouraged investors who want to purchase properties for redevelopment.

3
4 Under this alternative, the density of TRUs will be protected. Property owners will be
5 permitted to develop up to the existing density on the current site provided that the
6 development meets all other requirements of the code such as height, parking,
7 bufferyards, setbacks, etc. Any density that can not be accommodated on the existing site
8 can be sold to other developers and moved to another appropriate site.

9 10 **Alternative B**

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12 **Intent: Permit new TRUs by amending the permit allocation system to allocate a**
13 **percentage of market rate ROGO units for TRUs – with separate pool for allocation**
14 **competition.**

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16 The percentage of the market rate units allocated to transient units would be determined
17 by a needs assessment or market study that would quantify the number of new transients
18 units needed to meet future demand for hotels and motels. The number of transient units
19 needed to fill market demand would be portioned evenly over a specified planning
20 period.

21
22 According to the Data and Analysis document of the Year 2010 Comprehensive Plan, a
23 transient dwelling unit is considered to have the same impact on evacuation time as 0.6
24 equivalent residential units (ERU's), therefore, transient unit allocations would count as 0.6
25 of a dwelling unit.

26
27 For example, if a 100 room hotel project is permitted for development, 60 ROGO
28 allocations would be required and these ROGO allocations would come from the existing
29 pool of market rate ROGO allocations. To implement this option, amendments to the
30 comprehensive plan and land development regulations would be required.

31
32 A negative effect of this alternative is the need to reduce the amount of available market
33 rate ROGO units. Due to the existing competition in the current ROGO system, this
34 reduction in available ROGO units could open the door for more administrative relief
35 claims from applicants on the ROGO waiting list.

36 37 **Alternative B-1**

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39 **Intent: Permit new TRUs by creating a pool of ROGO units specifically for TRUs.**

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41 Under this alternative, ROGO allocations for transient units would not come from the
42 existing ROGO pool. The number of ROGO allocations in the "TRUs-ROGO" pool
43 would be based on a similar data and analysis that was conducted to determine the
44 number of ROGO residential units that may be allocated to maintain an established goal
45 for evacuation time. Data and analysis would be conducted to determine how many TRUs

1 may be permitted without exceeding the adopted evacuation time for transient units in
2 Monroe County.

3 4 **Alternative C**

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6 **Intent: Encourage redevelopment of existing TRUs and permit new TRUs by**
7 **allocating a percentage of market rate ROGO allocations for TRUs or creating a pool**
8 **of ROGO-TRUs.**

9
10 This alternative is a combination of Alternatives A and B. Existing TRU density would be
11 protected and new TRUs would be permitted based on a number determined by a market
12 demand study.

13 14 **SUMMARY AND CONCLUSIONS**

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16 Any amendments to the Comprehensive Plan and Land Development Regulations
17 (LDRs) to promote the redevelopment or development of new TRUs need to address the
18 impacts outlined in this report. .

19 20 **Hurricane Evacuation.**

21
22 New comprehensive plan policies and LDR language will be included so that
23 redevelopment or new development of TRUs, will be consistent with the evacuation
24 times established by state and the Board of County Commissioners.

25 26 **Employee\Workforce Housing**

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28 The redevelopment\development of new TRUs will be linked to the development of
29 affordable housing. The number of affordable housing units to be developed as part of a
30 project should be determined by an empirical study of the ratio between TRUs and the
31 number of employees required per TRUs.

32 33 **Wastewater Treatment**

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35 To be consistent with a state-mandate to provide a central wastewater system for the
36 Florida Keys by 2010, all redevelopment and development of new TRUs must hook-up to
37 a central sewer system. In the absence of a central sewer system, the project may provide
38 its own advanced wastewater treatment system.

39 40 **Traffic Volumes**

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42 To reduce the amount of traffic from TRUs, on-site amenities should be encouraged or
43 required. Projects should also be encouraged to promote alternative modes of
44 transportation by providing bike paths, sidewalks, transit facilities or other incentives for
45 alternative travel.

1 **Environmental Impacts**

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3 To compensate for environmental impacts, it will be proposed that TRU developments be
4 encouraged to participate in environmental education programs, as well as adhere to
5 LEED standards.

6
7 **RECOMMENDATION**

8
9 Staff recommends an extension of the existing moratorium on new transient units until
10 December 31, 2008 or until a methodology is established for permitting new TRUs.

11
12 Until additional data and analysis has been completed to determine the demand or surplus
13 of TRUs, a phased approach to addressing TRU development may be the most prudent
14 strategy at this time.

15
16 At this time, staff requests direction from the BOCC to move forward on an LDR
17 amendment to protect the density of existing TRUs. As stated in Alternative A, density
18 will be protected so that existing TRU sites may be built to the existing density on-site.
19 Redevelopment must meet all other requirements of the LDRs. Any units that are not
20 able to fit in the site may be transferred off-site as ROGO-exempt TRUs. Conversion of
21 TRUs to non-transient uses would have a negative impact on the supply of TRUs unless a
22 study shows that there is a surplus of TRUs.

23
24 Once a market study has been completed to determine the supply/need for TRUs, staff
25 will amend the LDRs establishing the procedures for allocation or conversion of TRUs.
26 If there is a need for additional TRUs, as discussed under alternative B, there can be two
27 ways to create a pool of permit allocations for TRUs. Either, a percentage of the existing
28 market rate ROGO allocations may be set aside for TRUs, or a pool of TRU allocations
29 will be created based on the comprehensive plan policy for phased evacuation.

30
31 If there is an excess of TRUs, then Comprehensive Plan policies or LDRs could be
32 drafted to allow conversion of a portion of TRUs to affordable housing or market rate
33 permanent dwelling units.

34

¹ Comprehensive Plan Policy 101.2.6

By January 4, 1996, Monroe County shall adopt Land Development Regulations which prohibit new transient residential units including hotel or motel rooms, campground spaces, or spaces for parking a recreational vehicle or travel trailer until December 31, 2001, Monroe County shall either extend this prohibition until December 2006 or revise the Permit Allocation System to allocate a percentage of residential growth to transient units.

² The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings' performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health:

sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality. (From US Green Building Council website).