BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: February 16, 2005 Division: Growth Management

Bulk Item: Yes ___ No X Department: Planning and Env. Resources

Staff Contact Person: Marlene Conaway

AGENDA ITEM WORDING: A public hearing to consider a request for Administrative Relief from Curtis Smart for Lot 15, Block 3, Cross Key Water Way Estates Section One Subdivision, Key Largo, Real Estate # 00468471.004500.

ITEM BACKGROUND: A building permit and ROGO allocation were applied for on June 13, 2000, (Year 8, Quarter 4). The applicant applied for Administrative Relief on August 17, 2004 (Year 13, Quarter 1) and is within the allowable time frame to be eligible for Administrative Relief under Section 9.5-122.2(f) of the Monroe County Code.

Staff recommends that Administrative Relief be granted in the form of a dwelling unit allocation award.

PREVIOUS RELEVANT BOCC ACTION: N/A

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: N/A **BUDGETED:** Yes N/A No ___

COST TO COUNTY: N/A **SOURCE OF FUNDS:** N/A

REVENUE PRODUCING: Yes ___ No ___ **AMOUNT PER MONTH** ___ **Year** ___ __

APPROVED BY: County Atty X OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL: _____
(Timothy J. McGarry, AICP)

DOCUMENTATION: Included X Not Required ___

DISPOSITION: _____ **AGENDA ITEM #** _____

KMC

RESOLUTION NO. - 2005

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **APPROVING** THE REQUEST FOR ADMINISTRATIVE RELIEF MADE BY CURTIS SMART ON THE LOT DESCRIBED AS LOT 15, BLOCK 3, CROSS KEY WATER WAY ESTATES SUBDIVISION, KEY LARGO, REAL ESTATE NUMBER 00468471.004500. THE RELIEF IS IN THE FORM OF A DWELLING UNIT ALLOCATION AWARD.

WHEREAS, Curtis Smart has submitted an application for a building permit allocation under the Residential Rate of Growth Ordinance (ROGO) in June of 2000; and

WHEREAS, the application has been in the ROGO system for at least four (4) consecutive years; and

WHEREAS, Curtis Smart has applied for administrative relief under Monroe County Code Section 9.5 122.2 (f); and

WHEREAS, the Board of County Commissioners (BOCC) has the authority to grant administrative relief under Section 9.5 122.2. (f) (6) and may grant the applicant a building allocation, offer to buy the property at fair market value, or provide such other relief as may be necessary and appropriate; and

WHEREAS, the lot is disturbed/scarified and the applicant received positive one point; and

WHEREAS, Board of County Commissioners Resolution 223-2004 directs staff to identify small parcels with indigenous hammock and pinelands for recommended purchase; and

WHEREAS, the subject property, is not an area of indigenous hammock or pinelands; and

WHEREAS, Policy 101.6.5 of the 2010 Comprehensive Plan provides criteria to be used for determining lands that are appropriate for acquisition and the criteria includes the environmental sensitivity of the vegetative habitat on the lot; and

WHEREAS, the subject property, located in Cross Key Water Way Estates Section One Subdivision is not environmentally sensitive;

WHEREAS, the Monroe County Board of County Commissioners makes the following findings of fact and conclusions of law:

1) The Smart property, Lot 15, Block 3, Cross Key Water Way Estates Section One Subdivision, ROGO application received no negative environmental points and one (1) positive environmental point; and

2) Policy 101.6.1 of the 2010 Comprehensive Plan and Section 9.5-122.2(f) of the Monroe County Land Development Regulations provides a mechanism whereby an applicant who has not received an allocation award in ROGO may apply to the Board of County Commissioners for administrative relief.
3) The applicant has been in the ROGO system for three of the last four annual allocation periods and therefore qualifies for administrative relief; and
4) The property does not qualify under criteria established by Resolution 223-2004 for purchase by the Monroe County Land Authority of small parcels with indigenous hammock and pinelands; and
5) The property does not qualify as environmentally sensitive under criteria established by Policy 101.6.5 and Policy 101.6.6 that directs the County to prioritize acquisition based on the environmental sensitivity of the land.

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

Administrative relief is granted to Curtis Smart for Lot 15, Block 3, Cross Key Water Way Estates Section One Subdivision, administrative relief in the form of a dwelling unit allocation award, subject to the following conditions:

1. The timing of the issuance of the permit shall be in accordance with the annual number of residential allocations defined by Policy 101.2.13 and as required by Section 9.5-122.2 (f) of the Monroe County Code; and
2. The allocation award shall be taken out of the next quarterly allocation which closes April 13, 2005 (Quarter 3, Year 13) or such time as a residential allocation becomes available; and
3. The assignment of a nutrient reduction credit shall be required prior to issuance of the permit.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the _____ day of _____ 2005.

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

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY_____
Mayor Dixie Spehar

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Date: 1.27.05

_____
DEPUTY CLERK

Growth Management Division
2798 Overseas Highway
Suite 410
Marathon, Florida 33050
Phone: (305) 289-2500
FAX: (305) 289-2536

Board of County Commissioners
Mayor Dixie M. Spehar, District 1
Mayor Pro Tem Charles "Sonny" McCoy, District 3
George Neugent, District 2
David Rice, District 4
Murray Nelson, District 5

To: Board of County Commissioners

From: K. Marlene Conaway, Director KMC
Department of Planning and Environmental Resources

Date: December 3, 2004

Subject: **Curtis Smart, Administrative Relief Request**

Background on Subject Property:
The subject property is zoned Improved Subdivision (IS) Land Use District and is located in the Cross Key Water Way Estates Section One Subdivision, Lot 15, Block 3, Key Largo, Real Estate Number 00468471.004500. The applicant purchased the property in June 1996; the sale price is listed in the assessor's records as $42,000. The applicant entered the Residential Rate of Growth Ordinance (ROGO) system on June 13, 2000, (Year 8, Quarter 4).

Permitting History:
A building permit and ROGO allocation were applied for on July 13, 2000 (Year 8, Quarter 4). The application scored fifteen (15) points: ten (10) points from planning; four (4) points from building, five (5) points for building features minus one (-1) for location in an A Zone; and positive one (1) point from environmental resources as the subject property was determined to be Habitat Protection Group 1, disturbed/scarified, by the Upper Keys Biologist.

With the addition of Four (4) perseverance points, the property now scores nineteen (19) points. This lot is the last undeveloped parcel on the block. Previous ROGO allocations have been granted with one awarded in Year 9, one in Year 6 and three in Year 3. These include Permit Numbers: 99-3-3561, 96-3-3137, 94-3-3163, 94-3-2103, and 94-3-2104.

The applicant applied for administrative relief on August 17, 2004 (Year 13, Quarter 1) and is within the allowable time frame to be eligible for administrative relief under Section 9.5-122.2(f) of the Monroe County Code.

Development Potential:
Zoning – The property is zoned Urban Residential Mobile Home (URM) which allows one single-family residential dwelling and accessory uses. The property has no TDR value under the current code.

Future Land Use Map (FLUM) – The FLUM indicates the property to be Residential High (RH) which is intended for high density single-family, multi-family and institutional residential development, including mobile homes and manufactured housing.

Land Type - The subject property is Tier III and has been identified as scarified by the Upper Keys Biologist. The property was given a point assignment of one (1) for being in Habitat Group 1 which is defined in Section 9.5-122.3(7) and includes the following: Scarified/scarified or scarified with exotics. This is the least environmentally sensitive category of the four described in Section 9.5-122.3(7). It is not an area of concern.

Neighboring Properties - The majority of the subdivision has been built out. The surrounding properties have all been developed with residences.

ROGO – The ROGO point system is designed to direct growth to protect natural resources and to encourage infill development of improved subdivision lots. In response to Objectives 101.5 of the Monroe County 2010 Comprehensive Plan, which directs the County to protect natural resources, Land Development Regulations (LDRs) have been adopted that score minus ROGO points for any lots in environmentally sensitive lands. The subject lot received no negative points under Section 9.5-122.3 of the Land Development Regulations.

Smart Growth Initiative – Although Monroe County is in the process of adopting a land use program which will further define areas for future development and areas in which no development may occur, Goal 105 of the Monroe County Comprehensive Plan defines three 'tiers' that direct where new development may occur. The tiers are defined in Policy 105.2.1 as follows:

1. Natural Area (Tier I): Any defined geographic area where all or a significant portion of the land area is characterized as environmentally sensitive by the policies of this Plan and applicable habitat conservation plan, is to be designated as a Natural Area. New development on vacant land is to be severely restricted and privately owned vacant lands are to be acquired or development rights retired for resource conservation and passive recreation purposes. Within the Natural Area designation are typically found lands within the acquisition boundaries of federal and state resource conservation and park areas, including isolated platted subdivisions; and privately-owned vacant lands with sensitive environmental features outside these acquisition areas.

2. Transition and Sprawl Reduction Area (Tier II): Any defined geographic area, where scattered groups and fragments of environmentally sensitive lands, as defined by this Plan, may be found and where existing platted subdivisions are not predominately developed, not served by complete infrastructure facilities, or not within close proximity to established commercial areas, is to be designated as a Transition and Sprawl Reduction Area. New development is to

be discouraged and privately owned vacant lands acquired or development rights retired to reduce sprawl, ensure that the Keys carrying capacity is not exceeded, and prevent further encroachment on sensitive natural resources.

3. Infill Area (Tier III): Any defined geographic area, where a significant portion of land area is not characterized as environmentally sensitive as defined by this Plan, where existing platted subdivisions are substantially developed, served by complete infrastructure facilities, and within close proximity to established commercial areas, or where a concentration of non-residential uses exists, is to be designated as an Infill Area. New development and redevelopment are to be highly encouraged.

The subject property is located in Cross Key Water Way Estates Section One Subdivision and meets the criteria for an Infill Area (Tier III) in Goal 105. New development and redevelopment are to be highly encouraged.

BOCC Resolution No. 223-2004, is a resolution of the BOCC that limits the issuance of permits for land clearing. It further directs staff to identify and recommend for purchase by the Land Authority, small parcels containing indigenous hammocks and pinelands throughout Monroe county that are not covered by "Florida Forever" funds. The resolution states:

Monroe County's Growth Management Division is hereby directed to:

1. Closely monitor those small parcels in the CNA areas to prevent un-permitted clearing.
2. Limit the issuance of permits for land clearing so that the best interests of the public good, including the encouragement of building affordable housing, are protected.
3. Identify these small parcels, not covered by the "Florida Forever Funds" to the Land Authority for recommended purchase.

The subject parcel is not within a CNA area.

Eligibility for Administrative Relief Options:
Section 9.5-122.2(f) of the Monroe County Land Development Regulations and Policy 101.6.1 of the 2010 Comprehensive Plan provides a mechanism whereby an applicant who has not received an allocation award in ROGO may apply to the Board of County Commissioners for administrative relief. The applicant is eligible for Administrative Relief having complied with all requirements of the dwelling unit allocation system and having been considered in at least three (3) of the last four consecutive annual allocation periods and having submitted their application for Administrative Relief no earlier than the third annual allocation period and no later than ninety (90) days following the close of the fourth annual allocation period.

Relief Options under Administrative Relief:
The remedies available to an applicant for Administrative relief pursuant to Section 9.5-122.2(f) include issuance of an allocation award or just compensation by purchase of the property or such other relief as may be necessary or appropriate.
The subject property does not contain sensitive environmental features or any significant habitat for endangered or threatened animal species. It therefore does not meet the criteria established under

Policy 101.6.6 and Policy 102.4.2 of the Year 2010 Comprehensive Plan for the purchase of property under Administrative Relief.

The applicants have indicated that they do not wish to sell the property to the County as provided for under Policy 101.6.1 of the Year 2010 Comprehensive Plan and are asking for a building permit for a single family residence.

Staff Analysis:
The Growth Management Division has reviewed the application and recommends the award of a ROGO allocation to the applicant.

Recommendation:
It is recommended that the Board of County Commissioners find that the applicant has met the criteria and qualifies for Administrative Relief. It is further recommended that an order be prepared that establishes this relief as an award of a ROGO allocation in the next quarterly ROGO allocation period which closes April 13, 2005, or at such time as a ROGO allocation is available.

Cc: Timothy J. McGarry, AICP, Director of Growth Management
Mark Rosch, Monroe County Land Authority