BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: April 20, 2005 | Division: Growth Management
Bulk Item: Yes ____ No X | Department: Planning
Staff Contact Person: Marlene Conaway

AGENDA ITEM WORDING:
Public hearing to consider adoption of an amendment to the Monroe County Land Development Regulations to amend environmental regulations; deleting sections 9.5-336 through 9.5-343 to eliminate requirements for the Habitat Evaluation Index (HEI); creating new Section 9.5-336 to require an Existing Conditions Report, including vegetative survey; creating new Section 9.5-337 to protect upland vegetation through grant of Conservation Easements; creating new Section 9.5-338 to incorporate existing open space requirements for wetlands; revising Section 9.5-347 to provide for maximum clearing limits of native upland vegetation based upon the Tier system designation of the subject property.

[1st of 2 required public hearings]

ITEM BACKGROUND: On January 21, 2004 and in Ordinance # 018-2004 the BOCC directed staff to prepare draft text and map amendments and other supporting studies in order to effectuate the provisions of Goal 105 of the 2010 Comprehensive Plan and Rule 28-20.100 F.A.C. The Planning Commission reviewed the staff draft at four public hearings, amended the draft and recommend approval. Several stakeholder forums and two community workshops were held to review the proposed amendments. Final adoption will not occur until the DCA has reviewed the Transmittal Resolutions for the 2010 Comprehensive Plan amendments, which are being reviewed in conjunction with this amendment. This is a continuation of the Hearing held on March 17, 2005. Proposed revisions to draft ordinance made by staff since February hearing are shown with a bold underline for additions and with a double strikethrough for deletions and are summarized in the staff's cover memorandum. No changes have been made to this Ordinance since the March 17, 2005 Board meeting.

The staff requests direction from the Board on needed revisions to the draft Ordinance. The staff will make revisions as directed, bringing the revised Ordinance back to the Board in May.

PREVIOUS RELEVANT BOCC ACTION:
Ordinance No. 018-2004 adopted June 16, 2004 directed staff to prepare text and map amendments to implement Goal 105. Goal 105 was adopted in Ordinance No. 20- 2002.

CONTRACT/AGREEMENT CHANGES: None.

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 N/A No ____ **AMOUNT PER MONTH** N/A **Year** ____

APPROVED BY: County Atty X OMB/Purchasing ____ Risk Management ____

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

DOCUMENTATION: Included X Not Required ____
DISPOSITION: _____ **AGENDA ITEM #** _____

PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS TO AMEND THE SECTIONS RELATING TO THE ENVIRONMENTAL REGULATIONS

THE BOCC ORDINANCE

This ordinance will amend the Monroe County Land Development Regulations to amend the environmental regulations; deleting sections 9.5-336 through 9.5-343 to eliminate requirement s for the Habitat Evaluation Index (HEI); creating new Section 9.5-336 to require an Existing Conditions Report, including a vegetative survey; creating new Section 9.5-337 to protect upland vegetation through 2010 Comprehensive Plan to delete the HEI requirements, add the requirement for an existing conditions report, including a vegetation survey. This ordinance will also add the requirement of a grant of conservation easement to protect open space vegetation and limit the clearing of native upland vegetation dependent on the tier system designation, and provide for a Land Acquisition Master Plan.

[1st of 2 required public hearings]

BOARD OF COUNTY COMMISSIONERS
MARATHON EOC ROOM

ORDINANCE NO. 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO AMEND ENVIRONMENTAL REGULATIONS BY DELETING SECTIONS 9.5-336, 9.5-337, 9.5-338, 9.5-339, 9.5-339.1, 9.5-339.2, 9.5-339.3 9.5-340, 9.5-341, 9.5-342, AND 9.5-343 TO ELIMINATE REQUIREMENTS PERTAINING TO THE EXISTING CONDITIONS MAP AND HABITAT EVALUATION INDEX; CREATING NEW SECTION 9.5-336 TO REQUIRE AN EXISTING CONDITIONS REPORT, INCLUDING VEGETATIVE SURVEY AS PART OF DEVELOPMENT APPROVAL; CREATING NEW SECTION 9.5-337 TO ENHANCE PROTECTION OF UPLAND VEGETATION THROUGH GRANT OF CONSERVATION EASEMENTS; CREATING NEW SECTION 9.5-337 THAT PROVIDES NEW REQUIREMENTS FOR CONSERVATION EASEMENTS; CREATING NEW SECTION 9.5-338 THAT INCORPORATES EXISTING OPEN SPACE REQUIREMENTS FOR WETLANDS; REVISING SECTION 9.5-347 TO PROVIDE FOR MAXIMUM CLEARING LIMITS OF NATIVE UPLAND VEGETATION BASED UPON ON THE TIER SYSTEM DESIGNATION OF THE SUBJECT PROPERTY; PROVIDING FOR REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES; DIRECTING THE PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO TRANSMIT A COPY OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Monroe County Board of County Commissioners, during three public hearings held in December, 2004 and January and February 2005, reviewed and considered the proposed amendments to the Land Development Regulations deleting the HEI requirements, requiring an existing conditions report including a vegetation survey, requiring a grant of conservation easement to protect open space vegetation and limiting the clearing of native upland vegetation dependent on the Tier system designation to implement Goal 105 of the 2010 Comprehensive Plan, Rule 28-20.100 F.A.C. and the Tier Overlay system; and

WHEREAS, the Monroe County Board of County Commissioners directed staff to prepare text and map amendments to the Year 2010 Comprehensive Plan and Land Development Regulations to base the County's environmental regulations protecting the habitat on the Year 2010 Comprehensive Plan Goal 105's Tier system rather than the existing Habitat Evaluation Index; and

WHEREAS, Goal 105 provides a comprehensive framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability; and

WHEREAS, the current LDRS require properties designated on the 1986 Habitat Maps as hammock and pineland to perform a Habitat Evaluation Index (HEI) to determine the amount of clearing permitted and the negative points awarded in ROGO and NROGO; and

WHEREAS, the HEI is a subject of dispute, has specific weaknesses including problems with protocol in its application, and, since it is based on 1986 maps, does not take into consideration re-vegetation over the last twenty years; and

WHEREAS, the proposed ordinance removes the requirement for performing an HEI from the Land Development Regulations to determine habitat quality and scoring under ROGO and replaces it with a much simpler, less expensive, transparent system; and

WHEREAS, under the new Tier system the clearing of upland habitat is limited to 10 percent in Tier I, 40 percent in Tier II, and 60 percent in Tier III; and

WHEREAS, regulatory requirements in the proposed LDRS include an Existing Conditions Report, a Conservation Easement on upland native vegetation and use of the 1986 Habitat Maps as a baseline to assure unlawful clearing has not/does not occur; and

WHEREAS, the Planning and Environmental Resources Department prepared amendments to Chapter 9.5 (Land Development Regulations) consistent with proposed amendments to the Year 2010 Comprehensive Plan that incorporated the above changes in the County's environmental regulations based on the Tier system; and

WHEREAS, the Planning Commission, after hearing comments at four public hearings, made changes to the staff draft amendments and recommended approval of the proposed amendments to incorporate changes to the County's environmental regulations based on the Tier system and the elimination of the Habitat Evaluation Index requirement; and

WHEREAS, the Planning and Environmental Resources Department has made minor changes to the proposed draft based on direction of the Planning Commission <u>and public testimony at the public hearing before the Board of County Commissioners in December 2004</u>, including minor text revisions to ensure readability and correct typographical errors or omissions in the text; and

WHEREAS, the Board of County Commissioners has reviewed the proposed amendments to the Land Development Regulations deleting the HEI requirements in the Code, requiring an existing conditions report including a vegetation survey, requiring a grant of conservation easement to protect open space vegetation and limiting the clearing of native upland vegetation dependent on the Tier system designation, as recommended

by the Planning Commission and the Planning and Environmental Resources Department; and

WHEREAS, the Board of County Commissioners finds the proposed amendments to the Land Development Regulations are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan, particularly Goal 105 and recently adopted set of comprehensive plan amendments to effectuate the Tier system;

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

Section 1. The following sections of the Monroe County Code are hereby deleted:

- Section 9.5-336, Existing conditions map;
- Section 9.5-337, Habitat analysis required;
- Section 9.5-338, Waiver of habitat analysis;
- Section 9.5-339, Habitat type analysis;
- Section 9.5-339.1, Habitat analysis objective;
- Section 9.5-339.2, Automatic high quality forest classification;
- Section 9.5-339.3, Habitat analysis definitions and approach;
- Section 9.5-340, Habitat analysis for high hammocks;
- Section 9.5-341, Habitat analysis for low hammocks;
- Section 9.5-342, Habitat analysis for palm hammocks; and,
- Section 9.5-343 Habitat analysis for pinelands.

Section 2. A new Section 9.5-336, Monroe County Code, is hereby created that reads as follows:

"**Sec. 9.5-336. Existing conditions report.**

As part of an application for approval on lands containing upland native vegetation communities the applicant shall prepare and submit an existing conditions report including a ~~vegetative~~ survey that identifies the distribution and quality of native habitat <u>and any observed endangered/threatened or protected species</u> within the parcel or lot proposed to be developed in accordance with the standards of this division. The existing conditions report will be prepared by a biologist qualified under sec. 9.5-28, in a form approved by the director of planning and contain, at a minimum, the following:

(a) *Cover page:* The cover page shall contain the following:

(1) Legal description of parcel.

(2) Property owner's name and address.

(3) Date of report and site visits.

(4) Consultant's name, agency and contact information.

(5) Consultant's signature.

(b) *Summary*: A general description of site including discussion of habitat type, important features and presence and location of any disturbed areas.

(c) *Plant species list*: A list of species found in the survey provided in a matrix of the following five columns:

(1) Column 1 - removed - estimates the number of that plant which will be removed.

(2) Column 2 - retained - indicates that one or more of that plant will remain.

(3) Column 3 - common plant name.

(4) Column 4 - scientific name.

(5) Column 5 - status - threatened, endangered, or regionally important and other native species four inches or greater in diameter at four feet in height and exotic or pest plant status.

(d) *Animal species list:* A list of the endangered, threatened, or protected animal species observed during the site survey.

~~(d)~~ (e) *Site plan:* A site plan at a scale of one (1) inch equals twenty (20) feet or greater showing the location of all native plant species that are threatened, endangered, regionally important and areas of disturbance and exotic species."

Section 3. A new Section 9.5-337, Monroe County Code, is hereby created that reads as follows:

"**Section 9.5-337. Administration and compliance.**

Before a certificate of occupancy or final inspection of approval may be issued for any structure, portion, or phase of a project subject to this division a grant of conservation easement running in favor of Monroe County shall be approved by the growth management director and the county attorney and filed in the Land Records of Monroe County. The Conservation Easement shall state the amount of required upland native vegetation open space and prohibiting activities within that open space, including removal, trimming or pruning of native vegetation; acts detrimental to wildlife or wildlife habitat preservation; excavation, dredging, removal or manipulation of the substrate; activities detrimental to drainage, flood control, or water or soil conservation; dumping or placing soil, trash, or other materials; and any other restrictions as may be stated on the Conservation Easement."

Section 4. A new Section 9.5-338, Monroe County Code, is hereby created that reads as follows:

"**Section 9.5-338 Wetland open space requirements.**

No development activities, except as provided for in this division, are permitted in mangroves, freshwater wetlands and in undisturbed saltmarsh and buttonwood wetlands; the open space requirement is one hundred (100) percent."

Section 5. Section 9.5-347 (b),(c),and (d), Monroe County Code are hereby amended to read as follows:

"(b) *Percentage of clearing:* Clearing of upland native vegetation communities in the Tiers I, II, and III shall be limited to the following percentages:

TIER	Permitted Clearing
Tier I	10% of upland native vegetation
Tier II	40% of upland native vegetation
Tier III	60% of upland native vegetation

(c) *Site baseline conditions:* The legal conditions of land existing as of February 28, 1986 and as depicted on the "December 1985 Habitat Classification Aerial Photographs," shall be used as a baseline to determine the clearing that may be permitted on a site. The 1985 maps shall be supplemented by recent aerial photography and existing site analysis to determine any increases in the amount of upland native vegetated areas. Upland native vegetated areas cleared between 1986 and time of permit application shall be considered to still include upland native vegetation for purposes of determining the amount of open space and clearing permitted.

(d) *Ocean Reef clearing:* For the purpose of this section, upland native vegetated areas in Ocean Reef Club, shall be considered Tier II and clearing shall be limited to forty (40) percent of the upland native vegetated areas.

Section 6. Section 9.5-347(e), Monroe County Code, is hereby created that reads as follows:

(e) *Lot Aggregation and Clearing*: For ROGO applications that receive points for lot aggregation under Section 9.5-122.3 (a) (3), permitted clearing of vegetation shall be limited to the percentage of the property indicated in paragraph (b) above or five-thousand (5,000) square feet, whichever is less."

Section 7. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 8. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

Section 9. This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance; does not waive any fee or penalty due or unpaid on the effective date of this ordinance; and does not affect the validity of any bond or cash deposit posted, filed, or deposited pursuant to the requirements of any ordinance.

Section 10. This ordinance shall be filed in the Office of the Secretary of State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 11. This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

Section 12. The provisions of this ordinance shall be included and incorporated in 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.

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

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

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

BY: _____
Mayor/Chairperson

(SEAL)

ATTEST: DANNY KOHLAGE, CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Date: 2-28-05

BY:_____
Deputy Clerk

STAFF REPORT

BOARD OF COUNTY COMMISSIONERS
MARATHON EOC ROOM

Monroe County Department of Planning and Environmental Resources
2798 Overseas Highway
305-289-2500
Marathon Florida 33050
conaway-marlene@monroecouny-fl.gov

MEMO

November 28, 2004

TO: Monroe County Board of County Commissioners

FROM: K. Marlene Conaway, Director

RE: Environmental Land Development Regulation (LDR) amendment to implement Goal 105

Introduction
Goal 105 provides a framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability. Attached is the proposed amendment to the Comprehensive Plan to implement the goal, Rule 28-100 and the Florida Keys Carrying Capacity Study (FKCCS).

Staff is recommending that three public hearings be held before the Board of County Commissioners, one in each area, before adoption of the Transmittal Resolution. Hopefully, this schedule will allow us to finish the adoption process by June 2005.

Background
The Board of County Commissioners (BOCC), at a regular meeting on January 21, 2004, directed Growth Management staff to prepare an ordinance deferring ROGO and NROGO allocation awards in areas containing tropical hardwood hammock or pinelands of two acres or greater within Tier I - Conservation and Natural Areas (CNA), *while staff prepares draft text and map amendments and other supporting studies* in order to effectuate the provisions of Goal 105 of the 2010 Comprehensive Plan, and Rule 28-20.100 FAC.

The Planning Commission reviewed the staff proposed draft at a workshop in June and an amended draft in four public meetings in September, October and November 2004. The Planning Commission approved several amendments and voted to recommend the attached draft to the BOCC on November 3, 2004. During the summer three focus group meetings were held; two with the construction industry representatives and one with a group of interested individuals and environmental groups. Several planned meetings were cancelled due to the hurricanes. Finally two evening community workshops, one in Key Largo and one in Sugarloaf, were held in October.

Environmental Amendment

The current LDRS require properties designated on the 1986 Habitat Maps as hammock and pineland to perform a Habitat Evaluation Index (HEI) to determine the amount of clearing permitted and the negative points awarded in ROGO and NROGO. The HEI is a subject of continuous controversy, is accused of being subjective and since based on 1986

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maps does not take into consideration re-vegetation over the last twenty years. The proposed ordinance removes the requirements for performing an HEI from the Plan and Code. Instead habitat quality and permitted clearing is based on the Tiers. Tier I receives "0" points for ROGO and clearing is limited to 10%. Clearing of habitat in Tier II is limited to 40% and Tier III is limited to 60%.

Regulatory requirements in the LDRS include an Existing Conditions Report, a Conservation Easement on upland native vegetation and use of the 1986 Habitat Maps as a baseline to assure unlawful clearing has not/does not occur.

Ocean Reef, which is not subject to ROGO and NROGO, is defined as Tier II and Tier III and clearing of upland native vegetation is limited to 40%.

PLANNING COMMISSION RESOLUTION

BOARD OF COUNTY COMMISSIONERS
MARATHON - EOC ROOM

PLANNING COMMISSION RESOLUTION NO. P58-04

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING APPROVAL TO THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS OF THE REQUEST BY THE MONROE COUNTY PLANNING DEPARTMENT OF AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO AMEND ENVIRONMENTAL REGULATIONS BY DELETING SECTIONS 9.5-336, 9.5-337, 9.5-338, 9.5-339, 9.5-339.1, 9.5-339.2, 9.5-339.3 9.5-340, 9.5-341, 9.5-342, AND 9.5-343 TO ELIMINATE REQUIREMENTS PERTAINING TO THE EXISTING CONDITIONS MAP AND HABITAT EVALUATION INDEX; CREATING NEW SECTION 9.5-336 TO REQUIRE AN EXISTING CONDITIONS REPORT, INCLUDING VEGETATIVE SURVEY AS PART OF DEVELOPMENT APPROVAL; CREATING NEW SECTION 9.5-337 TO ENHANCE PROTECTION OF UPLAND VEGETATION THROUGH GRANT OF CONSERVATION EASEMENTS; CREATING NEW SECTION 9.5-337 THAT PROVIDES NEW REQUIREMENTS FOR CONSERVATION EASEMENTS; CREATING NEW SECTION 9.5-338 THAT INCORPORATES EXISTING OPEN SPACE REQUIREMENTS FOR WETLANDS; REVISING SECTION 9.5-347 TO PROVIDE FOR MAXIMUM CLEARING LIMITS OF NATIVE UPLAND VEGETATION BASED UPON ON THE TIER SYSTEM DESIGNATION OF THE SUBJECT PROPERTY.

WHEREAS, the Monroe County Planning Commissioner, during a public hearings held November 16, 2004, reviewed and considered the proposed amendment to the Land Development Regulations deleting the HEI requirements, requiring an existing conditions report including a vegetation survey, requiring a grant of conservation easement to protect open space vegetation and limiting the clearing of native upland vegetation dependent on the Tier system designation to implement Goal 105 of the 2010 Comprehensive Plan, Rule 28-20.100 F.A.C. and the Tier Overlay system; and

WHEREAS, the Monroe County Board of County Commissioners directed staff to prepare text and map amendments to the Year 2010 Comprehensive Plan and Land Development Regulations to base the County's environmental regulations protecting the habitat on the Year 2010 Comprehensive Plan Goal 105's Tier system rather than the existing Habitat Evaluation Index; and

WHEREAS, Goal 105 provides a comprehensive framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability; and

WHEREAS, the current LDRS require properties designated on the 1986 Habitat Maps as hammock and pineland to perform a Habitat Evaluation Index (HEI) to determine the amount of clearing permitted and the negative points awarded in ROGO and NROGO; and

WHEREAS, the HEI is a subject of dispute, has specific weaknesses including problems with protocol in its application, and, since it is based on 1986 maps, does not take into consideration re-vegetation over the last twenty years; and

WHEREAS, the proposed ordinance removes the requirement for performing an HEI from the Land Development Regulations to determine habitat quality and scoring under ROGO and replaces it with a much simpler, less expensive, transparent system; and

WHEREAS, under the new Tier system the clearing of upland habitat is limited to 10 percent in Tier I, 40 percent in Tier II, and 60 percent in Tier III; and

WHEREAS, regulatory requirements in the proposed LDRS include an Existing Conditions Report, a Conservation Easement on upland native vegetation and use of the 1986 Habitat Maps as a baseline to assure unlawful clearing has not/does not occur; and

WHEREAS, the Planning and Environmental Resources Department prepared amendments to Chapter 9.5 (Land Development Regulations) consistent with proposed amendments to the Year 2010 Comprehensive Plan that incorporated the above changes in the County's environmental regulations based on the Tier system; and

WHEREAS, the Planning and Environmental Resources Department has made minor changes to the proposed draft based on direction of the Planning Commission, including minor text revisions to ensure readability and correct typographical errors or omissions in the text; and

WHEREAS, the Planning Commission, after hearing public comments and staff input at four public hearings, finds the proposed amendments to the Land Development Regulations deleting the HEI requirements in the Code, requiring an existing conditions report including a vegetation survey, requiring a grant of conservation easement to protect open space vegetation and limiting the clearing of native upland vegetation dependent on the Tier system designation are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan, particularly Goal 105 and recently adopted set of comprehensive plan amendments to effectuate the Tier system;

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, to recommend **APPROVAL** to the Monroe County Board of County Commissioners of the following amendment to the Land Development Regulations:

Section 1. Delete the following sections of the Monroe County Code

- Section 9.5-336, Existing conditions map;
- Section 9.5-337, Habitat analysis required;
- Section 9.5-338, Waiver of habitat analysis;
- Section 9.5-339, Habitat type analysis;
- Section 9.5-339.1, Habitat analysis objective;
- Section 9.5-339.2, Automatic high quality forest classification;
- Section 9.5-339.3, Habitat analysis definitions and approach;
- Section 9.5-340, Habitat analysis for high hammocks;
- Section 9.5-341, Habitat analysis for low hammocks;
- Section 9.5-342, Habitat analysis for palm hammocks; and,
- Section 9.5-343 Habitat analysis for pinelands.

Section 2. Create a new Section 9.5-336, Monroe County Code that reads as follows:

Sec. 9.5-336. Existing conditions report.

As part of an application for approval on lands containing upland native vegetation communities the applicant shall prepare and submit an existing conditions report including a vegetative survey that identifies the distribution and quality of native habitat within the parcel or lot proposed to be developed in accordance with the standards of this division. The existing conditions report will be prepared by a biologist qualified under sec. 9.5-28, in a form approved by the director of planning and contain, at a minimum, the following:

(a) *Cover page:* The cover page shall contain the following:

(1) Legal description of parcel.

(2) Property owner's name and address.

(3) Date of report and site visits.

(4) Consultant's name, agency and contact information.

(5) Consultant's signature.

(b) *Summary*: A general description of site including discussion of habitat type, important features and presence and location of any disturbed areas.

(c) *Species list*: A list of species found in the survey provided in a matrix of the following five columns:

(1) Column 1 - removed - estimates the number of that plant will be removed.

(2) Column 2 - retained - indicates that one or more of that plant will remain.

(3) Column 3 - common plant name.

(4) Column 4 - scientific name.

(5) Column 5 - status - threatened, endangered, or regionally important and other native species four inches or greater in diameter at four feet in height and exotic or pest plant status.

(d) *Site plan:* A site plan at a scale of one (1) inch equals twenty (20) feet or greater showing the location of all native species that are threatened, endangered, regionally important and areas of disturbance and exotic species."

Section 3. Create a new Section 9.5-337, Monroe County Code, that reads as follows:

Section 9.5-337. Administration and compliance.

Before a certificate of occupancy or final inspection of approval may be issued for any structure, portion, or phase of a project subject to this division a grant of conservation easement running in favor of Monroe County shall be approved by the growth management director and the county attorney and filed in the Land Records of Monroe County. The Conservation Easement shall state the amount of required upland native vegetation open space and prohibiting activities within that open space, including removal, trimming or pruning of native vegetation; acts detrimental to wildlife or wildlife habitat preservation; excavation, dredging, removal or manipulation of the substrate; activities detrimental to drainage, flood control, or water or soil conservation; dumping or placing soil, trash, or other materials; and any other restrictions as may be stated on the Conservation Easement."

Section 4. Create a new Section 9.5-338, Monroe County Code that reads as follows:

Section 9.5-338 Wetland open space requirements.

No development activities, except as provided for in this division, are permitted in mangroves, freshwater wetlands and in undisturbed saltmarsh and buttonwood wetlands; the open space requirement is one hundred (100) percent."

Section 5. Amend Section 9.5-347 (b),(c),and (d), Monroe County Code d to read as follows:

(b) *Percentage of clearing:* Clearing of upland native vegetation communities in the Tiers I, II, and III shall be limited to the following percentages:

TIER	Permitted Clearing
Tier I	10% of upland native vegetation
Tier II	40% of upland native vegetation
Tier III	60% of upland native vegetation

(c) *Site baseline conditions:* The legal conditions of land existing as of February 28, 1986 and as depicted on the "December 1985 Habitat Classification Aerial Photographs," shall be used as a baseline to determine the clearing that may be permitted on a site. The 1985 maps shall be supplemented by recent aerial photography and existing site analysis to determine any increases in the amount of upland native vegetated areas. Upland native vegetated areas cleared between 1986 and time of permit application shall be considered to still include upland native vegetation for purposes of determining the amount of open space and clearing permitted.

(d) *Ocean Reef clearing:* For the purpose of this ordinance, upland native vegetated areas in Ocean Reef Club, shall be considered Tier II and clearing shall be limited to forty (40) percent of the upland native vegetated areas.

Section 6. Create Section 9.5-347(e), Monroe County Code that reads as follows:

(e) *Lot Aggregation and Clearing*: For ROGO applications that receive points for lot aggregation under Section 9.5-122.3 (a) (3), permitted clearing of vegetation shall be limited to the percentage of the property indicated in paragraph (b) above or five-thousand (5,000) square feet, whichever is less."

PASSED AND ADOPTED by the Planning Commission of Monroe County, Florida at a regular meeting held on the 16th day of November 2004.

Chair Lynn Mapes	YES
Vice Chair Denise Werling	YES
Commissioner David C. Ritz	YES
Commissioner Julio Margalli	YES
Commissioner James Cameron	YES

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

By _____
Lynn Mapes, Chair

Signed this _____ day of _____, 2004.

DEVELOPMENT REVIEW COMMITTEE
RESOLUTION

DEVELOPMENT REVIEW RESOLUTION NO. D-23-04

A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING **APPROVAL** TO THE MONROE COUNTY PLANNING COMMISSION OF THE REQUEST BY THE MONROE COUNTY PLANNING DEPARTMENT TO DELETE REQUIREMENTS FOR AN HEI, REVISE THE OPEN SPACE, LAND ACQUISITION, MANAGEMENT AND GIS MAPPING REQUIREMENT TO IMPLEMENT GOAL 105 OF THE 2010 COMPREHENSIVE PLAN AND THE TIER SYSTEM BY DELETING **POLICIES 101.4.20, 102.9.5, 102.9.6, 103.2.2, 207.1.2, 207.10.5, 207.12.6 AND OBJECTIVE 1201.13.** REVISE **POLICIES 101.4.22, 101.14.1, 102.1.1, 102.4.1, 102.4.2, 102.4.3, 102.4.4, 102.4.5, 102.4.6, 102.4.7, 102.7.3, 102.8.1, 102.8.5, 102.9.1, 102.9.2, 102.9.3, 102.9.4, 103.2.1, 205.1, 205.1.1, 205.1.2, 205.1.3, 205.1.4, 205.1.5, 205.1.6, 205.2.1, 205.2.2, 205.2.6, 205.2.7, 205.2.14, 205.5.1, 205.5.2, 207.1.2 Revise Objective 102.4, 102.9, 201.1, 205.2 and 205.5,** OF THE **2010 COMPREHENSIVE PLAN.** REVISE **DIVISION: ENVIRONMENTAL REGULATIONS** OF THE MONROE COUNTY **LAND DEVELOPMENT REGULATIONS** BY DELETING EXISTING **SECTIONS 9.5-336, 9.5-337, 9.5-338, 9.5-339, 9.5-339.1, 9.5-339.2, 9.5-339.3 9.5-340, 9.5-341, 9.5-342, 9.5-343, AND 9.5-347(C) HABITAT ANALYSIS AND OPEN SPACE REQUIREMENTS** AND CREATING NEW **SECTIONS 9.5-336, 9.5-337, 9.5-338, SECTION 347(C) AND SECTION 347(D)** AND REVISING **SECTION 347(B)** TO REQUIRE AN EXISTING CONDITIONS REPORT INCLUDING A VEGETATION SURVEY, REQUIRE A GRANT OF CONSERVATION EASEMENT TO PROTECT OPEN SPACE VEGETATION AND LIMITING THE CLEARING OF NATIVE UPLAND VEGETATION DEPENDENT ON THE TIER SYSTEM DESIGNATION.

WHEREAS, the Monroe County Development Review Committee, during a regular meeting held on September 9, 2004, conducted a review and consideration of the request filed by the Monroe County Planning Department to delete policies and objectives that make up the requirements for an HEI, the open space requirements, land acquisition & management and the requirements for GIS mapping to implement Goal 105 of the 2010 Comprehensive Plan and the Tier System.

WHEREAS, Goal 105 provides a framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability.

WHEREAS, Tier Maps were developed following the criteria in Goal 105, utilizing computer mapping (GIS), identifying areas appropriate for additional development and those, which are important environmentally and should be preserved.

WHEREAS, The boundaries for the Tier Maps were drawn using environmental and development information and digital data from the Florida Keys Carrying Capacity Study (FKCCS), the Planning Department and the Property Appraisers Office and refined through site visits by the County Biologists and Planners.

WHEREAS, hammock size is a major determinate of habitat quality according to the FKCCS, therefore size and connectivity are used in determining the boundary of the Tiers to identify the best and most important terrestrial habitat areas for preservation.

WHEREAS, Tier I includes all contiguous hammock areas above four acres and restoration areas between fragmented smaller hammock patches to increase the hammock size and buffers where possible. Hammock size is a major determinate of habitat quality according to FKCCS, which is why size and connectivity were used to identify the best and most important terrestrial habitat areas for preservation.

WHEREAS, Tier II contains smaller hammock patches isolated by surrounding development; the quality is reduced because of the negative secondary impacts of development. These areas still contain a large number of undeveloped lots.

WHEREAS, Tier III is appropriate for additional infill development because of the location and amount of existing development in the areas designated.

WHEREAS, the Board of County Commissioners (BOCC), at a regular meeting on January 21, 2004, directed Growth Management staff to prepare an ordinance deferring ROGO and NROGO allocation awards in areas containing tropical hardwood hammock or pineland of two acres of greater within Tier I - Conservation and Conservation and Natural Areas (CNA), while staff prepares draft text and map amendments and other supporting studies in order to effectuate the provisions of Goal 105 of the 2010 Comprehensive Plan, and Rule 28-20.100 FAC.

WHEREAS, the current LDRS require properties designated on the 1986 Habitat Maps as hammock and pineland to perform a Habitat Evaluation Index (HEI) to determine the amount of clearing permitted and the negative points awarded in ROGO and NROGO. The HEI is a subject of continuous controversy, is accused of being subjective and since based on 1986 maps, does not take into consideration re-vegetation over the last twenty years.

WHEREAS, The proposed ordinance removes the requirement for performing an HEI from the Plan and Code. Instead habitat quality and permitted clearing is based on the Tiers. Tier I receives "0" points for TOGO and clearing is limited to 10%. Clearing of habitat in Tier II is limited to 40% and Tier III is limited to 60%.

WHEREAS, regulatory requirements in the proposed LDRS include an Existing Conditions Report, a Conservation Easement on upland native vegetation and use of the 1986 Habitat Maps as a baseline to assure unlawful clearing has not/does not occur.

WHEREAS, In addition to changes to implement the Tier system, the Comprehensive Plan amendments also address the requirements for a Land Acquisition Master Plan.

BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, to recommend **APPROVAL** to the Monroe County Planning Commission, of the amendments to the 2010 Comprehensive Plan to implement Goal 105 and the Tier Overlay System.

PASSED AND ADOPTED by the Development Review Committee of Monroe County, Florida, at a regular meeting held on the 9th of September, 2004.

Aref Joulani, DRC Chair	YES
Jason King, Planner	YES
David Dacquisto	YES
Andrew Trivette, Biologist	YES
Ralph Gouldy, Senior Environmental Resources Planner	YES
Department of Public Works	YES
Department of Engineering	YES
Department of Health	YES

DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY

BY _____

Aref Joulani, DRC Chair

Signed this 9th day of September, 2004.