BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 14, 2005
Bulk Item: Yes ___ No X

Division: Growth Management
Department: Planning
Staff Contact Person: Marlene Conaway

AGENDA ITEM WORDING: Public hearing to consider adopting an Ordinance amending the Monroe County Land Development Regulations Sections 9.5-120 through 9.5-125 and to Section 9.5-266 by changing the Rate of Growth Ordinance (ROGO) to utilize the Tier Overlay as the basis for the competitive point system, prohibiting affordable housing allocations in Tier 1, increasing the affordable covenants to 99 years for public financed properties and making allocations for affordable housing on a first come basis or by reservation of the BOCC.

[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 recommended approval. Several stakeholder forums and two community workshops were held to review the proposed amendments. The draft ordinance has been revised by staff to reflect the direction given the staff by the Board at the May public hearing. For a summary of the substantive changes to the proposed draft ordinance, please see the staff report which is included in the agenda package.

The draft ordinance will not be considered for adoption until the related ordinances amending the Comprehensive Plan are adopted. This action will not occur until after the county has received DCA's review comments.

Therefore, at this time no action is requested on the proposed ordinance.

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 #** B -1d

Revised 2/05

PROPOSED AMENDMENTS TO THE RATE OF GROWTH SECTIONS OF THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS

THE BOCC ORDINANCE

This ordinance will amend the Monroe County Land Development Regulations by amending Section 9.5-120 through 9.5-125 and Section 9.5-266 changing the Rate of Growth Ordinance (ROGO) to utilize the Tier Overlay as the basis for the competitive point system, prohibiting affordable housing allocations in Tier I, increasing the affordable covenants to 99 years for public finance properties and making allocations for affordable housing on a fist come basis or by reservation of the BOCC.

[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 IMPLEMENT GOAL 105 OF THE 2010 COMPREHENSIVE PLAN AND THE TIER OVERLAY SYSTEM BY REVISING SECTIONS 9.5-120 THROUGH 9.5-123 AND SECTIONS 9.5-125 THROUGH 9.5-140 [RATE OF GROWTH ORDINANCE (ROGO)] AND REVISING SECTION 9.5-266 [AFFORDABLE AND EMPLOYEE HOUSING]; PROVIDING EVALUATION CRITERIA, POINT SYSTEM, AND PROCEDURES UTILIZING THE TIER OVERLAY AS THE BASIS FOR THE ROGO SYSTEM; PROVIDING SPECIAL EVALUATION CRITERIA, POINT SYSTEM, AND PROCEDURES FOR BIG PINE AND NO NAME KEY BASED ON HABITAT CONSERVATION PLAN AND MASTER PLAN FOR BIG PINE AND NO NAME KEY; CREATING AN APPEAL PROCESS FOR NROGO; LIMITING AFFORDABLE HOUSING ALLOCATIONS TO TIER III AREAS; PROVIDING AUTHORITY TO THE BOARD OF COUNTY COMMISSIONERS TO REQUIRE A 99 YEAR RESTRICTIVE COVENANT FOR CERTAIN CLASSES OF AFFORDABLE AND EMPLOYEE HOUSING; PROVIDING AUTHORITY FOR AN ELIGIBLE GOVERNMENTAL OR NON-GOVERNMENTAL ENTITY TO ADMINISTER ELIGIBILITY AND COMPLIANCE REQUIREMENTS OF AFFORDABLE HOUSING REGULATIONS ON BEHALF OF THE PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT; 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 seven public hearings held in December 2004 and January, February, March, April, May, and June 2005, reviewed and considered the proposed amendments to utilize the Tier overlay maps as the basis for the ROGO and NROGO point systems, modifications to Administrative Relief provisions and amendments to the affordable and employee housing sections of the Land Development Regulations (LDRs) limiting allocations to Tier III applications and providing authority to the Board of County Commissioners to require a 99 year restrictive covenant as a condition of reservation of ROGO allocation; and

WHEREAS, the Monroe County Board of County Commissioners directed staff to prepare text and map amendments in Ordinance No. 018-2004 adopted June 16, 2004, to include: Tier Overlay Map designations in accordance with Goal 105; revisions to ROGO and NROGO based on the Tier system utilizing a positive approach that predominately relies on land

dedication and aggregation and revisions to the environmental regulations based on the Tier system rather than the existing Habitat Evaluation Index; and

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

WHEREAS, the designation of Tiers will be implemented through an overlay of the County's Land Use District Map, that will be referred to as the "Tier Overlay District Map" in the County Code; and

WHEREAS, the adoption and amendments to the Tier Overlay District Map will be in accordance with procedures for amending the Land Development Regulations in Section 9.5-511, Monroe County Code; and

WHEREAS, the ROGO system proposed by this ordinance greatly simplifies the scoring system for ROGO; and,

WHEREAS, the proposed ROGO system, based on the Tier system, is a positive system, awarding the least number of points for development applications in the most environmentally sensitive areas (Tier I) and the most positive points in areas where development is to be encouraged (Tier III); and,

WHEREAS, the proposed ROGO system calls for awarding additional points primarily through aggregation of lots or the dedication of lots to the County for conservation purposes in Tier I and Tier II (Big Pine Key and No Name Key) and for affordable housing in Tier III; and

WHEREAS, a separate point system has been included for Big Pine Key and No Name Key that follows the requirements of the Habitat Conservation Plan and the Livable CommuniKeys Master Plan for the Islands; and

WHEREAS, major changes are proposed in this ordinance for affordable housing to assure it remains affordable housing for the workforce, long term; and

WHEREAS, the proposed system provides authority for the reservation of allocations for affordable/employee housing to public and eligible private entities which agree to keep the projects affordable for 99 years; and

WHEREAS, the 20% market rate housing permitted in employee housing projects will qualify for additional points in ROGO, to encourage mixed income projects; and

WHEREAS, the Planning Commission, after hearing comments at four public hearings, made changes to the staff draft and recommended approval of the amendment to the LDRs to the Board of County Commissioners on November 3, 2004; and

WHEREAS, the Planning and Environmental Resources Department 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 text; and

WHEREAS, the Board of County Commissioners reviewed the proposed amendments to the Land Development Regulations, recommended by the Planning Commission and the Planning and Environmental Resources Department and made modifications to the administrative relief and affordable and employee housing provisions, revised the scoring of the ROGO, provided for purchase of up to two (2) ROGO points through payment to a land acquisition fund, and provided for the borrowing upfront of five years of affordable housing allocations; 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 Goals 105 and 601 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. Sections 9.5-120 through 9.5-123 and Sections 9.5-125 through 9.5-140 (Division 1.5 Rate of Growth Ordinance), Monroe County Code, are hereby amended to read as follows:

"DIVISION 1.5 RATE OF GROWTH ORDINANCE

Sec. 9.5-120. Residential rate of growth ordinance (ROGO).

(a) *Purpose and intent*: The purposes and intent of residential ROGO are:

(1) To facilitate implementation of goals, objectives and policies set forth in the comprehensive plan relating to protection of residents, visitors and property in the county from natural disasters, specifically including hurricanes;

(2) To limit the annual amount and rate of residential development commensurate with the county's ability to maintain a reasonable and safe hurricane evacuation clearance time;

(3) To regulate the rate and location of growth in order to further deter deterioration of public facility service levels, environmental degradation and potential land use conflicts;

(4) To allocate the limited number of dwelling units available annually hereunder, based upon the goals, objectives and policies set forth in the comprehensive plan; and,

(5) To implement Goal 105 of the comprehensive plan.

(b) *Definitions*: The words or phrases used in this division shall have the meanings prescribed in this chapter, except as otherwise indicated as follows:

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

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

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

Buildable lot or parcel means the lot or parcel must contain a minimum of two-thousand (2,000) square feet of upland, including any disturbed wetlands that can be filled pursuant to this chapter.

Controlling date means the date and time a ROGO application is submitted. This date shall be used to determine the annual anniversary date for receipt of a perseverance point(s) and shall determine precedence when ROGO applications receive identical ranking scores. A new controlling date shall be established based upon the re-submittal date and time of any withdrawn or revised application, except pursuant to section 9.5-122.1 (h).

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

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

Residential dwelling unit means a dwelling unit as defined in section 9.5-4 of the Monroe County Code, and expressly includes the following other terms also specifically defined in section 9.5-4: hotel rooms, campground spaces, mobile homes, transient residential units, institutional residential units (except hospital rooms) and live-aboards.

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

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

ROGO application means the residential ROGO application submitted by applicants seeking allocation awards.

Sec. 9.5-120.1. General provisions.

(a) *Residential ROGO allocation award required*: No building permit shall be issued unless the dwelling unit has received a residential dwelling unit allocation award, or is determined to be exempt as provided below.

(b) *Effective date*: Any ROGO application which has not received an allocation award as of the effective date of this division shall be processed and evaluated pursuant to the provisions of this division.

(c) *Yearly review and monitoring*: As required by the comprehensive plan, as requested by the planning commission or the board, or as otherwise necessary, the planning director shall consider the rate, amount, location, and ratio of market rate to affordable housing residential dwelling units available for development in the county. The planning director shall also monitor the effects of such development and determine the conformity of such development with the comprehensive plan and this chapter. This review, in whole or in part, may form the basis for recommendations by the planning director or the planning commission to the board for action to repeal, amend or modify the ROGO allocation system.

(d) *Affected area*: The ROGO allocation system shall apply within the unincorporated area of Monroe County, Florida, which, for purposes hereof, has been divided into subareas as follows:

(1) Upper Keys: The unincorporated area of Monroe County north of Tavernier Creek and corporate limits of the Village of Islamorada (approximately mile marker 90).

(2) Lower Keys: The unincorporated area of Monroe County from the corporate limits of the Village of Islamorada (approximately mile marker 72) south to the corporate limits of the City of Key West at Cow Key Bridge on U.S. Highway 1 (approximately mile marker 4), excluding Big Pine Key and No Name Key.

(3) Big Pine Key and No Name Key: The islands of Big Pine Key and No Name Key within unincorporated Monroe County.

Sec. 9.5-120.2. Type of development affected.

The residential ROGO shall apply to all residential dwelling units for which a building permit is required by this chapter and for which building permits have not been issued prior to the effective date of the ROGO allocation system, except as otherwise provided herein.

Sec. 9.5-120.3. Type of development not affected.

The residential ROGO shall not apply to the development described below:

(a) *Redevelopment on-site*: Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space which does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement.

(b) *Transfer off-site*: Transfer off-site shall consist of either the demolition or a change of use from residential to non-residential of a unit or space from a sender site and the development of a new unit on a receiver site as indicated below.

(1) *Eligibility of sender unit or space*: A hotel room, mobile home, dwelling unit, or recreational vehicle/campground space that is lawfully established.

(2) *Criteria for redevelopment off-site*: In order to redevelop off-site, a receiver site must be evaluated for both its structural and site conditions.

a. *Transfer to a hotel*: A hotel or hotel room may be developed if the:

(i) Sender unit is eligible and provided that it was used as a hotel room in accordance with section 9.5-4; and

(ii) Receiver site meets all of the following criteria:

(1) Is located in the same ROGO subarea as the sender site; and

(2) Is located within a Tier III designated area.

b. *Transfer to affordable housing*: An affordable housing unit may be developed if the receiver unit meets all of the following criteria:

(i) The proposed unit is an affordable house pursuant to sections 9.5-4(A-5) and 9.5-266; and

(ii) Is located in the same ROGO subarea as the sender site; and

(iii) Is located in a Tier III designated area.

(3) *Procedures for transfer off-site:*

a. A pre-application conference and at a minimum, a minor conditional use permit, shall be required for both the sender site and the receiver site. The minor conditional use for the transfer shall be reviewed pursuant to criteria in section 9.5-120.3 and not criteria in section 9.5-65. The sender site shall not require posting.

b. A sender unit shall be assigned a unique identifier number that shall be used for tracking and monitoring by the planning department. Multiple units to be transferred from a sender site may be authorized under a single conditional use approval.

c. The unique identifier number shall be itemized in the conditional use permits required for both the sender and receiver sites.

(4) *Conditions for Issuance of Permit:* No building permit shall be issued for the new unit on the receiver site until one of the following conditions is met:

a. The unit is demolished as per an issued demolition permit and a final inspection for the demolished unit or space has been completed by the building department for the sender site; or

b. The unit is removed pursuant to a development approval, development order, or a development permit is issued and a final inspection for the removed unit is completed by the building department for the sender site.

(c) *Nonresidential use*: Nonresidential uses are not affected by residential ROGO.

(d) *Development not increasing hurricane evacuation times:* Any applicant that can demonstrate with a traffic study acceptable to Monroe County traffic engineers that their proposed development will not increase hurricane evacuation times. All residential dwelling units to be located in the area designated as Zone 7 (North Key Largo area) are deemed not to increase hurricane evacuation times.

(e) *Public/governmental uses*: Public/governmental uses, including capital improvements and public buildings, as are defined in section 9.5-4.

(f) *Other nonresidential development*: Any other use, development, project, structure, building, fence, sign or activity, which does not result in a new residential dwelling unit.

(g) *Vested rights*: Landowners with a valid, unexpired development of regional impact approval granted by the county prior to July 13, 1992, shall be exempt from the residential ROGO system.

Sec. 9.5-120.4. Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2006.

Sec. 9.5-121. Reserved.

Sec. 9.5-122. Residential ROGO allocations.

(a) *Number of available annual residential ROGO allocations*: The number of market rate residential ROGO allocations available in each subarea of unincorporated Monroe County and the total number of affordable residential ROGO allocations available county-wide on a yearly basis shall be as follows:

Subarea	Number of Dwelling Units
Upper Keys	61
Lower Keys	57
Big Pine and No Name Keys	8

Total Market Rate	126
Affordable dwelling units	
Very Low, Low, and Median Incomes	36*
Moderate Income	35*
	71
Total units a year	197

*Includes one (1) for Big Pine Key and No Name Key.

(1) *Yearly residential ROGO allocation ratio*: Each subarea shall have its number of market rate residential ROGO allocations available per ROGO year. Affordable ROGO allocations shall be available for county-wide allocation except for Big Pine Key and No Name Key. The annual allocations for Big Pine Key and No Name Key shall be eight (8) market rate and two (2) affordable dwelling units.

(2) *Quarterly residential ROGO allocation ratio*: Each subarea shall have its number of market rate housing residential ROGO allocations available per ROGO quarter determined by the following formula:

a. Market rate residential ROGO allocations available in each subarea per quarter is equal to the market rate residential ROGO allocations available in each subarea divided by four (4).

b. Affordable housing residential ROGO for all four (4) ROGO quarters including the two available for Big Pine Key shall be made available at the beginning of the first quarter for a ROGO year.

(3) *Ratio of affordable housing ROGO allocations to market rate ROGO allocations*: Prior to October of each year, the board of county commissioners may adopt a resolution changing the ratio of affordable housing to market rate ROGO allocations based upon the recommendations of the planning director and planning commission arising from the annual review of ROGO. This ratio may be amended pursuant to the following:

a. The percentage of affordable housing shall never be less than twenty (20) percent of the total ROGO allocations available or the minimum established by rule of the Florida Administration Commission, whichever is greater.

b. The increase or decrease in the percentage of affordable housing of the total ROGO allocations available shall not exceed fifty (50) percent of the previous year's ROGO allocations to market rate and affordable housing.

(4) *Ratio of very low income, low income, and median income allocations to moderate income allocations:* The Planning Commission may amend these proportions for affordable housing during any ROGO quarter.

(5) *Big Pine Key and No Name Key:* All residential development on Big Pine Key and No Name Key is subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect ROGO allocations under this chapter.

(6) *Limit on Number of Allocation Awards in Tier I:* The annual number of allocation awards in Tier I shall be limited to no more than three (3) in the Upper Keys and three (3) in the Lower Keys.

(b) *Reservation of affordable housing allocations*: Notwithstanding the provisions of section 9.5-122.2 for awarding of allocations for affordable housing, the board of county commissioners may reserve by resolution some or all of the available affordable housing allocations for award to certain sponsoring agencies or specific housing programs consistent with all other requirements of this chapter. Building permits for these reserved allocations shall be picked up within six (6) months of the effective reservation date, unless otherwise authorized by the board of county commissioners in its resolution. The board of county commissioners may at its discretion place conditions on any reservation as it deems appropriate. These reservations may be authorized by the board of county commissioners for:

(1) The Monroe County Housing Authority, nonprofit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing by entering into a memorandum of understanding with one or more of these agencies;

(2) Specific affordable or employee housing projects participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from the county upon written request from project sponsor and approved by resolution of the board of county commissioners;

(3) Specific affordable or employee housing projects sponsored by non-governmental not-for-profit organizations above upon written request from the project sponsor and approved by resolution of the board of county commissioners;

(4) Specific affordable or employee housing programs sponsored by the county pursuant to procedures and guidelines as may be established from time to time by the board of county commissioners;

(5) Specific affordable or employee housing projects by any entity, organization, or person, contingent upon transfer of ownership of the underlying land for the affordable housing project to the county, a not-for-profit community development organization(s), or other entity approved

by the board of county commissioners, upon written request from the project sponsor and approved by resolution of the board of county commissioners; or

(6) Rental employee housing projects, situated on the same parcel of land as the non-residential workplace for the tenants of these projects, upon written request from the property owner and approved by resolution of the board of county commissioners.

(c) *Affordable housing allocation awards and eligibility*:

(1) The definition of affordable housing shall be as specified in sections 9.5-4 and 9.5-266.

(2) Any portion of the annual affordable housing allocation not used for affordable housing at the end of a ROGO year shall be made available for affordable housing for the next ROGO year.

(3) Any portion of the residential ROGO allocations not used shall be retained and be made available for affordable housing from ROGO year to ROGO year.

(4) No affordable housing allocation shall be awarded to applicants located within a Tier I designated area, within a V-zone on the county's flood insurance rating map, or within a Tier II designated area on Big Pine Key and No Name Key.

(5) Only affordable housing allocations for Big Pine Key may be used on Big Pine Key. No affordable housing allocation may be used on No Name Key.

(d) *Residential dwelling unit allocation required*: From and after the effective date of the dwelling unit allocation system, the county shall issue no building permit for a residential dwelling unit unless such dwelling unit:

(1) Has a residential dwelling unit allocation award; or

(2) Is exempted from the dwelling unit allocation system pursuant to this chapter or is deemed vested pursuant to section 9.5-120.3.

Section 9.5-122.1 Application procedures for residential ROGO.

(a) *Application for allocation*: In each quarterly allocation period, the department of planning and environmental resources shall accept applications to enter the residential ROGO system on forms prescribed by the planning director. Except for allocations to be reserved and awarded under section 9.5-122 (b), the ROGO application form must be accompanied by an approved building permit application and a nonrefundable processing fee in order to be considered in the current allocation period. The planning director shall review the ROGO application for completeness. If the

application is determined to be incomplete, the planning director shall reject the ROGO application and notify the applicant of such rejection, and the reasons therefore, within ten (10) working days. The application shall be assigned a controlling date that reflects the time and date of its submittal unless the application is determined to be incomplete. If the application is rejected then the new controlling date shall be assigned when a complete application is submitted.

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

(c) *Compliance with other requirements*: The ROGO application shall indicate whether the applicant for a residential dwelling unit allocation has satisfied and complied or not with all county, state and federal requirements otherwise imposed by Monroe County regarding conditions precedent to issuance of a building permit and shall require that the applicant certify to such compliance.

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

(e) *Limitation on number of applications:*

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

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

(4) A ROGO application for a given parcel shall not be for more dwelling units than are permitted by this chapter or the comprehensive plan.

(f) *Expiration of allocation award*: Except as provided for in this division, an allocation award shall expire when its corresponding building permit is not picked up after sixty (60) days of notification by certified mail of the award or, after issuance of the building permit, upon expiration of the permit pursuant to chapter 6.0.

(g) *Borrowing from future housing allocations*:

(1) The planning commission may award additional units from future annual dwelling unit allocations to fully grant an application for residential units

in a project if such an application receives an allocation award for some, but not all, of the units requested.

(2) The board of county commissioners in approving affordable housing allocations pursuant to section 9.5-122(b) may reserve and award additional units from future annual dwelling unit allocations if the number of available allocations is insufficient to meet specific project needs.

(3) The planning commission shall not reduce any future market rate quarterly allocation by more than twenty (20) percent and shall not apply these reductions to more than the next five (5) annual allocations or twenty (20) quarterly allocations.

(4) The board of county commissioners, upon recommendation of the planning commission, may make available for award up to one-hundred (100) percent of the affordable housing allocations available over the next five annual allocations or twenty (20) quarterly allocations.

(h) *Revisions of ROGO applications and awards*:

(1) An applicant may elect to revise a ROGO application to increase the competitive points in the application without prejudice or change in the controlling date, if a revision is submitted on a form approved by the planning director to the planning and environmental resources department no later than thirty (30) days following the planning commission approval of the previous ROGO rankings. All other applications that are withdrawn and resubmitted that do not increase the competitive points in the application shall be considered "new", requiring payment of appropriate fees and receiving a new controlling date.

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

(i) *Clarification of application data*:

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

(2) Upon receiving a request from the director of planning for such additional information, the applicant may provide such information; or the applicant

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

(j) *Existing ROGO applications:* All applications in the ROGO system prior to the effective date of this ordinance shall be re-scored pursuant to criteria in section 9.5-122.4.

(k) *Vesting of existing ROGO applications:* The following vesting provisions shall apply to applications in the ROGO system prior to the effective date of this ordinance:

(1) Notwithstanding the provisions of section 9.5-122.4 (i), such applications shall be eligible to continue to receive perseverance points beyond the first four (4) years in the system, at a 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 this ordinance, had been withdrawn and re-entered to the ROGO system and the application had been revised to increase its point total through lot aggregation or land dedication, 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 receive any perseverance points that may have been lost due to the withdrawal.

Sec. 9.5-122.2. Evaluation procedures for residential dwelling unit allocation.

(a) *Adjustment of residential ROGO allocations*: At the end of each quarterly allocation period, the planning director shall recommend additions or subtractions to the basic allocation available by subarea, based upon any of the following, as appropriate:

(1) The number of building permits for new residential units issued which expired pursuant to chapter 6.0.

(2) The number of dwelling unit allocation awards that expired prior to issuance of a corresponding building permit and which were awarded in the current annual allocation period;

(3) The number of residential ROGO allocation awards available which were not allocated during the quarterly allocation period in the current annual allocation period;

(4) The number of residential ROGO allocation awards in previous quarters which were borrowed from future allocations to accommodate multiple unit projects or to accommodate allocation applications with identical scores, pursuant to section 9.5-122.2(b)(2) or which were granted to applicants via either the appeals process, administrative relief or a beneficial use determination;

(5) Residential ROGO allocations vested during the preceding quarter;

(6) Any other modifications required or provided for by the comprehensive plan or an agreement pursuant to chapter 380, Florida Statutes;

(7) The receipt or transfer of affordable housing allocations from or to municipalities pursuant to this chapter;

(8) Allocations reserved and/or awarded by the board of county commissioners pursuant to section 9.5-122 (c).

(b) *Initial evaluation of allocation applications*: Upon receipt of completed allocation applications, the director of planning shall evaluate the allocation applications for market rate housing pursuant to the evaluation criteria set forth in section 9.5-122.4.

(1) Except for affordable housing, the director of planning shall classify each allocation application by subarea.

(2) On the evaluation cover page, for each allocation application, the director of planning shall indicate the subarea and the number of dwelling units for which allocation awards are being requested. Market rate allocation applications shall be aggregated by subarea. Affordable housing allocation applications shall be aggregated on a county-wide basis.

(3) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for market rate allocations:

a. Complete the evaluation of all allocation applications submitted during the relevant allocation period;

b. Total the number of dwelling units by subarea for which allocation applications have been received; and

c. Rank the allocation applications in descending order from the highest evaluation point total to the lowest.

(4) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for affordable housing allocations:

a. Complete review of all allocation applications to confirm eligibility of applicants during the relevant allocation period;

b. Total the number of dwelling units for unincorporated Monroe County for which affordable housing allocation applications have been received; and,

c. List the affordable housing allocation applications in descending order of controlling date from earliest to latest date.

(5) If the number of dwelling units represented by the allocation applications for market rate housing, by subarea, is equal to or less than the quarterly allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications for that subarea be granted allocation awards.

(6) If the number of dwelling units represented by the allocation applications for affordable housing is equal to or less than the available allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications be granted allocation awards.

(7) If the number of dwelling units represented by the allocation applications for market rate housing, by subarea, is greater than the quarterly allocation, the director of planning shall submit an evaluation report to the planning commission indicating the evaluation rankings and identifying those allocation applications whose ranking puts them within the quarterly allocation, and those allocation applications whose ranking puts them outside of the quarterly allocation.

(8) If the number of dwelling units represented by the allocation applications for affordable housing is greater than the total available allocation, the director of planning shall submit a report to the planning commission indicating the applications in order of their control dates and identifying those allocation applications for which sufficient allocations exist and those allocation applications whose ranking by controlling date puts them outside the available allocation.

(c) *Public hearings*: Upon completion of the evaluation ranking report and/or recommendation, the director of planning shall schedule and notice a public hearing by the planning commission pursuant to otherwise applicable regulations.

(1) At or prior to the public hearing, the planning commission may request, and the director of planning shall supply, copies of the allocation applications and the director of planning evaluation worksheets.

(2) Upon review of the market rate allocation applications and evaluation worksheets, the planning commission may adjust the points awarded for meeting a particular criteria, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

(3) The basis for any planning commission changes in the scoring or ranking of market rate applications shall be specified in the form of a motion to adopt the allocation rankings and may include the following:

a. An error in the designation of the applicable subarea.

b. A mistake in the calculation of dedicated or aggregated lots/land.

c. A mistake in assignment of the Tier map designation in the application.

d. Any other administrative error or omission that may cause the application to be incorrectly scored.

(4) The public, including, but not limited to, applicants for allocation awards, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.

(5) At the conclusion of the public hearing, the planning commission may:

a. Move to accept the evaluation rankings for market rate housing applications and rankings for affordable housing applications as submitted by the director of planning.

b. Move to accept the rankings as may be modified as a result of the public hearing.

c. Move to continue the public hearing to take additional public testimony.

d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information.

e. Move to reject the rankings.

(6) The planning commission shall finalize the rankings within sixty (60) days following initial receipt of the director of planning evaluation ranking, report and recommendations.

(d) *Notification to applicants*: Upon finalization of the evaluation rankings by the planning commission, notice of the rankings, by subarea for market rate housing, and county-wide for affordable housing, shall be posted at the planning department offices and at such other places as may be designated by the planning commission.

(1) Applicants who receive allocation awards shall be further notified by certified mail, return receipt requested. Except as provided herein for allocations for affordable housing awarded by the board of county commissioners pursuant to section 9.5-122(b) and paragraph (g) below, upon receipt of notification of an allocation award, the applicant may request issuance of a building permit for the applicable residential dwelling unit.

(2) Applicants who fail to receive allocation awards shall be further notified by regular mail; without further action by such applicants nor the payment of any additional fee, such applications shall remain in the residential ROGO system for reconsideration in the next succeeding quarterly allocation period.

(e) *Identical rankings for market rate housing applications*: If two (2) or more allocation applications in a given subarea have identical evaluation points, these applications shall be ranked in descending order from the earliest controlling date of submission to the latest. The planning commission may approve two (2) or more allocation applications with identical rankings and controlling dates despite the fact that the quarterly allocation will be exceeded if:

(1) A clear statement of findings of fact are made justifying the decision; and

(2) The excess allocation is reduced from the next succeeding quarterly allocation period or is reduced pro rata from the next three (3) quarterly allocation periods.

(f) *Identical controlling dates for affordable housing applications:* If two (2) or more allocation applications for affordable housing have identical controlling dates and at least one affordable housing allocation remains available to be awarded, the planning commission may approve two (2) or more allocation applications with identical rankings through borrowing of future allocations pursuant to section 9.5-122.1 (g).

(g) *Multi-unit affordable housing projects:* Upon the written approval of the planning director, the expiration period for an allocation award for affordable multi-unit housing projects may be extended where the applicant is unable to be granted a sufficient number of allocations required to initiate the project.

9.5-122.3. Administrative relief.

(a) *Eligibility:* An applicant for an allocation award is eligible for administrative relief if:

(1) The application complies with all requirements of the dwelling unit allocation system; and

(2) Was considered in the first sixteen (16) consecutive quarterly allocation periods; and

(3) Has not received an allocation award.

(b) *Notification of Eligibility:* Within thirty (30) days of the finalization of evaluation rankings by the planning commission, any applicant determined to be eligible for administrative relief pursuant to paragraph (a) above, shall be notified of the applicant's eligibility for administrative relief by certified mail, return receipt requested.

(c) *Application:* An application for administrative relief shall be made on a form prescribed by the director of planning and may be filed with the planning and environmental resources department no earlier than the conclusion of the sixteenth (16th) quarterly allocation period and no later than one hundred eighty (180) days following the close of the sixteenth (16th) quarterly allocation period.

(d) *Forwarding application to board:* Upon the filing of an application for administrative relief, the director of planning shall forward to the board all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the county without payment of just compensation as a result of the dwelling unit allocation system.

(e) *Public hearing:* Upon receipt of an application for administrative relief, the board shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard. The board may review the relevant applications and applicable evaluation ranking, taking testimony from county staff and others as may be necessary and hear testimony and review documentary evidence submitted by the applicant.

(f) *Board's action:* At the conclusion of the public hearing, the board may take any or a combination of the following actions:

(1) Offer to purchase the property at its fair market value as its preferred action if the property is located within:

a. a designated Tier I area;

b. an upland tropical hardwood hammock of more than one acre in size or pinelands habitat outside of Tier I; or

c. a designated Tier III area on a non-waterfront lot suitable for affordable housing.

(2) Grant the applicant an allocation award for all or a number of dwelling units requested in the next succeeding quarterly allocation period or extended pro rata over several succeeding quarterly allocation periods as the preferred action for buildable properties not meeting the criteria in (1) above.

(3) Suggest or provide such other relief as may be necessary and appropriate.

(g) *Limits on administrative allocations per quarter:* The number of allocations that may be awarded under administrative relief in any one quarter shall be no more than fifty (50) percent of the total available market rate allocations available in a quarter for that subarea. Any allocations in excess of fifty (50) percent shall be extended into the succeeding quarter or quarters until the number of such allocations is fifty (50) percent or less of the total number of market rate allocations available to be awarded.

Sec. 9.5-122.4. Evaluation criteria.

The point values established on the following pages are to be applied cumulatively.

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

Point Assignment:	*Criteria:*
+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.
+30	An application which proposes development within an area designated Tier III [Infill Area] outside of Big Pine Key or No Name Key.

(b) *Big Pine Key and No Name Key only:* The following additional negative points are intended to implement the Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan for Big Pine Key and No Name Key.

Point Assignment:	*Criteria:*
-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.

(c) *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.

Point Assignment:	*Criteria:*
+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 II or Tier III designated area together with the parcel proposed for development.
	Additional requirements
	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 9.5-347, whichever is less. 2. The application shall include but not be limited to the following: *An affidavit of ownership of all affected parcels, acreage or land; and *A legally binding restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of Monroe 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.

(d) *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.

Point Assignment:	*Criteria:*
+4	An application which includes the dedication to Monroe County of one (1) vacant, legally platted buildable lot, zoned IS, IS-D, URM, URM-L, or CFV. 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 Monroe County of a vacant legally platted, buildable lot of five thousand (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 five thousand (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 Monroe County of one (1) vacant, legally platted, buildable lot of five thousand (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 (0.5) point as specified.
+3	An application which includes dedication to Monroe County of at least one-acre (1) of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
	Additional requirements:
	1. The application shall include but not be limited to the following: * An affidavit of ownership of all affected lots, parcels, acreage or land; and * 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.

(f) *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:

Point Assignment:	*Criteria:*
+ 6	An application for market rate housing unit which is part of employee or affordable housing project.
	Additional Requirements:
	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 9.5-266(a) and (f) and this chapter.

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

Point Assignment:	*Criteria:*
- 4	An application which proposes development within a "V" zone on the FEMA Flood Insurance Rate Map.

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

Point Assignment:	*Criteria:*
+ 4	An application which development is required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the Florida Legislature.

(i) *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:

Point Assignment:	*Criteria:*
+ 1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the ROGO system up to four (4) years.

(j) *Payment to land acquisition fund:* Up to two (2) 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:

Point Assignment:	*Criteria:*
+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 (2) points.
	Additional Requirements:
	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 (4). 3. Payment to the County's Land Acquisition Fund shall be prior to the issuance of any building permit pursuant to the allocation award.

Sec. 9.5-123. Reserved

Sec. 9.5-125. Appeals.

(a) An appeal from the decision of the planning commission on a ROGO or NROGO allocation shall be made to the board of county commissioners. The notice of such appeal shall be in a form prescribed by the director of planning and must be filed

with the director of planning within twenty (20) days of the planning commission's decision. Upon the filing of an appeal, the planning commission's secretary will forward to the board all relevant files and records relating to the matter. Failure to file an appeal with the board shall constitute a waiver of any rights under this chapter to further dispute the decision of the planning commission.

(b) The filing of an appeal shall not stay either the action of the planning commission or the action of the director of planning.

(c) If, as a result of a successful appeal, additional allocation awards are to be made, the board shall instruct the director of planning as to how many dwelling units or non-residential floor space applications shall receive allocation awards, when such allocation awards are to be made and what effect such additional allocation awards will have on the current annual or quarterly dwelling unit allocation or current annual allocation for non-residential floor space. To ensure that the residential dwelling unit allocations set forth in section 9.5-122 and 9.5-124.4 are not exceeded, the director of planning shall inform the planning commission of the results of the appeal and the disposition of any additional allocation awards."

Section 2. Section 9.5-266(a)(3), Monroe County Code, is hereby amended to read as follows:

"(3) Market rate housing developed in accordance with paragraph (8) below shall be eligible to receive points pursuant to section 9.5-122.4(f)."

Section 3. Section 9.5-266(a)(5), Monroe County Code, is hereby amended to read as follows:

"(5) Notwithstanding the provisions of sections 9.5-261 through 9.5-270, some or all of any lawfully established floor area situated on a parcel shall be excluded from the calculation of the total gross of development allowed on the parcel if at least one affordable or employee housing unit is co-located on the parcel. For purposes of this exclusion a floor area ratio of twenty-five (25) percent shall be assumed. The exclusion of floor area shall be in accordance with the following criteria:

a. If the parcel of land is less than two (2) gross acres, the project's total nonresidential floor area or two thousand (2,000) square feet, whichever is less, shall be excluded from the calculation; or

b. If the parcel of land is two (2) or more gross acres, the project's total nonresidential floor area or four thousand (4,000) square feet, whichever is less, shall be excluded from the calculation."

Section 4. Section 9.5-266(a)(6)d, Monroe County Code, is hereby deleted, and Sections 9.5-266(a)(6) b. through f., Monroe County Code, are hereby amended to read as follows:

"b. Except as provided for under the special provisions for employer-owned rental housing as set forth under paragraph (6) k. below, if the affordable housing dwelling unit is designed for employee housing, the use of the dwelling is restricted to households that derive at least seventy (70) percent of their household

income from gainful employment in Monroe County and meet the adjusted gross annual income limits for median income as defined in section 9.5-4(A-5).

c. The use of the affordable or employee dwelling unit is restricted for the period specified in section 9.5-266(f)(1).

d. Tourist housing use or vacation rental use of affordable or employee housing units is prohibited.

e. The parcel of land proposed for development of affordable or employee housing shall only be located within a Tier III designated area."

Section 5. Sections 9.5-266(a)(6) g. through l., Monroe County Code, are hereby renumbered to f. through k. respectively.

Section 6. Section 9.5-266(a)(8), Monroe County Code, is hereby amended to read as follows:

"a. The use of the market rate housing dwelling unit is restricted for a period of at least thirty (30) years to households that derive at least seventy (70) percent of their household income from gainful employment in Monroe county.

b. Tourist housing use and vacation rental use of the market rate housing dwelling unit is prohibited."

Section 7. Section 9.5-266(a)(9), Monroe County Code, is hereby deleted.

Section 8. Section 9.5-266(f)(1), Monroe County Code, is hereby amended to read as follows:

"(1) Before any building permit may be issued for any structure, portion or phase of a project subject to this section, a restrictive covenant(s) shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county to ensure compliance with the provision of this section running in favor of Monroe County and enforceable by the county and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:

a. Except as provided for under paragraph (1)d., below, the covenants for any affordable or employee housing units partly or wholly financed by a public entity other than Monroe County shall be effective for a period of at least fifty (50) years.

b. Except as provided for under paragraph (1)d., below, the covenants for any affordable or employee housing units relying wholly upon private non-public financing shall be effective for at least thirty (30) years.

c. The covenants for any affordable or employee housing units partly or wholly financed by Monroe County shall be effective for a period of at least ninety-nine (99) years.

d. If approved by the Board of Commissioners as a condition of the reservation of a ROGO allocation pursuant to section 9.5-122(b) or if part of a project involving any market rate housing awarded ROGO points under sec. 9.5-122.4(f), the covenants for any affordable or employee housing shall be restricted to use as an affordable housing or employee dwelling unit for a period of at least ninety-nine (99) years.

e. The covenants shall not commence running until a certificate of occupancy as been issued by the building official for the dwelling unit or dwelling units to which the covenant or covenants apply."

Section 9. Section 9.5-266(f)(2) d., Monroe County Code, is hereby deleted and Section 9.5, 266(f)(2) e. is renumbered to Section 9.5-266(f)(2)d.

Section 10. Section 9.5-266(f)(7), Monroe County Code, is hereby created that reads as follows:

"(7) Upon written agreement between the planning director and an eligible governmental or non-governmental entity, the planning director may authorize that entity to administer the eligibility and compliance requirements for the planning department under paragraphs (3),(4),(5) and (6) above. Under such an agreement, the eligible entity is authorized to qualify a potential owner-occupier or renter of affordable, employee, or market rate housing developed as part of an employee or affordable housing project, and annually verify the employment and/or income eligibility of tenants pursuant to section 9.5-266(f)(2). The entity shall still be required to provide the planning department by January 1 of each year a written certification verifying that tenants of each affordable, employee, or market rate housing meet the applicable employment and income requirements of paragraph (2) above. The following governmental and non-governmental entities shall be eligible for this delegation of authority:

a. The Monroe Housing Authority, not-for-profit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing;

b. Private developers or other non-governmental organizations participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from Monroe County; or

c. Non-governmental organizations approved by the board of county commissioners as affordable housing providers."

Section 11. Section 9.5-266(f)(8), Monroe County Code, is hereby created that reads as follows:

"(8) Should an entity fail to satisfactorily fulfill the terms and conditions of the written agreement executed pursuant to paragraph (6) above, the planning director shall provide written notice to the subject entity to show cause why the agreement should not be terminated within thirty (30) days. If the entity fails to respond or is unable to demonstrate to the satisfaction of the planning director that it is meeting

the terms and conditions of its agreement, the agreement may be terminated by the planning director within thirty (30) days of the written notice."

Section 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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

BY_____
Deputy Clerk

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Kerry L. Wallace
Date: _____

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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: ROGO Land Development Regulations 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 and finally two evening community workshops, one in Key Largo and one in Sugarloaf, were held in October.

ROGO Amendment
Overview
ROGO has been completely redrafted utilizing the Tier System as the basis. A comparison between the proposed ROGO and the existing system is attached (A). Where the current ROGO has eighteen criteria for assigning points, the proposed ROGO contains six criteria. The habitat protection and reduction of sprawl, which are the planning reasons for most of the points, were considered during drafting and are the basis

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of the Tier maps. The sustainability points, water and energy conservation, are more appropriately addressed in the building code.

The proposed ROGO is a positive system, awarding major points for the Tier location of a property: Tier III - +30 points; Tier II - +20 points; Tier I - 0 points. The point system is different on BPK and NNK because the Habitat Conservation Plan for the islands controls the permitting. Points may be accrued by donating lots to the county for preservation in Tier I and Tier II. Additional points can be gained in Tier II and Tier III by aggregating lots.

A change to the points for the donation of platted lots awards a point for each 5,000 square feet of a Suburban Residential (SR) platted lot and 1/2 point for a 5,000 square foot Native (NA) or Suburban Residential (SR) lot. An Improved Subdivision (IS), Urban Residential Mobile Homme (URM) and Commercial Fishing (CFV) platted lot is buildable and receives four points. The single point value for unbuildable platted SR lots and 1/2 point for NA and SS lots reflects the comparative buildability. Awarding points for unbuildable lots to encourage donation is in response to a BOCC direction.

Major changes are proposed for affordable housing to assure they remain affordable for the workforce, long term. Allocations for affordable/employee housing will only be made for projects in Tier II and Tier III. Any projects receiving public financial assistance will be required to keep the projects affordable for 99 years. Affordable ROGO allocations will be provided on a first come, first served basis with the ability for public or private agencies to reserve allocations with BOCC approval contingent upon keeping the projects affordable for 99 years. To encourage mixed income projects, the 20% market rate housing permitted in employee housing projects will qualify for +3 points in ROGO.

Issues

1. **Points Awarded and Administrative Relief:** The Planning Commission (PC) has recommended increasing the time limit to apply for Administrative Relief after four years from 120 days to 180 days. They have also recommended deleting the Perseverance Points for applications in the system for more than four years. Applicants currently receive one point for each year in the system for the first four years and two points for every year over four years. The logic behind the change is that after four years an applicant, depending on the Tier and environmental quality of the lot should either be awarded a permit or receive an offer to purchase the lot. By providing two points a year after four years allocations may be awarded in inappropriate areas.

Staff recommends that if the BOCC agrees with the PC and deletes the provision for points to be awarded after four years that the number of Administrative Relief awards that can be made in any one quarter be limited to fifty percent of the total available to be awarded. This is to maintain the competitiveness of the allocation system and to assure that all of the awards are not only made to those who are in the system four years. The Board may also want to require that the "preferred relief" for any lot scoring less than +30 points will be an offer to purchase.

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2. **Payment into a Land Acquisition Fund for Points**: A purchase of points option was considered and not recommended by the PC. Up to three points could be purchased for a fee approximately equal to the cost per point of purchasing and dedicating a ROGO lot. The PC is concerned that by changing the system there would be less conservation lots purchased. Staff still considers this a viable option and recommends that the BOCC consider adopting the following LDR amendment along with the proposed policy amendment to the Comprehensive Plan.

(j) *Payment to land acquisition fund:* Up to three (3) 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 affordable housing and retirement of development rights. Points for payment to this fund shall be assigned as follows:[1]

Point Assignment:	*Criteria:*
+ 1 to +3	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 three (3) points.
	Additional Requirements:
	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 ad valorem value of privately-owned, vacant, IS/URM platted lots divided by four (4). 3. Payment to the County's Land Acquisition Fund shall be made prior to the issuance of any building permit pursuant to an allocation award.

3. Hybrid ROGO System: An alternative ROGO system, which proposes that the market rate housing share be allocated through both a competitive system and a lottery system, was reviewed and not recommended by the Planning Commission. Staff has attached the language in the BOCC packet to provide an opportunity for Board review of the issue. The testimony in the PC public hearings was not in support of the proposal. Approximately 20% of the market rate housing would be available through the lottery and the remainder available for those applicants who wish to have the assurance gained from the competitive system. The applicant determines if he wants to compete or enter the lottery. A threshold of 30 points is required to be eligible to enter the lottery. This duel system would provide a means for those who cannot afford to purchase lots to donate for points to have a chance of receiving an allocation. After four years applicants that have not received an allocation can apply for Administrative Relief.

[1] This new provision allows payment to a County Land Acquisition Fund in lieu of lot dedication; however, the number of points that can be purchased are limited to only three.

Attachment A

Comparison of Current &
Proposed ROGO Point System

Existing	Action	Tier System
1)Platted Subdivision Infill	Delete	Included in Tier III
2) Infrastructure Availability	Delete	Included in Tier III
3) Lot Aggregation	Keep	+ 4 points in Tier II and Tier III
4) Acreage Tract Density Reduction	Delete	Acreage tracts in Tier I should not receive additional points
5) Land dedication	Keep	+4 Points legally platted buildable lot in Tier I and II, 5000 sf Tier I lot res. low - +1 point max net and + 1/2 point no max net. +4 points acre of buildable land.
6) Affordable Housing	Delete	Affordable housing has a separate allocation.
7) Habitat Protection	Delete	Included in Tier I - High/moderate quality hammock, Tier II - Low quality hammock
8) Threatened and Endangered Species ° Turtle nesting area	Delete protected	Included in Tier I ° Sec. 9.5-349(p) - Turtle nesting area
9) Critical Habitat Areas	Deleted	Included in Tier I
10) Perseverance Points	Keep Delete	+1 for first 4 years After 4 years - Administrative Relief
11) Coastal High Hazard Area	Change	-4 Points "V" zone on FEMA maps in all Tiers
12) Coastal Barrier Resources System	Delete	Included in Primarily Tier I
13) Off shore Islands and Conservation Land Protection Areas	Delete	Included in Tier I by definition
14) Transferable development rights (TDR)	Delete	TDR's need rewriting – receiving areas mainly in Tier I and Tier II
15) Historic Resources	Delete	Sec. 9.5-451-460 only refers to designated. PC - Add to development review check list.
16) Water Conservation	Delete	Required in Building Code
17) Energy Conservation	Delete	Purpose of competition to direct development to appropriate areas
18) Structural integrity of construction	Delete	Purpose of competition to direct development to appropriate areas
	Add	Market rate employee housing + 3 Points - encourage mixed income
	Add	Central Sewer +4 Points - priority for units with central sewer

PLANNING COMMISSION RESOLUTION

BOARD OF COUNTY COMMISSIONERS
MARATHON - EOC ROOM

PLANNING COMMISSION RESOLUTION NO.

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 TO APPROVE AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO REVISE SECTIONS 9.5-120 THROUGH 9.5-123, RATE OF GROWTH ORDINANCE (ROGO), TO UTILIZE THE TIER OVERLAY AS THE BASIS FOR THE COMPETITIVE POINT SYSTEM; SPECIFIC REGULATIONS, EVALUATION CRITERIA AND POINT ASSIGNMENTS TO IMPLEMENT THE BIG PINE KEY AND NO NAME KEY HCP AND MASTER PLAN ARE INCLUDED AND AMENDMENTS TO SECTION 9.5-266(a)(3), SECTION 9.5-266(a)(6)c, d, f, SECTION 9.5-266(a)(8)a, SECTION 9.5-266(f)(1), SECTION 9.5-266(f)(3), SECTION 9.5-266(f)(6), AND SECTION 9.5-266(f)(7) AFFORDABLE AND EMPLOYEE HOUSING LIMITING ALLOCATIONS TO TIER II AND TIER III APPLICATIONS AND PROVIDING AUTHORITY TO THE BOARD OF COUNTY COMMISSIONERS TO REQUIRE A 99 YEAR RESTRICTIVE COVENANT AS A CONDITION OF RESERVATION OF ROGO ALLOCATIONS.

WHEREAS, the Monroe County Planning Commissioner, during a public hearing held November 16, 2004, reviewed and considered the proposed amendment to the Land Development Regulations to utilize the Tier overlay maps as the basis for the competitive ROGO point system, modifications to Administrative Relief provisions and amendments to the affordable and employee housing sections of the LDRS limiting allocations to Tier II and Tier III applications and providing authority to the Board of County Commissioners to require a 99 year restrictive covenant as a condition of reservation of ROGO allocation; and

WHEREAS, the Monroe County Board of County Commissioners directed staff to prepare text and map amendments in Ordinance No. 018-2004 adopted June 16, 2004, to include: Tier Overlay Map designations in accordance with Goal 105; revisions to ROGO and NROGO based on the Tier system utilizing a positive approach that predominately relies on land dedication and aggregation; and revisions to the environmental regulations based on the Tier system rather than the existing Habitat Evaluation Index; and

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; and

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; and

WHEREAS, ROGO has been completely redrafted utilizing the Tier System as its basis; and

WHEREAS, the proposed ROGO is a positive system, awarding major point for the tier location of a property: Tier III = +30 points; Tier II = + 20; Tier I = 0 points. Points may be

accrued by donating lots to the County for preservation in Tier I and Tier II. Additional points can be gained in Tier II and III by aggregating lots; and

WHEREAS, a separate point system has been included for Big Pine Key and No Name Key that follows the requirements of the Habitat Conservation Plan permit application and the Livable CommuniKeys Master Plan for the Islands; and

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; and

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; and

WHEREAS, Tier III is the infill area where future development is appropriate and applications will receive thirty positive points in ROGO encourage development in these areas; and

WHEREAS, major changes are proposed for affordable housing to assure they remain affordable housing for the workforce, long term. Reservations for affordable/employee housing may be made for projects in Tier I and Tier II to public and private entities which agree to keep the projects affordable for 99 years; and

WHEREAS, the 20% market rate housing permitted in employee housing projects will qualify for +3 points in ROGO, to encourage mixed income projects; and

WHEREAS, the Planning Commission, after reviewing the amendment and hearing comments at four public hearings, directed staff to make amendments to incorporate changes to the County's ROGO regulations based on the Tier system; and

WHEREAS, the Planning and Environmental Resources Department have made changes to the proposed draft based on comments at the public workshops and hearing and direction of the Planning Commission; 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 to utilize the Tier overlay maps as the basis for the competitive ROGO point system, modifications to the administrative relief, amendments to the affordable and employee housing provisions of the LDRS limiting allocations to Tier II and Tier III applications and providing authority to the Board of County Commissioners to require a ninety-nine year restrictive covenant as a condition of reservation of ROGO allocation 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. Amend Sections 9.5-120 through 9.5-123 and Sections 9.5-125 through 9.5-140 to read as follows:

DIVISION 1.5 RATE OF GROWTH ORDINANCE

Sec. 9.5-120. Residential rate of growth ordinance (ROGO).

(a) *Purpose and intent*: The purposes and intent of residential ROGO are:

(1) To facilitate implementation of goals, objectives and policies set forth in the comprehensive plan relating to protection of residents, visitors and property in the county from natural disasters, specifically including hurricanes;

(2) To limit the annual amount and rate of residential development commensurate with the county's ability to maintain a reasonable and safe hurricane evacuation clearance time;

(3) To regulate the rate and location of growth in order to further deter deterioration of public facility service levels, environmental degradation and potential land use conflicts;

(4) To allocate the limited number of dwelling units available annually hereunder, based upon the goals, objectives and policies set forth in the comprehensive plan; and,

(5) [1]To implement Goal 105 of the comprehensive plan.

(b) *Definitions*: The words or phrases used in this division shall have the meanings prescribed in this chapter, except as otherwise indicated as follows: [2]

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

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

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

Buildable lot or parcel means the lot or parcel must contain a minimum of two-thousand (2,000) square feet of upland, including any disturbed wetlands that can be filled pursuant to this chapter.

Controlling date means the date and time a ROGO application is submitted. This date shall be used to determine the annual anniversary date for receipt of a perseverance point(s) and

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[1] Added to include Goal 105 to the purpose and intent.

[2] The definitions for threatened and endangered species have been removed, the previous criteria are no longer needed since they are included in the Tier map designations.

shall determine precedence when ROGO applications receive identical ranking scores. A new controlling date shall be established based upon the re-submittal date and time of any withdrawn or revised application, except pursuant to section 9.5-122.1 (h).

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

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

Residential dwelling unit means a dwelling unit as defined in section 9.5-4 of the Monroe County Code, and expressly includes the following other terms also specifically defined in section 9.5-4: hotel rooms, campground spaces, mobile homes, transient residential units, institutional residential units (except hospital rooms) and live-aboards.

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

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

ROGO application means the residential ROGO application submitted by applicants seeking allocation awards.

Sec. 9.5-120.1. General provisions.

(a) *Residential ROGO allocation award required*: No building permit shall be issued unless the dwelling unit has received a residential dwelling unit allocation award, or is determined to be exempt as provided below.

(b) *Effective date*: Any ROGO application which has not received an allocation award as of the effective date of this division shall be processed and evaluated pursuant to the provisions of this division.

(c) *Yearly review and monitoring*: As required by the comprehensive plan, as requested by the planning commission or the board, or as otherwise necessary, the planning director shall consider the rate, amount, location, and ratio of market rate to affordable housing residential dwelling units available for development in the county. The planning director shall also monitor the effects of such development and determine the conformity of such development with the comprehensive plan and this chapter. This review, in whole or in part, may form the basis for recommendations by the planning director or the planning commission to the board for action to repeal, amend or modify the ROGO allocation system.

(d) *Affected area*: The ROGO allocation system shall apply within the unincorporated area of Monroe County, Florida, which, for purposes hereof, has been divided into subareas as follows:

(1) Upper Keys: The unincorporated area of Monroe County north of Tavernier Creek and corporate limits of the Village of Islamorada (approximately mile marker 90).

(2) Lower Keys: The unincorporated area of Monroe County from the corporate limits of the Village of Islamorada (approximately mile marker 72) south to the corporate limits of the City of Key West at Cow Key Bridge on U.S. Highway 1 (approximately mile marker 4), excluding Big Pine Key and No Name Key.[3]

(3) Big Pine Key and No Name Key: The islands of Big Pine Key and No Name Key within unincorporated Monroe County.

Sec. 9.5-120.2. Type of development affected

The residential ROGO shall apply to all residential dwelling units for which a building permit is required by this chapter and for which building permits have not been issued prior to the effective date of the ROGO allocation system, except as otherwise provided herein.

Sec. 9.5-120.3. Type of development not affected.

The residential ROGO shall not apply to the development described below:

(a) *Redevelopment on-site*: Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space which does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement.

(b) *Transfer off-site*: Transfer off-site shall consist of either the demolition or a change of use from residential to non-residential of a unit or space from a sender site and the development of a new unit on a receiver site as indicated below.

(1) *Eligibility of sender unit or space*: A hotel room, mobile home, dwelling unit, or recreational vehicle/campground space that is lawfully established.

(2) *Criteria for redevelopment off-site*: In order to redevelop off-site, a receiver site must be evaluated for both its structural and site conditions.

a. *Transfer to a hotel*: A hotel or hotel room may be developed if the:

(i) Sender unit is eligible and provided that it was used as a hotel room in accordance with section 9.5-4; and[4]

(ii) Receiver site meets all of the following criteria:[5]

(1) Is located in the same ROGO subarea as the sender site; and

[3] The Middle and Lower Keys are combined because of the small area of unincorporated Monroe County remaining within the existing middle Keys boundary.

[4] The provision to allow transfer of recreational vehicle spaces has been deleted; County currently has a moratorium on such transfers.

[5] The requirement that affordable housing must be attached has been removed to allow transfers to single-family lots.

(2) [6]Is located within a Tier III designated area.

b. *Transfer to affordable housing*: An affordable housing unit may be developed if the receiver unit meets all of the following criteria:

(i) The proposed unit is an affordable house pursuant to sections 9.5-4(A-5) and 9.5-266; and

(ii) Is located in the same ROGO subarea as the sender site; and

(iii) Is located in a Tier III designated area or, if located in a Tier II designated area, clearing of upland native vegetation is limited to less than five-thousand (5,000) square feet or the open space requirements of Section 9.5-347, whichever is less.[7]

(3) *Procedures for transfer off-site:*

a. [8]A pre-application conference and at a minimum, a minor conditional use permit, shall be required for both the sender site and the receiver site. The minor conditional use for the transfer shall be reviewed pursuant to criteria in section 9.5-120.3 and not criteria in section 9.5-65. The sender site shall not require posting.

b. A sender unit shall be assigned a unique identifier number that shall be used for tracking and monitoring by the planning department. Multiple units to be transferred from a sender site may be authorized under a single conditional use approval.

c. The unique identifier number shall be itemized in the conditional use permits required for both the sender and receiver sites.

(4) *Conditions for Issuance of Permit:* No building permit shall be issued for the new unit on the receiver site until one of the following conditions is met:

a. The unit is demolished as per an issued demolition permit and a final inspection for the demolished unit or space has been completed by the building department for the sender site; or

b. The unit is removed pursuant to a development approval, development order, or a development permit is issued and a final inspection for the removed unit is completed by the building department for the sender site.

(c) *Nonresidential use*: Nonresidential uses are not affected by residential ROGO.

(d) *Development not increasing hurricane evacuation times:* Any applicant that can demonstrate with a traffic study acceptable to Monroe County traffic engineers that their proposed development will not increase hurricane evacuation times. All residential dwelling

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[6] Transfer will only be allowed in Tier III areas in conformance with Goal 105 and the FKCCS.
[7] This implements new Policy 205.2.7
[8] The minor conditional use process is required for accounting purposes only.

units to be located in the area designated as Zone 7 (North Key Largo area) are deemed not to increase hurricane evacuation times.

(e) *Public/governmental uses*: Public/governmental uses, including capital improvements and public buildings, as are defined in section 9.5-4.

(f) *Other nonresidential development*: Any other use, development, project, structure, building, fence, sign or activity, which does not result in a new residential dwelling unit.

(g) *Vested rights*: Landowners with a valid, unexpired development of regional impact approval granted by the county prior to July 13, 1992, shall be exempt from the residential ROGO system.

Sec. 9.5-120.4. Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2006.

Sec. 9.5-121. Reserved.

Sec. 9.5-122. Residential ROGO allocations.

[9](a) *Number of available annual residential ROGO allocations*: The number of market rate residential ROGO allocations available in each subarea of unincorporated Monroe County and the total number of affordable residential ROGO allocations available county-wide on a yearly basis shall be as follows:

Subarea[10]	Number of Dwelling Units
Upper Keys	61
Lower Keys	57
Big Pine and No Name Keys	8
Total Market Rate	126
Affordable dwelling units	
Very Low, Low, and Median Incomes	36*
Moderate Income	35*
	71
[11]Total units a year	197

*Includes one (1) for Big Pine Key and No Name Key.

[9] The allocation formula is revised from the 1992 analysis excluding the IS and URM vacant lots on Big Pine Key and No Name Keys, which contain 1586 lots, 20% of the total vacant lots and 34% of the lots in the Lower Keys. The allocation for BPK and NNK is based on the HCP. The totals for market rate and affordable housing reflect the draft Rule proposed by the Florida Administration Commission.

[10] The Lower and Middle Keys ROGO planning areas have been combined due to incorporation of Islamorada and Marathon.

[11] The number of allocations is based on the current allocation of 197 for the County excluding the 20 percent reduction enacted by the Florida Administration Commission.

(1) *Yearly residential ROGO allocation ratio*: Each subarea shall have its number of market rate residential ROGO allocations available per ROGO year. Affordable ROGO allocations shall be available for county-wide allocation except for Big Pine Key and No Name Key. The annual allocations for Big Pine Key and No Name Key shall be eight (8) market rate and two (2) affordable dwelling units.

(2) *Quarterly residential ROGO allocation ratio*: Each subarea shall have its number of market rate housing residential ROGO allocations available per ROGO quarter determined by the following formula:

a. Market rate residential ROGO allocations available in each subarea per quarter is equal to the market rate residential ROGO allocations available in each subarea divided by four (4).

b. Affordable housing residential ROGO for all four (4) ROGO quarters including the two available for Big Pine Key shall be made available at the beginning of the first quarter for a ROGO year.

(3) *Ratio of affordable housing ROGO allocations to market rate ROGO allocations*: Prior to October of each year, the board of county commissioners may adopt a resolution changing the ratio of affordable housing to market rate ROGO allocations based upon the recommendations of the planning director and planning commission arising from the annual review of ROGO. This ratio may be amended pursuant to the following:

a. The percentage of affordable housing shall never be less than twenty (20) percent of the total ROGO allocations available or the minimum established by rule of the Florida Administration Commission, whichever is greater.

b. The increase or decrease in the percentage of affordable housing of the total ROGO allocations available shall not exceed fifty (50) percent of the previous year's ROGO allocations to market rate and affordable housing.

(4) *Ratio of very low income, low income, and median income allocations to moderate income allocations:* The Planning Commission may amend these proportions for affordable housing during any ROGO quarter.

(5) *Big Pine Key and No Name Key:* All residential development on Big Pine Key and No Name Key is subject to the provisions of the Incidental Take Permit and the Habitat Conservation Plan for the Florida Key Deer and other covered species, which may affect ROGO allocations under this chapter.[12]

(b) *Reservation of affordable housing allocations*: Notwithstanding the provisions of section 9.5-122.2 for awarding of allocations for affordable housing, the board of county commissioners may reserve by resolution some or all of the available affordable housing allocations for award to certain sponsoring agencies or specific housing programs consistent with

[12] This language is necessary to provide the basis for making unforeseen adjustments in the ROGO allocations on Big Pine Key and No Name Key that may be necessitated by the restrictions contained in the "H" budget of the HCP and Incidental Take Permit.

all other requirements of this chapter. Building permits for these reserved allocations shall be picked up within six (6) months of the effective reservation date, unless otherwise authorized by the board of county commissioners in its resolution. The board of county commissioners may at its discretion place conditions on any reservation as it deems appropriate. These reservations may be authorized by the board of county commissioners for:[13]

(1) The Monroe County Housing Authority, nonprofit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing by entering into a memorandum of understanding with one or more of these agencies;

(2) Specific affordable or employee housing projects participating in a federal/state housing financial assistance or tax credit programs or receiving some form of direct financial assistance from the county upon written request from project sponsor and approved by resolution of the board of county commissioners;

(3) Specific affordable or employee housing projects sponsored by non-governmental not-for profit organizations above upon written request from the project sponsor and approved by resolution of the board of county commissioners;

(4) Specific affordable or employee housing programs sponsored by the county pursuant to procedures and guidelines established time to time by the board of county commissioners;

(5) Specific affordable or employee housing projects by any entity, organization, or person, contingent upon transfer of ownership of the underlying land for the affordable housing project to the county, a not-for-profit community development organization(s), or other entity approved by the board of county commissioners, upon written request from the project sponsor and approved by resolution of the board of county commissioners; or

(6) Rental employee housing projects, situated on the same parcel of land as the non-residential workplace for the tenants of these projects, upon written request from the property owner and approved by resolution of the board of county commissioners.

(c) *Affordable housing allocation awards and eligibility*:

(1) The definition of affordable housing shall be as specified in sections 9.5-4 and 9.5-266.

(2) Any portion of the annual affordable housing allocation not used for affordable housing at the end of a ROGO year shall be made available for affordable housing for the next ROGO year.

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[13] This provision codifies the practice of the County to provide allocations for specific projects and gives the Board more flexibility in applying these allocations to where they are most needed. It eliminates the need for these projects to go through the ROGO competition process and provides some certainty to housing provider agencies for planning and funding of their housing projects. Furthermore, this proposed language provides additional incentives for owners of non-residential properties to provide affordable rental housing and employers to provide on-site housing for employees.

(3) Any portion of the residential ROGO allocations not used shall be retained and be made available for affordable housing from ROGO year to ROGO year.

(4) [14]No affordable housing allocation shall be awarded to applicants located within a Tier I designated area, within a V-zone on the county's flood insurance rating map, or within a Tier II designated area that results in the clearing of upland native vegetation of more than five-thousand (5,000) square feet or the open space requirements of Section 9.5-347, whichever is less.

(5) [15]Only affordable housing allocations for Big Pine Key may be used on Big Pine Key. No affordable housing allocation may be used on No Name Key.

(d) *Residential dwelling unit allocation required*: From and after the effective date of the dwelling unit allocation system, the county shall issue no building permit for a residential dwelling unit unless such dwelling unit:

(1) Has a residential dwelling unit allocation award; or

(2) Is exempted from the dwelling unit allocation system pursuant to this chapter or is deemed vested pursuant to section 9.5-120.3.

Section 9.5-122.1 Application procedures for residential ROGO.

(a) *Application for allocation*: In each quarterly allocation period, the department of planning and environmental resources shall accept applications to enter the residential ROGO system on forms prescribed by the planning director. Except for allocations to be reserved and awarded under section 9.5-122 (b), the ROGO application form must be accompanied by an approved building permit application and a nonrefundable processing fee in order to be considered in the current allocation period. The planning director shall review the ROGO application for completeness. If determined to be incomplete, the planning director shall reject the ROGO application and notify the applicant of such rejection, and the reasons therefore, within ten (10) working days. The application shall be assigned a controlling date that reflects the time and date of its submittal unless the application is determined to be incomplete. If the application is rejected then the new controlling date shall be assigned when a complete application is submitted.

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

(c) *Compliance with other requirements*: The ROGO application shall indicate whether the applicant for a residential dwelling unit allocation has satisfied and complied or not with all county, state and federal requirements otherwise imposed by Monroe County regarding

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[14] As all future development is to be discouraged within Tier I, it would be inappropriate to provide incentives for affordable housing program in areas where development should not occur. Furthermore, in Tier II clearing of existing tropical hardwood hammock or pinelands should be limited to protect isolated, but locally important environmental habitats.

[15] The HCP for BPK and NNK only allows for a total of 10 permits to be issued under a ROGO allocation per year.

conditions precedent to issuance of a building permit and shall require that the applicant certify to such compliance.

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

(e) *Limitation on number of applications:*

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

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

(3) A ROGO application for a given parcel shall not be for more dwelling units than are permitted by this chapter or the comprehensive plan.

(f) *Expiration of allocation award*: Except as provided for in this division, an allocation award shall expire when its corresponding building permit is not picked up after sixty (60) days of notification by certified mail of the award or, after issuance of the building permit, upon expiration of the permit pursuant to chapter 6.0.[16]

(g) *Borrowing from future housing allocations*:

(1) The planning commission may award additional units from future annual dwelling unit allocations to fully grant an application for residential units in a project if such an application receives an allocation award for some, but not all, of the units requested. [17]

(2) The board of county commissioners in approving affordable housing allocations pursuant to section 9.5-122 (c) may award additional units from future annual dwelling unit allocations if the number of available allocations is insufficient to meet specific project needs. [18]

(3) The planning commission or board of county commissioners shall not reduce any future allocation by more than twenty (20) percent and shall not apply these

[16] The existing language has been revised to reflect adopted amendments in the Building Code (Chapter 6.0) and Section 9.5-113.

[17] This revised language expands the eligibility of units to apply future allocations from multi-family to any type of residential unit in a multi-unit project.

[18] This new language gives the board, similar to the planning commission, authority to borrow future allocations for affordable housing.

reductions to more than five (5) annual allocations or twenty (20) quarterly allocations.[19]

(h) [20]*Revision of ROGO application*: An applicant may elect to revise a ROGO application to increase the competitive points in the application without prejudice or change in the controlling date, if a revision is submitted on a form approved by the planning director to the planning and environmental resources department by no later than thirty (30) days following the planning commission approval of the previous ROGO rankings.

(i) *Clarification of application data*:

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

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

(j) [21]*Existing ROGO applications:* All applications in the ROGO system prior to the effective date of this ordinance shall be re-scored pursuant to criteria in section 9.5-122.4 and retain all existing perseverance points. Notwithstanding the provisions of sec. 9.5-122.4 (i), such applications shall be eligible to continue to receive perseverance points beyond the first four (4) years in the system, at a annual rate of two (2) positive points for each year that the application remains in the ROGO system.

Sec. 9.5-122.2. Evaluation procedures for residential dwelling unit allocation.

(a) *Adjustment of residential ROGO allocations*: At the end of each quarterly allocation period, the planning director shall recommend additions or subtractions to the basic allocation available by subarea, based upon any of the following, as appropriate:

(1) The number of building permits for new residential units issued which expired pursuant to chapter 6.0.

(2) The number of dwelling unit allocation awards that expired prior to issuance of a corresponding building permit and which were awarded in the current annual allocation period;

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[19] The current borrowing provisions have no limit to the number of years or quarters from which these borrowed allocation can come. This loophole is closed with this five-year limit.

[20] The existing language has been revised to provide greater flexibility for applicants, as no public interest is served to penalize an applicant for adding additional points through dedication or aggregation of lots/land.

[21] This provision vests applicants who are currently in the system for the points they have accrued for the years they have been in ROGO. Additionally, it vests these applications from the revisions made to the scoring of perseverance points.

(3) The number of residential ROGO allocation awards available which were not allocated during the quarterly allocation period in the current annual allocation period;

(4) The number of residential ROGO allocation awards in previous quarters which were borrowed from future allocations to accommodate multiple unit projects or to accommodate allocation applications with identical scores, pursuant to section 9.5-122.2(b)(2) or which were granted to applicants via either the appeals process, administrative relief or a beneficial use determination;

(5) Residential ROGO allocations vested during the preceding quarter;

(6) Any other modifications required or provided for by the comprehensive plan or an agreement pursuant to chapter 380, Florida Statutes;

(7) The receipt or transfer of affordable housing allocations from or to municipalities pursuant to this chapter;

(8) Allocations reserved and/or awarded by the board of county commissioners pursuant to section 9.5-122 (c).

(b) *Initial evaluation of allocation applications*: Upon receipt of completed allocation applications, the director of planning shall evaluate the allocation applications for market rate housing pursuant to the evaluation criteria set forth in section 9.5-122.3.

(1) Except for affordable housing, the director of planning shall classify each allocation application by subarea.

(2) On the evaluation cover page, for each allocation application, the director of planning shall indicate the subarea and the number of dwelling units for which allocation awards are being requested. Market rate allocation applications shall be aggregated by subarea. Affordable housing allocation applications shall be aggregated on a county-wide basis.

(3) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for market rate allocations:

a. Complete the evaluation of all allocation applications submitted during the relevant allocation period;

b. Total the number of dwelling units by subarea for which allocation applications have been received; and

c. Rank the allocation applications in descending order from the highest evaluation point total to the lowest.

(4) Within thirty (30) days of the conclusion of a quarterly allocation period, unless otherwise extended by the board, the director of planning shall for affordable housing allocations:[22]

a. Complete review of all allocation applications to confirm eligibility of applicants during the relevant allocation period;

b. Total the number of dwelling units for unincorporated Monroe County for which affordable housing allocation applications have been received; and,

c. List the affordable housing allocation applications in descending order of controlling date from earliest to latest date.

(5) If the number of dwelling units represented by the allocation applications for market rate housing, by subarea, is equal to or less than the quarterly allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications for that subarea be granted allocation awards.

(6) If the number of dwelling units represented by the allocation applications for affordable housing is equal to or less than the available allocation, the director of planning may make a recommendation to the planning commission that all of the allocation applications be granted allocation awards.

(7) If the number of dwelling units represented by the allocation applications for market rate housing, by subarea, is greater than the quarterly allocation, the director of planning shall submit an evaluation report to the planning commission indicating the evaluation rankings and identifying those allocation applications whose ranking puts them within the quarterly allocation, and those allocation applications whose ranking puts them outside of the quarterly allocation.

(8) If the number of dwelling units represented by the allocation applications for affordable housing is greater than the total available allocation, the director of planning shall submit a report to the planning commission indicating the applications in order of their control dates and identifying those allocation applications for which sufficient allocations exist and those allocation applications whose ranking by controlling date puts them outside the available allocation.

(c) *Public hearings*: Upon completion of the evaluation ranking report and/or recommendation, the director of planning shall schedule and notice a public hearing by the planning commission pursuant to otherwise applicable regulations.

(1) At or prior to the public hearing, the planning commission may request, and the director of planning shall supply, copies of the allocation applications and the director of planning evaluation worksheets.

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[22] This approach reflects that affordable housing will not have to compete under the new ROGO system. Awarding of allocations will be done on a first-come, first served basis.

(2) Upon review of the market rate allocation applications and evaluation worksheets, the planning commission may adjust the points awarded for meeting a particular criteria, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

(3) The basis for any planning commission changes in the scoring or ranking of market rate applications shall be specified in the form of a motion to adopt the allocation rankings and may include the following:

a. An error in the designation of the applicable subarea.

b. A mistake in the calculation of dedicated or aggregated lots/land.

c. A mistake in assignment of the Tier map designation in the application.

d. Any other administrative error or omission that may cause the application to be incorrectly scored.

(4) The public, including, but not limited to, applicants for allocation awards, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.

(5) At the conclusion of the public hearing, the planning commission may:

a. Move to accept the evaluation rankings for market rate housing applications and rankings for affordable housing applications as submitted by the director of planning.

b. Move to accept the rankings as may be modified as a result of the public hearing.

c. Move to continue the public hearing to take additional public testimony.

d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information.

e. Move to reject the rankings.

(6) The planning commission shall finalize the rankings within sixty (60) days following initial receipt of the director of planning evaluation ranking, report and recommendations.

(d) *Notification to applicants*: Upon finalization of the evaluation rankings by the planning commission, notice of the rankings, by subarea for market rate housing, and county-wide for affordable housing, shall be posted at the planning department offices and at such other places as may be designated by the planning commission.

(1) Applicants who receive allocation awards shall be further notified by certified mail, return receipt requested. Except as provided herein for allocations for affordable housing

awarded by the board of county commissioners pursuant to section 9.5-122(b) and paragraph (g) below, upon receipt of notification of an allocation award, the applicant may request issuance of a building permit for the applicable residential dwelling unit.

(2) [23]Applicants who fail to receive allocation awards shall be further notified by regular mail; without further action by such applicants nor the payment of any additional fee, such applications shall remain in the residential ROGO system for reconsideration in the next succeeding quarterly allocation period.

(e) [24]*Identical rankings for market rate housing applications*: If two (2) or more allocation applications in a given subarea have identical evaluation points, these applications shall be ranked in descending order from the earliest controlling date of submission to the latest. The planning commission may approve two (2) or more allocation applications with identical rankings and controlling dates despite the fact that the quarterly allocation will be exceeded if:

(1) A clear statement of findings of fact are made justifying the decision; and

(2) The excess allocation is reduced from the next succeeding quarterly allocation period or is reduced pro rata from the next three (3) quarterly allocation periods

(f) *Identical controlling dates for affordable housing applications:* If two (2) or more allocation applications for affordable housing have identical controlling dates and at least one affordable housing allocation remains available to be awarded, the planning commission may approve two (2) or more allocation applications with identical rankings through borrowing of future allocations pursuant to section 9.5-122.1 (g).

(g) *Multi-unit affordable housing projects:* Upon the written approval of the planning director, the expiration period for an allocation award for affordable multi-unit housing projects may be extended where the applicant is unable to be granted a sufficient number of allocations required to initiate the project.[25]

9.5-122.3. Administrative relief.

(a) *Eligibility:* An applicant for an allocation award is eligible for administrative relief if: [26]

(1) The application complies with all requirements of the dwelling unit allocation system; and

(2) Was considered in the first four (4) consecutive annual allocation periods; and

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[23] This revised language removes the certified mail requirement for notification of applicants who do not receive an award reducing costs and time requirements.

[24] This section has been rewritten to make it more clear that the controlling date is used to break "ties" among applications with identical scores.

[25] This codifies a policy of the Growth Management Division in assisting affordable multi-family projects.

[26] This revision is intended to address the administrative problems created by applicants filing before the four-year period. The existing language has been further revised to improve its readability.

(3) Has not received an allocation award.

(b) *Notification of Eligibility:* Within thirty (30) days of the finalization of evaluation rankings by the planning commission, any applicant determined be eligible for administrative relief pursuant to paragraph (a) above, shall be notified of the applicant's eligibility for administrative relief by certified mail, return receipt requested.[27]

(c) *Application:* An application for administrative relief shall be made on a form prescribed by the director of planning and may be filed with the planning and environmental resources department no earlier than the conclusion of the fourth annual allocation period and no later than one hundred eighty (180) days following the close of the fourth annual allocation period.[28]

(d) *Forwarding application to board:* Upon the filing of an application for administrative relief, the director of planning shall forward to the board all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the county without payment of just compensation as a result of the dwelling unit allocation system.

(e) *Public hearing:* Upon receipt of an application for administrative relief, the board shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard. The board may review the relevant applications and applicable evaluation ranking, taking testimony from county staff and others as may be necessary and hear testimony and review documentary evidence submitted by the applicant.

(f) *Board's action:* At the conclusion of the public hearing, the board may take any or a combination of the following actions:

(1) Grant the applicant an allocation award for all or a number of dwelling units requested in the next succeeding quarterly allocation period or extended pro rata over several succeeding quarterly allocation periods.

(2) [29]Offer to purchase the property at its fair market value if the property is located within:

a. a designated Tier I area;

b. a designated Tier II area requiring the clearing of five-thousand (5,000) or more square feet of upland native vegetation;

c. a designated Tier II or Tier III area on a non-waterfront lot suitable for affordable housing.

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[27] The Planning Commission believes that fairness dictates the County noticing applicants eligible for administrative relief. The current regulations do not require such notification.

[28] Since the applicants must wait until their application has been in the system for four consecutive years, the Planning Commission believes it would be appropriate to provide additional time (180 rather than the current 90 days) for filing of administrative relief applications.

[29] These regulations provide specific criteria to be followed in acquiring land under Administrative Relief.

(3) Suggest or provide such other relief as may be necessary and appropriate.

[30]**Sec. 9.5-122.4. Evaluation criteria.**

The point values established on the following pages are to be applied cumulatively.

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

Point Assignment:	*Criteria:*
0	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 II [Transition and Sprawl Reduction Area] outside of 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.
+30	An application which proposes development within an area designated Tier III [Infill Area] outside of Big Pine Key or No Name Key.

(b) *Big Pine Key and No Name Key only:* The following additional negative points are intended to implement the Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan for Big Pine Key and No Name Key.

Point Assignment:	*Criteria:*
-10	An application which proposes a dwelling unit on No Name Key.

[30] The points, which can be obtained to make a project more competitive, have been reduced to only include those that are awarded for reducing development potential county-wide and acquiring environmental lands threatened by development. The initial point assignment given to the applications depending on the Tier where the proposed development is located incorporates both the previously applied negative environmental and positive infill criteria. Most of the building points that were previously assigned for wind load and sustainability have been eliminated or are no longer meaningful due to changes in the Florida Building Code.

-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.

(c) *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.[31]

Point Assignment:	*Criteria:*
+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 II or Tier III designated area together with the parcel proposed for development.
	Additional requirements
	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 9.5-347, whichever is less.[32] 2. The application shall include but not be limited to the following: *An affidavit of ownership of all affected parcels, acreage or land; and *A legally binding restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of Monroe 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.

[31] Aggregation is not permitted in Tier I because it facilitates and encourages development of this critical upland habitat. The points have been raised for lot dedication to make them equal with lot aggregation to allow more flexibility in awarding points to donated platted lots that are not buildable.

[32] This reflects the change in Policy 205.2.7.

(d) *Land dedication*: The following points are intended to encourage the voluntary dedication of vacant, buildable land within Tier I and Tier II areas for the purposes of conservation, resource protection, restoration or density reduction, and if located within Tier II or Tier III, for the purpose of providing land for affordable housing where appropriate.[33]

Point Assignment:	*Criteria:*
+4	An application which includes the dedication to Monroe County of one (1) vacant, legally platted buildable lot, zoned IS, IS-D, URM, URM-L, or CFV. 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 Monroe County of a vacant legally platted, buildable lot of five thousand (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 five thousand (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 Monroe County of one (1) vacant, legally platted, buildable lot of five thousand (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 (0.5) point as specified.
+3	An application which includes dedication to Monroe County of at least one-acre (1) of vacant, unplatted, buildable land located within a designated Tier I area. Each additional one (1) acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
	Additional requirements:
	1. The application shall include but not be limited to the following:

[33] Allows land dedicated under ROGO in Tier II or Tier III, if appropriate, to be used for affordable housing.

	* An affidavit of ownership of all affected lots, parcels, acreage or land; and * 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.

(f) *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:

Point Assignment:	*Criteria:*
+ 3	An application for market rate housing unit which is part of employee or affordable housing project.
	Additional Requirements:
	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 9.5-266(a) and this chapter.

(g) *Special flood hazard area:* The following points are intended to discourage development within high risk special flood hazard zones:[34]

Point Assignment:	*Criteria:*
- 4	An application which proposes development within a "V" zone on the FEMA Flood Insurance Rate Map.

(h) *Central wastewater treatment system availability*: The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:[35]

[34] This revision eliminates the negative points for "A" zones, in which the predominate number of properties are located and the positive points for "X" zones that only affect a very insignificant number of properties.

Point Assignment:	*Criteria:*
+ 4	An application which development required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the Florida Legislature.

(i) *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:[36]

Point Assignment:	*Criteria:*
+ 1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the ROGO system up to four (4) years.

Sec. 9.5-123. Reserved

Sec. 9.5-125. Appeals.[37]

(a) An appeal from the decision of the planning commission on a ROGO or NROGO allocation shall be made to the board of county commissioners. The notice of such appeal shall be in a form prescribed by the director of planning and must be filed with the director of planning within twenty (20) days of the planning commission's decision. Upon the filing of an appeal, the planning commission's secretary will forward to the board all relevant files and records relating to the matter. Failure to file an appeal with the board shall constitute a waiver of any rights under this chapter to further the decision of the planning commission on the awarded dwelling unit or non-residential floor space allocations.

(b) The filing of an appeal shall not stay either the action of the planning commission or the action of the director of planning.

(c) If, as a result of a successful appeal, additional allocation awards are to be made, the board shall instruct the director of planning as to how many dwelling units or non-residential

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[35] This language is intended to encourage infill development in areas served by central sewer systems being upgraded or constructed to meet 2010 Wastewater Treatment Standards mandate; maximize public investment; reduce the average EDU operating/maintenance costs of these systems; and, help recoup capital costs.

[36] This revision reflects the revision to Comprehensive Plan Policy 101.5.4 eliminating the awarding of perseverance points beyond four years.

[37] The existing language provides no administrative appeals from Planning Commission decisions on non-residential allocations. This revised language incorporates the appeal of both ROGO and NROGO in one section.

floor space applications shall receive allocation awards, when such allocation awards are to be made and what effect such additional allocation awards will have on the current annual or quarterly dwelling unit allocation or current annual allocation for non-residential floor space. To ensure that the residential dwelling unit allocations set forth in section 9.5-122 and 9.5-124.4 are not exceeded, the director of planning shall inform the planning commission of the results of the appeal and the disposition of any additional allocation awards.

Section 2. Amend Section 9.5-266(a)(5) as follows:[38]

(5) Notwithstanding the provisions of sections 9.5-261 through 9.5-270, some or all of any lawfully established floor area situated on a parcel ~~of at least one (1) gross acre containing affordable or employee housing~~ shall be excluded from the calculation of the total gross of development allowed on the parcel if at least one affordable or employee housing unit is co-located on the parcel. For purposes of this exclusion a floor area ration of twenty-five (25) percent shall be assumed. The exclusion of floor area shall be in accordance with the following criteria:

a. If the parcel of land is less than two (2) gross acres, the project's total nonresidential floor area or two thousand (2,000) square feet, whichever is less, shall be excluded from the calculation; or

b. If the parcel of land is two (2) or more ~~(2)~~ gross acres, the project's total nonresidential floor area or four thousand (4,000) square feet, whichever is less, shall be excluded from the calculation.

Section 3. Amend Section 9.5-266(a)(3) as follows:[39]

(3) Market rate housing developed in accordance with paragraph (8) below shall be eligible to receive points ~~as affordable housing under section 9.5-122.3(a)(6).~~ pursuant to section 9.5-122.4(f).

Section 4. Amend Section 9.5-266(a)(6) c. thorough f. as follows:[40]

c. The use of the affordable or employee dwelling unit is restricted for ~~a~~ the period ~~of least fifty (50) years~~ specified in section 9.5-266(f)(1).

~~d. The size of the affordable or employee housing dwelling unit is limited by a condition to be placed on the development permit which restricts the habitable space of the unit to a maximum of one thousand three hundred (1,300) square feet for a period of at least fifty (50) years~~ ; and,

~~e~~ d. Tourist housing use or vacation rental use of affordable or employee housing units is prohibited.

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[38] This revision provides incentives for provision of affordable and employee housing on lots smaller than one acre which predominate in the Keys.

[39] The revision is required due to the elimination of scoring for affordable housing and new incentives for mixing market rate housing with affordable.

[40] Recent amendments to the length of restrictive covenants conflicts with existing language in the code. The length of covenant should be based on financing source to be consistent with Section 9.5-266(f)(1): 30 years for a wholly privately financed project; and 50 years for a partly or wholly publicly financed project, except for County wholly or partially financed projects as set forth in Section 9.5-122(d)(6). The limits on the size of the affordable/employee housing units has been eliminated as unnecessary, particularly with the threshold on the sales price of these units.

~~f.~~ e. The parcel of land proposed for development of affordable or employee housing ~~shall not qualify for negative points under section 9.5-122(a)(7),(8) or (9); however, properties designated IS-D, UR, URM or URM-L shall be exempt from this prohibition~~ shall only be located within a Tier II or III designated area. If the parcel is located within a Tier II designated area, the amount of clearing of upland native vegetation shall be limited to the open space requirements pursuant to section 9.5-347 or five-thousand (5,000) square feet whichever is less.

Section 5. Renumber Section 9.5-266(a)(6) g. through k. to f. through j respectively.

Section 6. Amend Section 9.5-266(a)(8) a. as follows:[41]

a. The use of the market rate housing dwelling unit is restricted for a period of at least ~~fifty (50)~~ thirty (30) years to households that derive at least seventy (70) percent of their household income from gainful employment in Monroe County.

Section 7. Delete Section 9.5-266(a)(9):[42]

~~**(9) Market rate housing dwelling units are not restricted to the thirteen hundred (1,300) square feet limitation on habitable space for affordable and employee housing.**~~

Section 8. Amend Section 9.5-266(f)(1) as follows:[43]

(1) Before any building permit may be issued for any structure, portion or phase of a project subject to this section, a restrictive covenant(s), approved by the growth management director and county attorney, shall be filed in the Official Records to ensure compliance with the provision of this section running in favor of Monroe County and enforceable by the county and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:

a. Except as provided for under paragraph (1)d. below, the covenants for any affordable or employee housing units partly or wholly financed by a public entity other than Monroe County shall be effective for a period of at least fifty (50) years.

b. Except as provided for under paragraph (1)d., below, the covenants for any affordable or employee housing units relying wholly upon private non-public financing shall be effective for at least thirty (30) years.

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[41] This amendment is necessary to eliminate conflict with recent changes to restrictive covenants for non-public financed projects.

[42] This language is superfluous with the elimination of the 1,300 square foot limitation.

[43] These revisions reflect the proposed policy change to require affordable or employee housing to be guaranteed in perpetuity (99 years) if financed by Monroe County or if required by the BOCC as a condition of reserving an affordable housing allocation, as proposed under Section 9.5-122(c).

c. The covenants for any affordable or employee housing units partly or wholly financed by Monroe County shall be effective for a period of at least ninety-nine (99) years.[44]

d. If approved by the Board of Commissioners as a condition of the reservation of a ROGO allocation pursuant to section 9.5-122(b), the covenants for any affordable or employee housing shall be restricted to use as an affordable housing or employee dwelling unit for a period of at least ninety-nine years.[45]

e. The covenants shall not commence running until a certificate of occupancy as been issued by the building official for the dwelling unit or dwelling units to which the covenant or covenants apply.

Section 9. Amend Section 9.5-266 (f)(3) as follows:[46]

(3) The eligibility of a potential owner-occupier or renter of an affordable, employee or market rate housing dwelling unit, developed as part of an employee or affordable housing project, shall be determined by the planning department upon submittal of an affidavit of qualification to the planning department. The form of the affidavit shall be ~~in a form~~ prescribed by the planning ~~department~~ director. This eligibility shall be determined by the planning department as follows:

a. At the time the potential owner either applies for affordable housing ROGO allocation, or applies to purchase a unit that utilized affordable housing ROGO allocation; or

b. At the time the potential renter applies to occupy a residential unit that utilized an affordable ROGO allocation.

Section 10. Create a new Section 9.5-266(f)(7) that reads as follows:[47]

(7) Upon written agreement between the planning director and an eligible governmental or non-governmental entity, the planning director may authorize that entity to administer the eligibility and compliance requirements for the planning department under paragraphs (3), (4),(5) and (6) above. Under such an agreement, the eligible entity is authorized to qualify a potential owner-occupier or renter of affordable, employee, or market rate housing developed as part of an employee or affordable housing project, and annually verify the employment and/or income eligibility of tenants pursuant to section 9.5-266(f)(2). The entity shall still be required to provide the planning department by January 1 of each year a written certification verifying that tenants of each affordable, employee, or market rate housing meet the

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[44] This provision initiates efforts to ensure that most new affordable housing will be protected in perpetuity.

[45] This provision allows the Board to protect housing unit in perpetuity on a case-by-case basis, where no County funding is involved and where the applicant seeks and obtains a reserved allocation.

[46] Minor revisions are intended to improve the wording of the text.

[47] These amendments coupled with a new paragraph (6) codify the existing Planning Department policy of delegating authority to public agencies or non-governmental not-for-profit housing providers for determining eligibility of potential tents for affordable housing and annual verification that tenants meet Section 9.5-266 (f)(2) income and employment requirements.

applicable employment and income requirements of paragraph (2) above. The following governmental and non-governmental entities shall be eligible for this delegation of authority:

a. The Monroe Housing Authority, not-for-profit community development organization(s) pursuant to section 9.5-266(e), and other public entities established to provide affordable housing;

b. Private developers or other non-governmental organization participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from Monroe County; or

c. Non-governmental organizations approved by the board of county commissioners as affordable housing providers.

Section 11. Create a new Section 9.5-266(f)(8) as follows:[48]

(8) Should an entity fail to satisfactorily fulfill the terms and conditions of the written agreement executed pursuant to paragraph (6) above, the planning director shall provide written notice to the subject entity to show cause why the agreement should not be terminated within thirty (30) days. If the entity fails to respond or is unable to demonstrate to the satisfaction of the planning director that it is meeting the terms and conditions of its agreement, the agreement may be terminated by the planning director

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.

[48] In the highly unlikely event that an entity is unable to fulfill the terms and conditions of its written agreement, this paragraph provides for the planning director to terminate the agreement. The planning director's decision may be appealed to the planning commission as with any with administrative decision.

DEVELOPMENT REVIEW COMMITTEE
RESOLUTION

DRC RESOLUTION NO. D22-04

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 ADD THE FOLLOWING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO IMPLEMENT GOAL 105 OF THE 2010 COMPREHENSIVE PLAN AND THE TIER OVERLAY SYSTEM. BY AMENDING **SECTION 9.5-266(a)(3), SECTION 9.5-266(a)(6)c, d, f, SECTION 9.5-266(a)(8)a, SECTION 9.5-266(f)(1), SECTION 9.5-266(f)(3), SECTION 9.5-266(f)(6), AND SECTION 9.5-266(f)(7) AFFORDABLE AND EMPLOYEE HOUSINGS;** LIMITING ALLOCATIONS TO TIER II AND TIER III APPLICATIONS AND PROVIDING AUTHORITY TO THE BOARD OF COUNTY COMMISSIONERS TO REQUIRE A 99 YEAR RESTRICTIVE COVENANT AS A CONDITION OF RESERVATION OF ROGO ALLOCATION.

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 proposing amendments to the Monroe County Land Development Regulations to implement Goal 105 of the 2010 Comprehensive Plan and the Tier Overlay 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, 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, 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; ROGO has been completely redrafted utilizing the Tier System as it's basis;

WHEREAS, major changes are proposed for affordable housing to assure they remain affordable housing for the workforce, long term. Reservations for affordable/employee housing may be made for projects in Tier I and Tier II to public and private entities which agree to keep the projects affordable for 99 years. To encourage mixed income project; the 20% market rate housing permitted in employee housing projects will qualify for +3 points in ROGO.

BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA, to recommend **APPROVAL** to the Monroe County Planning Commission, of the amendments to the Monroe County Land Development Regulations that will 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.

DRC RESOLUTION NO. D25-04

A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING APPROVAL TO THE PLANNING COMMISSION OF THE REQUEST BY THE MONROE COUNTY PLANNING DEPARTMENT TO ADD THE FOLLOWING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO IMPLEMENT GOAL 105 OF THE 2010 COMPREHENSIVE PLAN AND THE TIER OVERLAY SYSTEM. BY REVISING **SECTIONS 9.5-120 THROUGH 9.5-123** RATE OF GROWTH ORDINANCE (ROGO) OF THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO UTILIZE THE TIER OVERLAY AS THE BASIS FOR THE COMPETITIVE POINT SYSTEM. AN ALTERNATIVE HYBRID ROGO SYSTEM WHICH COMBINES THE COMPETITIVE ROGO WITH A LOTTERY SYSTEM FOR A PORTION OF THE ALLOCATION IS ALSO INCLUDED. SPECIFIC REGULATIONS, EVALUATION CRITERIA AND POINT ASSIGNMENTS TO IMPLEMENT THE BIG PINE KEY AND NO NAME KEY HCP AND MASTER PLAN ARE INCLUDED.

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 proposing amendments to the Monroe County Land Development Regulations to implement Goal 105 of the 2010 Comprehensive Plan and the Tier Overlay 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, the Tier Maps will become a zoning overlay when adopted;

WHEREAS, changes to the maps will follow the procedures in Sec. 9.5-511 of the Land Development Regulations;

WHEREAS, the Tier maps were reviewed by Ricardo Calvo, our consultant, who also was the project manager of the Florida Keys Carrying Capacity Study. The Overlay Tier Maps are the basis of an elegant system for protecting the valuable habitat of the Keys and preventing sprawl;

WHEREAS; ROGO has been completely redrafted utilizing the Tier System as it's basis;

WHEREAS; the proposed ROGO is a positive system, awarding major point for the tier location of a property: Tier III = +25 points; Tier II = + 20; Tier I = 0 points. The point system is different on BPK and NNK because the Habitat Conservation Plan for the Islands controls the permitting. Points my be accrued by donating lots to the County for preservation in Tier I and Tier II. Additional points can be gained in Tier II and III by aggregating lots.

WHEREAS, the alternative ROGO system, proposes that the market rate housing share be allocated through both a competitive system and a lottery system, is included. Approximately 30% of the market rate housing would be available for those applicants who wish to compete or enter the lottery. A threshold of 25 points will be required to enter the lottery.

WHEREAS, an alternative ROGO system is proposed for those who have 25 point and are still unable to be competitive in ROGO.

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.

BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE 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.