BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 14, 2005 Division: Growth Management

Bulk Item: Yes ____ No X Department: Planning
Staff Contact Person: Marlene Conaway

AGENDA ITEM WORDING:
Public hearing to consider adopting an Ordinance amending the Monroe County Land Development Regulations by revising Section 9.5-124 through 9.5-124.8 [Non-Residential Rate of Growth Ordinance (NROGO)] utilizing the Tier Overlay as the basis for the competitive point system.

[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. Several stakeholder forums and two community workshops were held and the Planning Commission reviewed the staff draft at four public hearings, amended the draft and recommend approval. 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 #** _____

PROPOSED AMENDMENTS TO THE NON-RESIDENTIAL 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 Sections 9.5-124 through 9.5-124 changing the Non-Residential Rate of Growth Ordinance (NROGO) to utilize the Tier Overlay as the basis for the competitive point system.

[1st of 2 required public hearings]

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO REVISE SECTIONS 9.5-124 THROUGH 9.5-124.8 NON-RESIDENTIAL RATE OF GROWTH ORDINANCE (NROGO) OF THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS UTILIZING THE TIER OVERLAY AS THE BASIS FOR THE COMPETITIVE POINT SYSTEM; 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 the Land Development Regulations to revise Sections 9.5-124 through 9.5-124.8 non-residential rate of growth ordinance (NROGO) of the Monroe County Land Development Regulations utilizing the tier overlay as the basis for the competitive point system; and

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

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

WHEREAS, the proposed NROGO is a positive system, awarding major points based on the Tier location of the property; and

WHEREAS, points may be accrued by donating lots to the County for preservation in Tier I and Tier II(Big Pine Key and No Name Key) and Tier III for affordable housing; and

WHEREAS, the current NROGO has thirteen criteria for assigning points, the proposed NROGO contains nine criteria, awarding major points for the Tier location of a property. Additional points may be accrued by providing for employee housing on site, reducing intensity and through landscaping and water conservation.

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, NROGO has been completely redrafted utilizing the Tier System as the basis. 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 of the Tier maps; and

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

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

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

WHEREAS, the Board of County Commissioners has reviewed the proposed amendments to the Land Development Regulations as recommended by the Planning Commission and the Planning and Environmental Resources Department; and

WHEREAS, the Board of County Commissioners has revised the proposed amendments to accommodate the expansion of existing non-residential uses located in designated Tier I areas; and,

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

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

Section 1. Section 9.5-124(b), Monroe County Code, is hereby amended to create a definition for "buildable lot or parcel" that reads as follows:

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

Section 2. Delete the definition of "Infill Site" in Section 9.5-124(b).

Section 3. Amend Section 9.5-124.2 as follows:

"Sec. 9.5-124.2 Type of development affected <u>and special requirements</u>.

(a) The NROGO shall apply to the development of <u>all</u> <u>new and expanded</u> non-residential floor area ~~and other uses~~<u>, except as exempted by this division,</u> ~~as described in~~

~~subsections (b) and (c) below~~ for which a building permit or development approval is required by this chapter and for which building permits have not been issued prior to the effective date of ~~the non-residential permit allocation system~~ this ordinance.

(b) Notwithstanding the provisions of section 9.5-4(D-8) development, the following new uses shall ~~be prohibited until appropriate areas are so designated in a community master plan:~~ only be eligible for a NROGO allocation under this chapter on sites located within a designated Commercial Center Overlay area:

(1) Commercial retail very high-intensity uses that generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area.

(2) Storage areas as a principal use not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.

(3) Outdoor retail sales areas on a vacant lot and any new or expanded outdoor retail sales associated with a lawfully established structure~~s,~~ existing on the effective date of this division, of less than five hundred (500) square feet of floor area, not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.

(4) Commercial outdoor recreation uses.

(c) New or expanded outdoor retail sales associated with a lawfully established structure, existing on the effective date of this ~~article~~ division, of at least five hundred (500) square feet of floor area may be permitted with a minimum of a minor conditional use approval if located within a designated Tier III area.

(d) Enclosing of any canopies or drive-throughs in existence on or before September 19, 2001, ~~the date of the adoption of NROGO Ordinance No. 032-2001,~~ shall require a NROGO allocation.

(e) The special standards established elsewhere in this chapter for a designated Commercial Center Overlay area or a specific Key(s) Overlay Zone, may supercede, modify, or supplement the standards established for NROGO in this division.

(f) Non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO pursuant to the following special conditions and standards:

(1) A non-public institutional floor area and use, existing on the effective date of the issuance of the Incidental Take Permit for the Florida Key Deer and other covered species, may be expanded by two-thousand five hundred (2,500) square feet of floor area per NROGO year. These allocations are to be made on a "first come, first served" basis.

(2) New non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO .

(g) All new or expanded non-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 NROGO allocations under this chapter. All new and expanded non-residential development shall be limited to scarified or disturbed lands and clearing of any pinelands and/or hammock is prohibited."

Section 4. Section 9.5-124.3 (a)(4), Monroe County Code, is hereby amended as follows:

"(4) *Development activity for certain not-for-profit organizations:* Except for the non-public institutional uses on Big Pine Key and No Name Key pursuant to section 9.5-124.2, ~~N~~non-residential development activity within Tier III designated areas by federally tax exempt not-for-profit educational, scientific, religious, social, cultural and recreational organizations, which predominately serve the county's permanent population, if approved by the planning commission after review and recommendation by the planning director. This exemption is subject to the condition that a restrictive covenant be placed on the property prior to the issuance of a building permit. The restrictive covenant shall run in favor of Monroe County for a period of at least twenty (20) years. Any change in the use or ownership of the property subject to this restrictive covenant shall require prior approval by the planning commission, unless the total floor area exempted by the planning commission is obtained through an off-site transfer of floor area and/or non-residential floor area allocation pursuant to this chapter. If the total amount of floor area that is transferred and/or allocated meets or exceeds the total amount of floor area exempted, the restrictive covenant shall be vacated by the County. This not-for-profit exemption is not applicable to non-residential development proposed within ~~those areas proposed for acquisition by governmental agencies for the purpose of resource protection~~ a Tier I designated area."

Section 5. Section 9.5-124 .3 (a)(10) b., Monroe County Code, is hereby amended as follows:

"i. ~~Has existing lawfully established non-residential floor area or~~ ~~i~~Is ~~an infill site~~ located within a Tier III designated area, and if on Big Pine Key, is located within the designated Community Center Overlay area; and,

ii. Is located within the same ROGO subarea as the sender site, except that for a receiver site on Big Pine Key, the sender site shall also be located on Big Pine or No Name Keys; and,

iii. Is not a commercial very high intensity retail use which will generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area; and,

~~iv. Is not located on Big Pine Key, No Name Key or within a CARL acquisition area~~

~~v. Receives no negative environmental points when evaluated pursuant to subsections 9.5-124.8(a)(4)–(6); and~~

~~vi.~~iv. Is not located within a "V" special flood hazard zone~~ pursuant to subsection 9.5-124.8(a)(8); and~~.

~~vii. Is not located in a coastal barrier resources system pursuant to subsection 9.5-124.8(a)(9); and~~

~~viii. Is not located in an offshore island/conservation land protection area pursuant to subsection 9.5-124.8(a)(10).~~"

Section 6. Section 9.5-124.4(a) and (b), Monroe County Code, are hereby amended as follows:

"(a) *Maximum amount of available floor area for the annual non-residential ROGO allocations*: The maximum amount of floor area available for allocation under NROGO shall be determined by multiplying the number of residential permits available for the annual residential allocation period year by two hundred thirty-nine (239) square feet and rounding the product to the nearest one hundred (100) square feet. The maximum amount of available floor area for annual allocations shall be computed separately for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County. This maximum total may be adjusted as provided for in ~~sub~~section 9.5-124.6(a), Except for Big Pine Key and No Name Key, ~~F~~for the first annual allocation period, the maximum amount of floor area that may be made available for allocation is to be based upon the number of permits issued under ROGO, starting with the Third Quarter, ROGO Year 1 (starting April 14, 1993) through ROGO Year 9 (ending July 13, 2001) and number of ROGO allocations to be made in ROGO Year 10, reduced by the amount of non-residential floor area approved in permits, issued after the adoption of the comprehensive plan on April 15, 1993. Any remaining part of the maximum annual allocation not made available for allocation in an annual allocation period by the board of county commissioners in ~~sub~~section 9.5-124.4(g) shall be carried over to the next annual allocation period.

(b) *Maximum allocation of non-residential floor area by site*: The amount of non-residential floor area to be allocated shall be limited to a maximum of two thousand five hundred (2,500) square feet for any one site, except for sites ~~designated for non-residential development in a community master plan~~ located within a designated Community Center Overlay area. For sites located within a ~~community master plan~~ Community Center Overlay area, the maximum allocation shall only be limited by the maximum floor area per structure in subsection (c) below."

Section 7. Section 9.5-124.4, Monroe County Code, is hereby amended to create new Section 124.4 (i) and (j) that read as follows:

"(i) *First Allocations for Big Pine Key and No Name Key:* For the first allocation period, the maximum amount of floor area available for allocation shall be

based on the number of permits issued under the 200 allocations authorized by the Big Pine Key and No Name Key Community Master Plan and the number of ROGO allocations to be made available in the ROGO Year 13 beginning July 17, 2004.

(j) *Separate Allocations for Big Pine Key and No Name Key:* Allocations for Big Pine Key and No Name Key shall be administered and awarded separately from those for the remainder of unincorporated Monroe County."

Section 8. Section 9.5-124.6 (b)(1), Monroe County Code, is hereby amended as follows:

"(1) Within thirty (30) days of an allocation date, unless otherwise extended by the planning commission, the planning director shall:

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

b. Total the amount of square footage for which allocation applications have been received for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County; and

c. Rank the floor area allocation applications, in descending order from the highest evaluation point total to the lowest for each size classification for Big Pine and No Name Key and the remainder of unincorporated Monroe County."

Section 9. Section 9.5-124.7(a) and (b), Monroe County Code, are hereby amended as follows:

"(a) *Eligibility:* An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:

(1) The applicant has complied with all requirements of the non-residential permit system allocation system.

(2) The subject application has not been withdrawn; and,

(3) The subject application has been considered in ~~at least three (3) of~~ the first four (4) consecutive annual allocation periods and has failed to receive an allocation award.

(b) *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 department no earlier than the conclusion of the ~~third~~ fourth allocation period and no later than one hundred twenty (120) days following the close of the fourth annual allocation period."

Section 11. Section 9.5-124.7(e), Monroe County Code, is hereby amended as follows:

"(e) *Public hearing:* At a public hearing, the board of county commissioners may review the relevant application and application evaluation ranking, taking testimony from county staff and others as may be necessary and review documentary evidence submitted by the

applicant. ~~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 part of the non-residential floor area requested in the next allocation awards.~~

~~(2) Offer to purchase the property at its fair market value.~~

~~(3) Suggest such other relief as may be necessary and appropriate.~~"

Section 12. Section 9.5-124.7(f), Monroe County Code, is hereby created that reads as follows:

"(f) *Board 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 fair market value as the preferred action if the property is location 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 part of the non-residential floor area requested in the next allocation award as the preferred option for buildable properties not meeting the criteria in (1) above.

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

Section 13. Section 9.5-124.7, Monroe County Code, is hereby amended to read as follows:

"(a) *Evaluation point values:* The following point values established are to be applied cumulatively except where otherwise specified:

(1) *Tier designation:* The following points are intended to discourage non-residential development in environmentally sensitive areas and areas without sufficient infrastructure and to direct and encourage non-residential development in appropriate infill areas, while recognizing that any development has affects on the carrying capacity of the Florida Keys:

Point Assignment	*Criteria*
0	An application which proposes non-residential development within an area designated Tier I [Natural Area], except for the expansion of existing, lawfully established non-residential floor area provided under "exception" below.
+10	An application which proposes non-residential development within an area designated Tier II [Transition and Sprawl Reduction Area] on Big Pine and No Name Key.
+20	An application which proposes non-residential development within an area designated Tier III [Infill Area].
	Exception:
	Any application for the expansion of existing, lawfully established non-residential floor area shall be assigned +20 points contingent upon no further clearing of upland native habitat and no addition to and/or expansion of the existing lot or parcel upon which the existing use is located.

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

Point assignment:	*Criteria*:
+ 4	An application proposes development that reduces the permitted floor area ratio (FAR) to twenty three percent (23%) or less.
	Additional requirement:
	A legally binding restrictive covenant running in favor of Monroe County that restricts the floor area ratio of the property to a maximum of twenty three percent (23%) for a period of ten (10) years 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.

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

Tier III, for the purpose of providing land for affordable housing where appropriate:

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, IS-M, 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 per 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) in 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 lot of five thousand (5,000) square feet or more within a Native Area District (NA) or Sparsely Settled District (SS) within a designated Tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half (0.5) point as specified.
+4	An application which includes dedication to Monroe County of at least one (1) acre 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
	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.

(4) *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.

(5) *Perseverance points:* The following points are intended to reward an application based upon the number of years spent in the non-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 NROGO system up to four years.
+2	Points shall be awarded on the anniversary of the controlling date for each year over four (4) that the application remains in the NROGO system.

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

Point assignment:	*Criteria*:
+3	The project eliminates an existing driveway or access-way to U.S. Highway 1.
+2	The projects does not provide for a new driveway or access-way to U.S. Highway 1.

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

Point assignment:	*Criteria*:
+3	The project provides a total of two hundred (200) percent of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the three (3) point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as

	threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of one hundred percent (100%) native plants for vegetation, collection and direction of rainfall to landscaped areas, or application of re-used wastewater or treated seawater for watering landscaped plants.
	Additional requirements:
	Prior to the issuance of a certificate of occupancy for the building permit authorized by an allocation award, the applicant shall: * Post a two-year performance bond in accordance with this chapter to ensure maintenance of the native plants; and, * Sign an affidavit acknowledging that he is subject to code enforcement action should the native plants not be maintained.

(8) *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.

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

Point Assignment:	*Criteria:*
+ 2 per unit	Proposes an employee housing unit(s) which is located on the parcel with the nonresidential floor space requested in the allocation application.
	Additional Requirements:
	1. The employee housing unit shall be required to meet the applicable provisions of section 9.5-266. 2. The proposed employee housing unit(s) shall be included in the development approval for the

	nonresidential development proposed in the allocation application. 3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award, but shall not be issued prior to the certificate of occupancy for the employee housing units.

(10) *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.

Section 14. 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 15. 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 16. This ordinance does not affect prosecution for ordinance violations committed prior to the effective date of this ordinance; does not waive any fee or penalty due 0r 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 17. 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 18. 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 19. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately numbered to conform to the uniform numbering system of the Code.

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

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

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

BY: _____
Mayor/Chairperson

(SEAL)

ATTEST: DANNY KOHLAGE, CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Date: 5-24-05

BY:_____
Deputy Clerk

STAFF REPORT

BOARD OF COUNTY COMMISSIONERS
MARATHON EOC ROOM

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

MEMO

November 28, 2004

TO: Monroe County Board of County Commissioners

FROM: K. Marlene Conaway, Director

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

Introduction

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

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

Background

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

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

NROGO Amendment

Overview

NROGO has been completely redrafted utilizing the Tier System as the basis of the point awards. A summary of proposed changes is provided in the attachment. The proposed NROGO is a positive system, awarding major points for the Tier location of a property. Additional points may be accrued by dedicating lots, reducing intensity and through landscaping and water conservation. Up to four points may be assigned to an NROGO

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application when employee housing is proposed to be located on the parcel with the non-residential floor area.

Amendments to implement the BPK and NNK Master Plan requirements for NROGO are also included.

Attachment B

Comparison of Current &
Proposed NROGO Point System

Existing	Action	Tier System
1) Infill	Delete	Included in Tier III
2) Intensity Reduction	Keep	+4 points in all Tiers
3) 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. +3 points acre of buildable land.
4) Habitat Protection	Delete	Included in Tier I - High/moderate quality hammock, Tier II - Low quality hammock
5) Threatened and Endangered Species ° Turtle nesting area	Delete protected	Included in Tier I ° Sec. 9.5-349(p) - Turtle nesting area
6) Critical Habitat Areas	Delete	Included in Tier I
7) Perseverance Points	Keep	Points awarded yearly
8) Coastal High Hazard Area	Change	-4 points "V" zone on FEMA maps in all Tiers "Special Flood Hazard Area".
9) Coastal Barrier Resources System	Delete	Included in Primarily Tier I
10 Conservation Land Protection Areas	Delete	Included in Tier I by definition
11) Historic Resources	Delete	Sec. 9.5-451-460 only refers to designated. PC - Add to development review check list.
12) Highway Access	Keep	All Tiers
13) Landscaping and Water Conservation	Keep	All Tiers
	Add	Employee Housing + 2 Points per housing unit up to 2 units
	Add	Central Sewer +4 Points – priority for sewered areas

PLANNING COMMISSION RESOLUTION

BOARD OF COUNTY COMMISSIONERS
MARATHON - EOC ROOM

PLANNING COMMISSION RESOLUTION NO. 63-2005

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 THE AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS BY REVISING **SECTIONS 9.5-124 THROUGH 9.5-124.8** NON-RESIDENTIAL RATE OF GROWTH ORDINANCE **(NROGO)** OF THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS UTILIZING THE TIER OVERLAY AS THE BASIS FOR THE COMPETITIVE POINT SYSTEM.

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 revise Sections 9.5-124 through 9.5-124.8 non-residential rate of growth ordinance (NROGO) of the Monroe County Land Development Regulations utilizing the tier overlay as the basis for the competitive point system; and

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

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

WHEREAS, the proposed NROGO is a positive system, awarding major points for the Tier location of property: Tier III - +20 points; Tier II - +10 points; Tier I - 0 points. Points may be accrued by donating lots to the County for preservation in Tier I and Tier II; and

WHEREAS, the current NROGO has thirteen criteria for assigning points, the proposed NROGO contains nine criteria, awarding major points for the Tier location of a property. Additional points may be accrued by providing for employee housing on site, reducing intensity and through landscaping and water conservation.

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, NROGO has been completely redrafted utilizing the Tier System as the basis. 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 of the Tier maps; 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 revise Sections 9.5-124 through 9.5-124.8 Non-Residential Rate of Growth Ordinance (NROGO) utilizing the tier overlay as the basis for the competitive point system 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 Section 9.5-124(b) to create a definition for "buildable lot or parcel" that reads as follows:

Section 9.5-124(b)
Buildable lot or parcel means the lot or parcel must contain a minimum of two thousand (2,000) square feet of uplands, including any disturbed wetlands that can be filled pursuant to this chapter.

Section 2. Delete the definition of "Infill Site" in Section 9.5-124(b).[1]

Section 3. Amend Section 9.5-124.2 as follows:

Sec. 9.5-124.2 Type of development affected and special requirements.

(a) The NROGO shall apply to the development of all new and expanded non-residential floor area ~~and other uses~~, except as exempted by this division, ~~as described in subsections (b) and (c) below~~ for which a building permit or development approval is required by this chapter and for which building permits have not been issued prior to the effective date of ~~the non-residential permit allocation system~~ this ordinance.[2]

(b) Notwithstanding the provisions of section 9.5-4(D-8) development, the following new uses shall ~~be prohibited until appropriate areas are so designated in a community master plan:~~ only be eligible for a NROGO allocation under this chapter on sites located within a designated Commercial Center Overlay area:[3]

(1) Commercial retail very high-intensity uses that generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area.

(2) Storage areas as a principal use not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.

(3) Outdoor retail sales areas on a vacant lot and any new or expanded outdoor retail sales associated with a lawfully established structures~~,~~ existing on the effective date of this division, of less than five hundred (500) square feet of floor area, not located within a Light Industrial (LI), Industrial (I), or Maritime Industries (MI) district.

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[1] The institution of the Tier system eliminates the need for any definition of infill.
[2] The existing language has been revised for clarification purposes.
[3] Existing language is modified for clarification purposes; to reflect the incorporation of Commercial Center Overlay areas; and to provide opportunities for applying certain differing standards for each island community with a Specific Island Overlay. For example, the Big Pine Key and No Name Key master plan prohibits certain uses and intensity of uses, which would be allowed elsewhere in the County.

(4) Commercial outdoor recreation uses.

(c) New or expanded outdoor retail sales associated with a lawfully established structure, existing on the effective date of this ~~article~~ division, of at least five hundred (500) square feet of floor area may be permitted with a minimum of a minor conditional use approval if located within a designated Tier III area.

(d) Enclosing of any canopies or drive-throughs in existence on or before September 19, 2001, ~~the date of the adoption of NROGO Ordinance No. 032-2001,~~ shall require a NROGO allocation.[4]

(e) The special standards established elsewhere in this chapter for a designated Commercial Center Overlay area or a specific Key(s) Overlay Zone, may supercede, modify, or supplement the standards established for NROGO in this division.[5]

(f) Non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO pursuant to the following special conditions and standards:[6]

(1) A non-public institutional floor area and use, existing on the effective date of the issuance of the Incidental Take Permit for the Florida Key Deer and other covered species, may be expanded by two-thousand five hundred (2,500) square feet of floor area per NROGO year. These allocations are to be made on a "first come, first served" basis.

(2) New non-public institutional uses on Big Pine Key and No Name Key are subject to the provisions of NROGO .

(g) All new or expanded non-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 NROGO allocations under this chapter. All new and expanded non-residential development shall be limited to scarified or disturbed lands and clearing of any pinelands and/or hammock is prohibited. [7]

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[4] The specific ordinance that establishes the date does not have to be identified in the text.

[5] This provision allows each Commercial Center Overlay area to incorporate special standards as needed to fit the differing needs of each Keys community.

[6] These provisions reflect the adopted community master plan for Big Pine Key and No Name Key and the HCP.

[7] This language is necessary to provide basis for making unforeseen adjustments in the NROGO allocations for 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.

Section 4. Amend Section 9.5-124.3 (a)(4) as follows:[8]

Section 9.5-124.3 (a)(4)

(4) *Development activity for certain not-for-profit organizations:* Except for the non-public institutional uses on Big Pine Key and No Name Key pursuant to section 9.5-124.2, ~~N~~non-residential development activity within Tier II and III designated areas by federally tax exempt not-for-profit educational, scientific, religious, social, cultural and recreational organizations, which predominately serve the county's permanent population, if approved by the planning commission after review and recommendation by the planning director. This exemption is subject to the condition that a restrictive covenant be placed on the property prior to the issuance of a building permit. The restrictive covenant shall run in favor of Monroe County for a period of at least twenty (20) years. Any change in the use or ownership of the property subject to this restrictive covenant shall require prior approval by the planning commission, unless the total floor area exempted by the planning commission is obtained through an off-site transfer of floor area and/or non-residential floor area allocation pursuant to this chapter. If the total amount of floor area that is transferred and/or allocated meets or exceeds the total amount of floor area exempted, the restrictive covenant shall be vacated by the County. This not-for-profit exemption is not applicable to non-residential development proposed within ~~those areas proposed for acquisition by governmental agencies for the purpose of resource protection~~ a Tier I designated area.[9]

Section 5. Amend Section 9.5-124 .3 (a)(10) b. as follows:[10]

Section 9.5-124 .3 (a)(10) b

i. ~~Has existing lawfully established non-residential floor area or~~ ~~I~~Is ~~an infill site~~ located within a Tier III designated area, and if on Big Pine Key, is located within the designated Community Center Overlay area; and,

ii. Is located within the same ROGO subarea as the sender site, except that for a receiver site on Big Pine Key, the sender site shall also be located on Big Pine or No Name Keys; and,

iii. Is not a commercial very high intensity retail use which will generate more than one hundred fifty (150) vehicle trips per one thousand (1,000) square feet of floor area; and,

~~iv. Is not located on Big Pine Key, No Name Key or within a CARL acquisition area~~

~~v. Receives no negative environmental points when evaluated pursuant to subsections 9.5-124.8(a)(4)–(6); and~~

~~vi.~~iv. Is not located within a "V" special flood hazard zone ~~pursuant to subsection 9.5-124.8(a)(8); and~~.

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[8] This proposed language will help ensure that the floor area granted under the exemption provisions of these regulations will be restricted to entities and uses that meet the criteria for such an exemption even upon transfer of ownership.

[9] This language reflects incorporation of Tier system.

[10] The institution of the Tier system requires these revisions to existing criteria as the Tier system eliminates the need for addressing negative points for habitat and off-shore islands.

~~vii. Is not located in a coastal barrier resources system pursuant to subsection 9.5-124.8(a)(9); and~~

~~viii. Is not located in an offshore island/conservation land protection area pursuant to subsection 9.5-124.8(a)(10).~~

Section 6. Amend Section 9.5-124.4(a) and (b) as follows:[11]

Section 9.5-124.4

(a) *Maximum amount of available floor area for the annual non-residential ROGO allocations*: The maximum amount of floor area available for allocation under NROGO shall be determined by multiplying the number of residential permits available for the annual residential allocation period year by two hundred thirty-nine (239) square feet and rounding the product to the nearest one hundred (100) square feet. The maximum amount of available floor for annual allocations shall be computed separately for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County. This maximum total may be adjusted as provided for in ~~sub~~section 9.5-124.6(a). Except for Big Pine Key and No Name Key, ~~F~~for the first annual allocation period, the maximum amount of floor area that may be made available for allocation is to be based upon the number of permits issued under ROGO, starting with the Third Quarter, ROGO Year 1 (starting April 14, 1993) through ROGO Year 9 (ending July 13, 2001) and number of ROGO allocations to be made in ROGO Year 10, reduced by the amount of non-residential floor area approved in permits, issued after the adoption of the comprehensive plan on April 15, 1993. Any remaining part of the maximum annual allocation not made available for allocation in an annual allocation period by the board of county commissioners in ~~sub~~section 9.5-124.4(g) shall be carried over to the next annual allocation period.

(b) *Maximum allocation of non-residential floor area by site*: The amount of non-residential floor area to be allocated shall be limited to a maximum of two thousand five hundred (2,500) square feet for any one site, except for sites ~~designated for non-residential development in a community master plan~~ located within a designated Community Center Overlay area. For sites located within a ~~community master plan~~ Community Center Overlay area, the maximum allocation shall only be limited by the maximum floor area per structure in subsection (c) below.

Section 7. Amend Section 9.5-124.4 by creating new Section 124.4 (i) and (j) that read as follows:

Section 9.5-124.4

(i) *First Allocations for Big Pine Key and No Name Key:* For the first allocation period, the maximum amount of floor area available for allocation shall be based on the number of permits issued under the 200 allocations authorized by the Big Pine Key and No Name Key Community Master Plan and the number of ROGO allocations to be made available in the ROGO Year 13 beginning July 17, 2004.

[11] This amendment and the following two amendments are required to implement the Habitat Conservation Plan and Community Master Plan for Big Pine Key and No Name Key.

(j) *Separate Allocations for Big Pine Key and No Name Key:* Allocations for Big Pine Key and No Name Key shall be administered and awarded separately from those for the remainder of unincorporated Monroe County.

Section 8. Amend Section 9.5-124.6 (b)(1) as follows:

Section 9.5-124.6 (b)(1)

(1) Within thirty (30) days of an allocation date, unless otherwise extended by the planning commission, the planning director shall:

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

b. Total the amount of square footage for which allocation applications have been received for Big Pine Key and No Name Key and for the remainder of unincorporated Monroe County; and

c. Rank the floor area allocation applications, in descending order from the highest evaluation point total to the lowest for each size classification for Big Pine and No Name Key and the remainder of unincorporated Monroe County.

Section 9. Amend Section 9.5-124.7(a) and (b) as follows:[12]

Section 9.5-124.7

(a) *Eligibility:* An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:

(1) The applicant has complied with all requirements of the non-residential permit system allocation system.

(2) The subject application has not been withdrawn; and,

(3) The subject application has been considered in ~~at least three (3) of~~ the first four consecutive allocation periods and has failed to receive an allocation award.

(b) *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 department no earlier than the conclusion of the ~~third~~ fourth allocation period and no later than one hundred twenty (120) days following the close of the fourth annual allocation period.

[12] This language eliminates administrative problems with applications filed prior to completion of fourth allocation period, removes ambiguity in eligibility language and makes it similar to the language for ROGO, and extends period for filing application.

Section 10. Amend Section 9.5-124.7to read as follows:

Section 9.5-124.7

(a) *Evaluation point values:* The following point values established are to be applied cumulatively except where otherwise specified:

~~(1) *Tier designation:* The following points are intended to discourage non-residential development in environmentally sensitive areas and areas within sufficient infrastructure and to direct and encourage non-residential development in appropriate infill areas, while recognizing that any development has affects on the carrying capacity of the Florida Keys:~~[13]

Point assignment:	*Criteria*:
0	An application which proposes non-residential development within an area designated Tier I [Natural Area].
+10	An application which proposes non-residential development within an area designated Tier II [Transition and Sprawl Reduction Area].
+20	An application which proposes non-residential development within an area designated Tier III [Infill Area].

(2) *Intensity reduction*: The following points are intended to encourage the voluntary reduction of intensity:[14]

Point assignment:	*Criteria*:
+ 4	An application proposes development that reduces the permitted floor area ratio (FAR) to twenty three percent (23%) or less.
	Additional requirement:
	A legally binding restrictive covenant running in favor of Monroe County that restricts the floor area ratio of the property to a maximum of twenty three percent (23%) for a period of ten (10) years shall be approved by the growth management director and county attorney and recorded

[13] The points for infill have been revised to incorporate the Tier system. As proposed, this system strongly rewards projects within Tier III with somewhat less favorable scoring for projects in Tier II.

[14] No change has been made, except the wording for the restrictive covenant requirements.

	in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.

(3) *Land dedication*: The following points are intended to encourage the voluntary dedication of vacant, buildable land within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resources 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:[15]

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, IS-M, 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 per 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) in 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 lot of five thousand (5,000) square feet or more within a Native Area District (NA) or Sparsely Settled District (SS) within a designated Tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half (0.5) point as specified.
+4	An application which includes dedication to Monroe County of at least one (1) acre 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

[15] The points proposed for land dedication are same as proposed under ROGO.

	requirements will earn the points as specified.
	Additional requirements
	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.

(4) *Special flood hazard area:* The following points are intended to discourage development within high risk special flood hazard zones:[16]

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

(5) *Perseverance points:* The following points are intended to reward an application based upon the number of years spent in the non-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 NROGO system up to four years.
+2	Points shall be awarded on the anniversary of the controlling date for each year over four (4) that the application remains in the NROGO system.

(6) *Highway access:* The following points are intended to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1:[17]

[16] Negative points for special flood hazards have been revised similar to those for ROGO.

Point assignment:	*Criteria*:
+3	The project eliminates an existing driveway or access-way to U.S. Highway 1.
+2	The projects does not provide for a new driveway or access-way to U.S. Highway 1.

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

Point assignment:	*Criteria*:
+3	The project provides a total of two hundred (200) percent of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the three (3) point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of one hundred percent (100%) native plants for vegetation, collection and direction of rainfall to landscaped areas, or application of re-used wastewater or treated seawater for watering landscaped plants.
	Additional requirements:
	Prior to the issuance of a certificate of occupancy for the building permit authorized by an allocation award, the applicant shall:[18] * Post a two-year performance bond in accordance with this chapter to ensure

[17] The existing points have been revised as existing point system has not accomplished the purpose of reducing access to U.S. Highway 1 which creates traffic congestion and safety problems.

[18] This revision reflects the need to post the performance bond after construction and prior to occupancy rather than at the time of the issuance of the building permit. This change reflects the fact that landscaping is generally one of the last improvements made and it makes little sense to post a bond when it may be three to six months before landscaping is even started.

	maintenance of the native plants; and, * Shall sign an affidavit acknowledging that he is subject to code enforcement action should the native plants not be maintained.

(8) *Central wastewater treatment system availability*: The following points shall be assigned to encourage development in areas served by central wastewater treatment systems:[19]

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.

(9) *Employee housing:* The following points, up to a maximum of four (4) shall be assigned to allocation applications that make provisions for employee housing units:[20]

Point Assignment:	*Criteria:*
+ 2 per unit	Proposes an employee housing unit(s) which is located on the parcel with the nonresidential floor space requested in the allocation application.
	Additional Requirements:
	1. The employee housing unit shall be required to meet the applicable provisions of section 9.5-266. 2. The proposed employee housing unit(s) shall be included in the development approval for the nonresidential development proposed in the allocation application. 3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award shall not be issued prior to the certificate of occupancy for the employee housing units.

[19] 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.

[20] This new provision provides further incentives for provision of employee housing in coordination with new nonresidential development.

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

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

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

By _____
Lynn Mapes, Chair

Signed this _____ day of _____ , 2004.

DEVELOPMENT REVIEW COMMITTEE
RESOLUTION

DEVELOPMENT REVIEW COMMITTEE RESOLUTION NO. D29-04

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 APPROVE THE AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS BY REVISING **SECTIONS 9.5-124 THROUGH 9.5-124.8** NON-RESIDENTIAL RATE OF GROWTH ORDINANCE **(NROGO)** OF THE MONROE COUNTY LAND DEVELOPMENT REGUALTIONS UTILIZING THE TIER OVERLAY AS THE BASIS FOR THE COMPETITIVE POINT SYSTEM.

WHEREAS, the Monroe County Development Review Committee, during a regular meeting held on September 9, 2004, conducted a review and consideration of the request filed by the Monroe County Planning Department to revise Section 9.5-124 through Section 9.5-124.8 of the Monroe County Land Development Regulations.

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

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, in response to a BOCC direction the points to lot dedication were modified to award a point for each 5,000 square feet of an SR platted lot. An IS, URM and CFV platted lot will receive four points and the single point value for unbuildable platted SR lots reflects the comparative buildability.

WHEREAS, the current ROGO has thirteen criteria for assigning points, the proposed NROGO contains six criteria, awarding major points for the Tier location of a property. Additional points may be accrued by dedicating lots, reducing intensity and through landscaping and water conservation.

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.

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