BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: Special Meeting 9/13/06 - KL Division: County Attorney
Bulk Item: Yes ___ No X Staff Contact Person: Jerry D. Sanders, ACA

AGENDA ITEM WORDING:
Approval to advertise Notice of Intention to Adopt, and forward notification to DCA, of a Proposed Amendment to the 2010 Comprehensive Plan, to provide additional density bonuses and .5 ROGO allocations for affordable housing units between 400 - 750 square feet and relaxation of the 35 foot maximum height limitation under certain limited circumstances using the expedited adoption proceeding provided in the *Community Workforce Housing Innovation Pilot Program ("CWHIP")*.

ITEM BACKGROUND:
In 2002 the Florida Legislature enacted Session Law 2006-069, Section 27 of which was the *Community Workforce Housing Innovation Pilot Program* ("CWHIP").

Session Law 2006-069, Section 27 will potentially make up to $5,000,000 dollars available for innovative workforce housing public-private partnerships available to one or more projects in Monroe County should required comprehensive plan amendments, land acquisition and other measures be taken in time to qualify for the program.

The proposed Comprehensive Plan Amendment will provide for density bonuses and .5 ROGO allocations for affordable housing units between 400 - 750 square feet allowing density to be doubled for such small units. It will also provide relaxation of the 35 foot maximum height limitation for affordable housing under certain limited circumstances.

PREVIOUS RELEVANT BOCC ACTION:
Ordinance 15-2006 adopted by BOCC on April 19, 2006 to provide for density bonuses.

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:
Approval.

TOTAL COST:_____ **BUDGETED:** Yes ___ No ___

COST TO COUNTY:_____ **SOURCE OF FUNDS:**_____

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

APPROVED BY: County Atty ___ OMB/Purchasing ___ Risk Management ___

DIVISION DIRECT APPROVAL: _____ 9/8/06
SUZANNE A. HUTTON, COUNTY ATTORNEY

DOCUMENTATION: Included To Be Provided Not Required
DISPOSITION:_____ **AGENDA ITEM #** F1

Revised 8/06

COUNTY of MONROE
KEY WEST FLORIDA 33040
(305) 294-4641

BOARD OF COUNTY COMMISSIONERS
Mayor Charles "Sonny" McCoy, District 3
Mayor Pro Tem Dixie M. Spehar, District 1
George Neugent, District 2
Glenn Patton, District 5
Mario DiGennaro, District 4

NOTIFICATION

TO: Secretary, Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

SUBJECT: Notification of Intention to Adopt a Comprehensive Plan Amendment Pursuant to Florida Statutes 420.5095 (*Community Workforce Housing Innovation Pilot Program*)

DATE: September 13, 2006

Please be advised that the Monroe County Board of County Commissioners proposes to adopt an amendment to its 2010 Comprehensive Plan pursuant to F.S. 420.5095, the statute which codifies the Community Workforce Housing Innovation Pilot Program (CWHIP). As provided in that statute, this notification is forwarded to your Department thirty (30) days prior to the adoption of the Plan Amendment,which is proposed to be adopted at a regular meeting of the Board of County Commissioners on October 18, 2006.

This Comprehensive Plan Amendment is proposed in order to encourage the development of affordable housing in Monroe County and specifically certain projects which have been identified to your Department. Monroe County has evaluated the site suitability and availability of facilities and services for these sites which are suitable for the affordable housing developments proposed.

The proposed Comprehensive Plan Amendment is to **Policy 101.2.4** to add the following sentence:

Affordable housing units with square footage between 400 and 650 square feet shall count only as .5 affordable housing ROGO allocation.

The public notice of the hearing required by Florida Statute Section 163.3184(15)(e) shall include a statement that Monroe County intends to utilize the expedited adoption process authorized by Subsection 8., Florida Statutes Section 420.5095.

_____ _____

Mayor Charles "Sonny" McCoy
Board of County Commissioners
Monroe County, Florida

Date

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

JERRY D. SANDERS 9/13/06
ASSISTANT COUNTY ATTORNEY

ATTEST: Danny L. Kolhage
Clerk of the Court

_____ _____

Deputy Clerk

Date

Objective 101.2
Monroe County shall reduce hurricane evacuation clearance times to 24 hours by the year 2010.

Policy 101.2.1
Monroe County shall establish a Permit Allocation System for new residential development. The Permit Allocation System shall limit the number of permits issued for new residential development. THIS POLICY IS SUPERSEDED BY POLICY 101.2.13 FOR AN INTERIM PERIOD OF TIME.

Policy 101.2.2
Applicants shall be required to obtain letters of coordination confirming the availability of potable water and electricity, and applicable permits from HRS prior to submitting a building permit application for new residential development to the Monroe County Growth Management Division through the Permit Allocation System. Applicants shall be required to obtain all other applicable agency permits prior to the issuance of a County permit.

Policy 101.2.3
The Permit Allocation System for new residential (ROGO) development shall specify procedures for:

1. annual adjustment of the number of permits for new residential units to be issued during the next year based upon, but not limited to the following:

    a. expired allocations and building permits in previous year;

    b. allocations available, but not allocated in previous year;

    c. number of allocations borrowed from future quarters;

    d. vested allocations;

    e. modifications required or provided by this plan or agreement pursuant to Chapter 380, Florida Statutes; and

    f. receipt or transfer of affordable housing allocations by intergovernmental agreement.

2. allocation of affordable and market rate housing units in accordance with Policy 101.2.4; and

3. timing of the acceptance of applications, evaluation of applications, and issuance of permits for new residential development during the calendar year.

Policy 101.2.4
Monroe County shall allocate at least 20 percent of residential (non-transient) growth to affordable housing units as part of the Permit Allocation System. Any portion of the 20 percent allocation not used for affordable housing shall be retained and be made available for affordable housing from ROGO year to ROGO year. Affordable housing eligible for this separate allocation shall meet the criteria specified in Policy 601.1.7, but shall not be subject to the competitive Residential Permit Allocation and Point System in Policy 101.5.4. The parcel proposed for affordable housing shall not be located within an area designated as Tier I as set forth under Goal 105 or within a Tier III Special Protection Area as set forth in Policy 205.1.1.

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This Comprehensive Plan Amendment is proposed in order to encourage the development of affordable housing in Monroe County and specifically certain projects which have been identified to your Department. Monroe County has evaluated the site suitability and availability of facilities and services for these sites which are suitable for the affordable housing developments proposed.

The proposed Comprehensive Plan Amendment is to **Policy 101.4.21** to add the following footnote to the Future Land Use Densities and Intensities Table:

(j) For the purpose of density calculations only, deed restricted affordable or employee housing units (as defined in MCC ss9.5-(A-4-5) and (E-1), respectively) in the SC, MU, and UR land use districts that range in size from 400 to 750 square feet shall be eligible for a density bonus for the construction of additional affordable or employee units. The density bonus shall not exceed an additional affordable or employee housing unit for each affordable or employee housing unit constructed in the SC, MU, and UR land use district.

The public notice of the hearing required by Florida Statute Section 163.3184(15)(e) shall include a statement that Monroe County intends to utilize the expedited adoption process authorized by Subsection 8., Florida Statutes Section 420.5095.

_____ _____

Mayor Charles "Sonny" McCoy
Board of County Commissioners
Monroe County, Florida

Date

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
JERRY D. SANDERS 9/13/06
ASSISTANT COUNTY ATTORNEY

ATTEST: Danny L. Kolhage
Clerk of the Court

_____ _____

Deputy Clerk

Date

The principal purpose of the Mainland Native land use category is to protect the undeveloped and environmentally sensitive character of land within Monroe County that is located on the mainland of the Florida peninsula. Very low density residential uses and low-intensity educational and research centers shall be allowed. All land in the mainland portion of Monroe County is hereby designated as Mainland Native.

Policy 101.4.18
The principal purpose of the Historic overlay category is to identify existing and potential historic districts for designation, protection, and preservation (See Goal 104 and supporting objectives and policies). Maximum permitted densities and intensities shall be in accordance with the underlying land use categories. [9J-5.006(3)(c)1 and 7]

Policy 101.4.19
Densities among properties designated Residential Conservation and Residential Low shall not be increased above the densities which existed prior to the date of plan adoption except through appeal procedures to demonstrate that such prior density designations were incorrect due to scrivener's/drafting errors or incorrect habitat conditions identified on the December 1985 Habitat Classification Aerial Photographs.

Policy 101.4.21
Monroe County hereby adopts the following density and intensity standards for the future land use categories, which are shown on the Future Land Use Map and described in Policies 101.4.1 - 101.4.17: [9J-5.006(3)(c)7].

(The remainder of this page left intentionally blank.)

Future Land Use Densities and Intensities			
Future Land Use Category And Corresponding Zoning	Allocated Density (per acre)	Maximum Net Density (per buildable acre)	Maximum Intensity (floor area ratio)
Agriculture (A) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.20-0.25
Airport (AD) (AD zoning)	0 du 0 rooms/spaces	N/A N/A	0.10
Conservation (C) (CD zoning)	0 du 0 rooms/spaces	N/A N/A	0.05
Education (E) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.30
Industrial (I) (I and MI zoning)	1 du 0 rooms/spaces	2 du N/A	0.25-0.60
Institutional (INS) (no directly corresponding zoning)	0 du 3-15 rooms/spaces	N/A 6-24 rooms/spaces	0.25-0.40
Mainland Native (MN) (MN zoning)	0.01 du 0 rooms/spaces	N/A N/A	0.10
Military (M) (MF zoning)	6 du 10 rooms/spaces	12 du 20 rooms/spaces	0.30-0.50
Mixed Use/Commercial (MC)[g] (SC, UC, DR, RV, and MU zoning)	1-6 du 5-15 rooms/spaces	6-18 du 10-25 rooms/spaces	0.10-0.45
Mixed Use/Commercial Fishing (MCF)[g] (CFA, CFV[c], CFSD zoning)	Approx. 3-8 du 0 rooms/spaces	12 du 0 rooms/spaces	0.25-0.40
Public Facilities (PF) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Public Buildings/Grounds (PB) (no directly corresponding zoning)	0 du 0 rooms/spaces	N/A N/A	0.10-0.30
Recreation (R) (PR zoning)	0.25 du 2 rooms/spaces	N/A N/A	0.20
Residential Conservation (RC) (OS and NA zoning)	0-0.25 du 0 rooms/spaces	N/A N/A	0-0.10
Residential Low (RL) (SS[d], SR, and SR-L zoning)	0.25-0.50 du 0 rooms/spaces	5 du N/A	0.20-0.25
Residential Medium (RM) (IS zoning)	approx. 0.5-8 du (1 du/lot) 0 rooms/spaces	N/A N/A	0
Residential High (RH) (IS-D[e], URM[e], and UR[f] zoning)	approx. 3-16 du (1-2 du/lot) 10 rooms/spaces	12 du 20 rooms/spaces	0

Notes:
(a) "N/A" means that maximum net density bonuses shall not be available.
(b) The allocated densities for submerged lands, salt ponds, freshwater ponds, and mangroves shall be 0 and the maximum net densities bonuses shall not be available.
(c) The allocated density for CFV zoning shall be 1 dwelling unit per lot and the maximum net density bonuses shall not be available.
(d) Maximum net density bonuses shall not be available to the SS district.
(e) The allocated density for IS-D and URM zoning shall be 2 and 1 dwelling units per lot, respectively and the maximum net density bonuses shall not be available.
(f) The maximum net density for the UR district shall be 25 for units where all units are designated as affordable housing.
(g) For properties consisting of hammocks, pinelands or disturbed wetlands within the Mixed Use/ Commercial and Mixed Use/ Commercial Fishing land use categories, the floor area ratio shall be 0.10 and the maximum net residential density bonuses not apply.
(h) Uses under the categories of Agriculture, Education, Institutional, Public Facilities, and Public Buildings and Uses, which have no directly corresponding zoning, may be incorporated into new or existing zoning districts as appropriate.
(i) The Maximum Net Density is the maximum density allowable with the use of TDRs.

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NOTIFICATION

TO: Secretary, Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

SUBJECT: Notification of Intention to Adopt a Comprehensive Plan Amendment Pursuant to Florida Statutes 420.5095 (Community Workforce Housing Innovation Pilot Program)

DATE: September 13, 2006

Please be advised that the Monroe County Board of County Commissioners proposes to adopt an amendment to its 2010 Comprehensive Plan pursuant to F.S. 420.5095, the statute which codifies the Community Workforce Housing Innovation Pilot Program (CWHIP). As provided in that statute, this notification is forwarded to your Department thirty (30) days prior to the adoption of the Plan Amendment,which is proposed to be adopted at a regular meeting of the Board of County Commissioners on October 18, 2006.

This Comprehensive Plan Amendment is proposed in order to encourage the development of affordable housing in Monroe County and specifically certain projects which have been identified to your Department. Monroe County has evaluated the site suitability and availability of facilities and services for these sites which are suitable for the affordable housing developments proposed.

The proposed Comprehensive Plan Amendment is to **Policy 101.4.24** striking the existing language (a copy of which is attached hereto) and adding the following in lieu of:

Policy 101.24

Except as otherwise provided herein, in order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures and for the following structures serving affordable housing needs:

1. *Buildings made up entirely of residential units that meet the affordable housing guidelines set forth in the land development regulations, up to a maximum average roof height of thirty-eight (38) feet where no portions of the roof exceed forty-four (44) feet. Portions of roofs exceeding thirty-eight (38) feet in height shall require Planning Commission approval after due public notice. The Planning Commission may deny or approve attaching conditions based on: architectural character within three hundred (300) feet, roof pitch and color, set back requirements, blocking of view, consistency with height of surrounding vegetation, and distance from open water.*

2. *Affordable housing components of commercial, public and institutional use structures, may be built up to a maximum of thirty-eight (38) feet for flat roof structures, and forty-four (44) feet for gabled or pitch roof structures.*

3. *No exceptions to the height limit of thirty-five (35) feet shall be made in Future Land Use Category of Residential Medium (RM).*

The public notice of the hearing required by Florida Statute Section 163.3184(15)(e) shall include a statement that Monroe County intends to utilize the expedited adoption process authorized by Subsection 8., Florida Statutes Section 420.5095.

_____ _____

Mayor Charles "Sonny" McCoy
Board of County Commissioners
Monroe County, Florida

Date

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
JERRY D. SANDERS 9/13/06
ASSISTANT COUNTY ATTORNEY

ATTEST: Danny L. Kolhage
Clerk of the Court

_____ _____

Deputy Clerk

Date

Policy 101.4.22
All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps and the wetland requirements in Policy 102.1.1. The clearing limits of upland native vegetation areas for properties in the Ocean Reef planned development shall be limited to 40 percent of the existing upland native vegetation. Except as defined in Policy 101.12.4, clearing of upland native vegetative areas in the Tiers I, II, and III shall be limited for the portion of the property containing upland native vegetation in the following percentages:

Tier	Permitted Clearing *
I	20%
II	40% (Big Pine Key and No Name Key)
III	40% or 3,000 s.f., whichever is greater; however, the maximum amount of clearing shall be no more than 7,500 square feet, regardless of the amount of upland native vegetative area.

* Palm or cactus hammock is limited to only 10%.

Policy 101.4.23
Notwithstanding the density limitations set forth in Policy 101.4.21, land upon which a legally-established residential dwelling unit exists shall be entitled to a density of one dwelling unit per each such unit. Such legally-established dwelling unit shall not be considered as non-conforming as to the density provisions of policy 101.4.21 and the Monroe County Code.

Policy 101.4.24
In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures.

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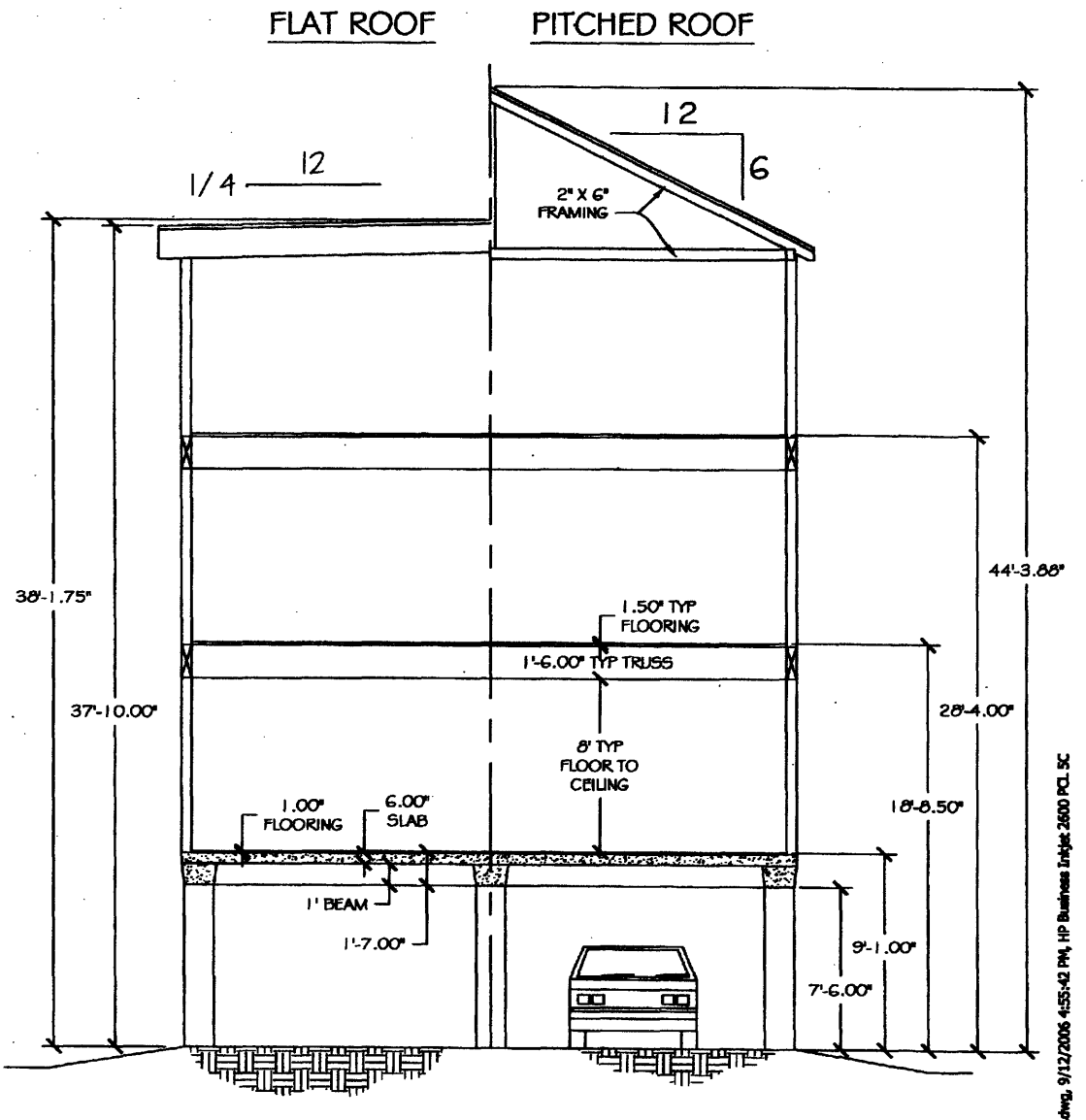

AFFORDABLE HOUSING
BONUS HEIGHT
ADJUSTMENT

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NOTICE OF INTENTION TO CONSIDER ADOPTION OF AMENDMENT TO 2010 COMPREHENSIVE PLAN

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on **October 18, 2006, at 3:00 P.M., or as soon thereafter as it may be heard, at the Harvey Government Center, 1200 Truman Avenue, Key West, Monroe County, Florida**, the Board of County Commissioners of Monroe County, Florida, intends to consider adoption of the following amendment to the 2010 Comprehensive Plan:

> ORDINANCES BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE YEAR 2010 COMPREHENSIVE PLAN **ADOPTING** ADDITIONAL DENSITY BONUS PROVISIONS, A FRACTIONAL ROGO ALLOCATION FORMULA AND A CHANGE TO HEIGHT LIMITATIONS FOR AFFORDABLE AND WORKFORCE HOUSING; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; AND DIRECTING THE DIRECTOR OF PLANNING AND ENVIRONMENTAL RESOURCES TO FORWARD A CERTIFIED COPY OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY ARFAIRS AND PROVIDING AN EFFECTIVE DATE.

The Board of County Commissioners intend to utilize the expedited adoption procedure authorized by Subsection (8) of Florida Statutes 420.5095 (the *Community Workforce Housing Innovation Pilot Program*). Interested parties may appear at the meeting and be heard on this matter.

Pursuant to Section 286.0105, Florida Statutes, notice is given that if a person decided to appeal any decision made by the Board with respect to any matter considered at such hearings or meetings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Dated at Key West, Florida, this 13th day of September, 2006.

DANNY L. KOLHAGE, Clerk of the Circuit Court
and ex officio Clerk of the Board of County
Commissioners of Monroe County, Florida

(SEAL)

Publication Dates: - **NOTE: DISPLAY AD**

Reporter	(Fr) 9/15/06 and (Fr) 9/22/06
Keynoter	(Sa) 9/16/06 and (Sa) 9/23/06
KW Citizen	(Su) 9/17/06 and (Su) 9/22/06

Select Year: 2006 Go

The 2006 Florida Statutes

Title XXX	Chapter 420	View Entire Chapter
SOCIAL WELFARE	HOUSING	

[1]420.5095 Community Workforce Housing Innovation Pilot Program.--

(1) The Legislature finds and declares that recent rapid increases in the median purchase price of a home and the cost of rental housing have far outstripped the increases in median income in the state, preventing essential services personnel from living in the communities where they serve and thereby creating the need for innovative solutions for the provision of housing opportunities for essential services personnel.

(2) The Community Workforce Housing Innovation Pilot Program is created to provide affordable rental and home ownership community workforce housing for essential services personnel affected by the high cost of housing, using regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources.

(3) For purposes of this section, the following definitions apply:

(a) "Workforce housing" means housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of the area median income, adjusted for household size, or 150 percent of area median income, adjusted for household size, in areas of critical state concern designated under s. 380.05, for which the Legislature has declared its intent to provide affordable housing, and areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation.

[2](b) "Essential services personnel" means persons in need of affordable housing who are employed in occupations or professions in which they are considered essential services personnel, as defined by each county and eligible municipality within its respective local housing assistance plan pursuant to s. 420.9075(3)(a).

(c) "Public-private partnership" means any form of business entity that includes substantial involvement of at least one county, one municipality, or one public sector entity, such as a school district or other unit of local government in which the project is to be located, and at least one private sector for-profit or not-for-profit business or charitable entity, and may be any form of business entity, including a joint venture or contractual agreement.

(4) The Florida Housing Finance Corporation is authorized to provide Community Workforce Housing Innovation Pilot Program loans to an applicant for construction or rehabilitation of workforce housing in eligible areas. The corporation shall establish a funding process and selection criteria by rule or request for proposals. This funding is intended to be used with other public and private sector resources.

(5) The corporation shall provide incentives for local governments in eligible areas to use local affordable housing funds, such as those from the State Housing Initiatives Partnership Program, to assist in meeting the affordable housing needs of persons eligible under this program.

(6) Funding shall be targeted to projects in areas where the disparity between the area median income and the median sales price for a single-family home is greatest, and for projects in areas where population growth as a percentage rate of increase is greatest. The corporation may also fund projects in areas where innovative regulatory and financial incentives are made available. The corporation shall fund at least one eligible project in as many counties as possible.

(7) Projects shall receive priority consideration for funding where:

(a) The local jurisdiction adopts appropriate regulatory incentives, local contributions or financial strategies, or other funding sources to promote the development and ongoing financial viability of such projects. Local incentives include such actions as expediting review of development orders and permits, supporting development near transportation hubs and major employment centers, and adopting land development regulations designed to allow flexibility in densities, use of accessory units, mixed-use developments, and flexible lot configurations. Financial strategies include such actions as promoting employer-assisted housing programs, providing tax increment financing, and providing land.

(b) Projects are innovative and include new construction or rehabilitation, mixed-income housing, or commercial and housing mixed-use elements and those that promote homeownership. The program funding shall not exceed the costs attributable to the portion of the project that is set aside to provide housing for the targeted population.

(c) Projects that set aside at least 80 percent of units for workforce housing and at least 50 percent for essential services personnel and for projects that require the least amount of program funding compared to the overall housing costs for the project.

(8) Notwithstanding the provisions of s. 163.3184(3)-(6), any local government comprehensive plan amendment to implement a Community Workforce Housing Innovation Pilot Program project found consistent with the provisions of this section shall be expedited as provided in this subsection. At least 30 days prior to adopting a plan amendment pursuant to this subsection, the local government shall notify the state land planning agency of its intent to adopt such an amendment, and the notice shall include its evaluation related to site suitability and availability of facilities and services. The public notice of the hearing required by s. 163.3184(15)(e) shall include a statement that the local government intends to utilize the expedited adoption process authorized by this subsection. Such amendments shall require only a single public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and the state land planning agency shall issue its notice of intent pursuant to s. 163.3184(8) within 30 days after determining that the amendment package is complete.

(9) The corporation shall award loans with interest rates set at 1 to 3 percent, which may be made forgivable when long-term affordability is provided and when at least 80 percent of the units are set aside for workforce housing and at least 50 percent of the units are set aside for essential services personnel.

(10) All eligible applications shall:

(a) For home ownership, limit the sales price of a detached unit, townhome, or condominium unit to not more than 80 percent of the median sales price for that type of unit in that county, or the statewide median sales price for that type of unit, whichever is higher, and require that all eligible purchasers of home ownership units occupy the homes as their primary residence.

(b) For rental units, restrict rents for all workforce housing serving those with incomes at or below 120 percent of area median income at the appropriate income level using the restricted rents for the federal low-income housing tax credit program and, for workforce housing units serving those with incomes above 120 percent of area median income, restrict rents to those established by the corporation, not to exceed 30 percent of the maximum household income adjusted to unit size.

(c) Demonstrate that the applicant is a public-private partnership.

(d) Have grants, donations of land, or contributions from the public-private partnership or other sources collectively totaling at least 15 percent of the total development cost. Such grants, donations of land, or contributions must be evidenced by a letter of commitment only at the time

of application. Grants, donations of land, or contributions in excess of 15 percent of the development cost shall increase the application score.

(e) Demonstrate how the applicant will use the regulatory incentives and financial strategies outlined in paragraph (7)(a) from the local jurisdiction in which the proposed project is to be located. The corporation may consult with the Department of Community Affairs in evaluating the use of regulatory incentives by applicants.

(f) Demonstrate that the applicant possesses title to or site control of land and evidences availability of required infrastructure.

(g) Demonstrate the applicant's affordable housing development and management experience.

(h) Provide any research or facts available supporting the demand and need for rental or home ownership workforce housing for eligible persons in the market in which the project is proposed.

(11) Projects may include manufactured housing constructed after June 1994 and installed in accordance with mobile home installation standards of the Department of Highway Safety and Motor Vehicles.

(12) The corporation may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(13) The corporation may use a maximum of 2 percent of the annual appropriation for administration and compliance monitoring.

(14) The corporation shall review the success of the Community Workforce Housing Innovation Pilot Program to ascertain whether the projects financed by the program are useful in meeting the housing needs of eligible areas. The corporation shall submit its report and any recommendations regarding the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate not later than 2 months after the end of the corporation's fiscal year.

History.--ss. 47, 53, ch. 2006-26; s. 27, ch. 2006-69.

[1]**Note.**--

A. Section 47, ch. 2006-26, created s. 420.5095">**420.5095** "[i]n order to implement Specific Appropriation 1658A of the 2006-2007 General Appropriations Act."

B. Section 53, ch. 2006-26, provides that "[i]f any other act passed in 2006 contains a provision that is substantively the same as a provision in this act, but that removes or is otherwise not subject to the future repeal applied to such provision by this act, the Legislature intends that the provision in the other act shall take precedence and shall continue to operate, notwithstanding the future repeal provided by this act." Section 27, ch. 2006-69, created substantially similar material and did not include a repeal provision.

[2]**Note.**--As created by s. 27, ch. 2006-69. The s. 47, ch. 2006-26, version of this paragraph included an additional sentence at the end of the paragraph, subject to repeal effective July 1, 2007, by s. 47, ch. 2006-26. The sentence reads: "Each housing assistance plan shall include a definition of essential service personnel for the county or eligible municipality, including, but not limited to, teachers and educators; other school district, community college, and university employees; police and fire personnel; health care personnel; skilled building trades personnel; and other job categories."

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes. Copyright © 2000-2005 State of Florida.

Sec. 9.5-283. Maximum height.

No structure or building shall be developed that exceeds a maximum height of thirty-five (35) feet. Notwithstanding the provisions of this section, any hotel or affordable housing unit may be development to a height of three (3) stories over parking or a maximum of forty-four (44) feet, whichever is lower, measured from grade level, if constructed to meet wind load resistances of one hundred fifty (150) miles per hour and a binding commitment is signed that such facilities will be used as official hurricaneshelters in accordance with specifications of the Monroe County Department of Civil Defense. Affordable housing structures exceeding thirty-five (35) feet in height must be allocated proportionately to low-and moderate-income households according to identified demand.

(Ord. No. 33-1986, § 9-403)

Paros-Reggie

From: Joulani-Aref
Sent: Monday, June 05, 2006 6:00 PM
To: Paros-Reggie
Cc: Joulani-Aref
Subject: RE: Maximum Dwelling Unit Counts email from Tim McGarry dated 10-03-2006

Reggie,

This email will revise Tim McGarry's email dated October 03, 2005 for the three parcels:

Burton Drive: RE#: 488730; 2.72 acres

Current reg. 15 units/net buildable acre = 32 units
New reg. 18 units/net buildable acre = 39 units
Dwelling Half Unit = 39; Dwelling Density Bonus, additional 39 - ½ units, for a total of 78 - ½ units.

Cudjoe Key RE#: 18350-80; 1.15 acres

Current reg. 15 units/net buildable acre = 13 units
New reg. 18 units/net buildable acre = 16 units
Dwelling Half Unit = 16; Dwelling Density Bonus, additional 16 - ½ units, for a total of 32 - ½ nits.

Big Coppitt Key RE#: 156320; 0.85 acres

Current reg. 15 units/buildable acre = 10 units
New reg. 18 units/buildable acre = 12 units
Dwelling Half Unit = 12; Dwelling Density Bonus Additional 12 - ½ units for a total of 24 - ½ units.

Also as you requested the following:

Key Largo, Mandalay subdivision, RE #00554720-000000 and 0055720-000100

Current Zoning: UR; Size: 0.7 acres

Current reg. 25 units/buildable acre = 14 units
New reg. 25 units/buildable acre = 14 units
Dwelling Half Unit = 14; Dwelling Density Bonus Additional 14 - ½ units for a total of 28 - ½ units.

AREF JOULANI

6/5/2006

SITE DENSITY CALCULATIONS FOR COUNTY PROPERTY FOR CARLISLE GROUP

32	39	78	Current:	69
13	16	32	New	81
10	12	24	.5 Density	162
14	14	28		
69	81	162		

STATE OF FLORIDA
DIVISION OF ADMINSTRATIVE HEARINGS

MONROE COUNTY,
Petitioner,

v.

CASE NO.
DCA Final Order No. DCA06-OR-157

FLORIDA DEPARTMENT OF
COMMUNITY AFFAIRS,
Respondent.
_____/

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS
Introduction

Monroe County, a political subdivision of the State of Florida, files this Petition for Formal Administrative Proceedings pursuant to Sections 120.569 and 120.57(1), Florida Statutes, to challenge the Final Order of the Department of Community Affairs rejecting the Land Development Regulation adopted by Monroe County and states as follows:

1. The challenged final order is: DCA06-OR-157, published in the Florida Administrative Weekly, Volume 32, No. 28, July 14, 2006.
2. The challenged final order rejects a land development regulation that seeks to implement portions of the Monroe County Comprehensive Plan and regulate land use and development within Monroe County.
3. This challenge is based on the consistency of the subject Land Development Regulation (LDR) with Chapter 380, Florida Statutes, the Area of Critical State Concern Act, and Florida Statutes, Section 125.01055 regarding Affordable Housing. The regulation encourages and allows the creation of more affordable housing by allowing a "dwelling

FILING AND ACKNOWLEDGEMENT
FILED, [redacted] receipt of which is hereby [redacted]
7/21/06
Miriam Snipes Date
Deputy Agency Clerk

density bonus unit" and counting affordable dwelling units as half-units for the purpose of density computation if less than 750 square feet.

4. Petitioner seeks an administrative determination overturning the Final Order of the DCA on the basis that it is consistent with the requirements of Chapter 380, Florida Statutes, and Florida Statutes Section 125.01055 for the reasons stated below.

Identification of Petitioner and Other Parties

5. Petitioner, Monroe County, is a non-chartered county and a political subdivision of the State of Florida, whose address is 500 Whitehead Street, Key West, Florida 33040.

6. Respondent, Department of Community Affairs ("DCA") is a State agency exercising powers granted to it by Section 380.05, Florida Statutes, to approve or reject land development regulations that are enacted, amended, or rescinded by any local government in the Florida Keys Area of Critical State Concern ("ACSC"). DCA's address is 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Explanation of How Petitioner's Substantial Interests Are or Will be Affected

7. The Monroe County Board of County Commissioners has found that there is a current lack of sufficient affordable housing and a current estimated unmet need of over 7,300 affordable units within the County.

8. The Monroe County Board of County Commissioners has further found that the lack of sufficient affordable housing opportunities for the local work force creates serious risk to the local economy.

9. The Monroe County Board of County Commissioners has found that a limited land area suitable for residential development remains in the County and allowing a density bonus when building affordable housing will allow for the creation of more such housing and that such is a legitimate governmental interest and proper to implement goals 101 and 601 of the Monroe County Comprehensive Plan (Policy 101.4; Policy 101.4.5.; Policy 601.1.12; and Objectives 601.2 and 601.6). The Land Development Regulations in question specifically further Florida Statute Section 163.3202(3) by implementing an innovative land development regulation provisions such as transfer of development rights, incentive, and inclusionary housing.

10. The Monroe County Board of County Commissioners has further found that the Amendments to the LDRs in question specifically further Florida Statute Section 125.01055 providing "that a County may adopt and maintain in effect any law, ordinance, rule or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances."

11. If Monroe County is not allowed to utilize the Amendment to the LDRs in question and similar regulations it will be inhibited in its ability to increase the supply of affordable housing within the county and as such both the County and its citizens will be "adversely affected".

12. Monroe County is a "substantially affected person" entitled to initiate this proceeding in accordance with the Florida Administrative Procedure Act.

When and How Notice Was Received

13. Notice of the Final Order was received via publication in the Florida Administrative Weekly, Volume 32, No. 28, July 14, 2006.

14. This Petition is filed within 21 days of the publication of the Notice of Final Order.

Statement of Material Facts Disputed and Alleged

15. Final Order No. DCA06-OR-157 (attached as "Exhibit A") rejects Monroe County Ordinance No. 015-2006. (Attached as "Exhibit B"), which Ordinance amends Section 9.5-4 (Definitions), Section 9.5-262 (Maximum Residential Density and District Open Space), and Monroe County Section 9.5-352 (Required Parking).

    a. Section 9.5-4 (D-31(a)) adds a new definition to the Monroe County Land Development Regulations of a "dwelling, density bonus unit" and defines same to mean "the additional number of dwelling half units that can be added to a site pursuant to means as defined in Section 9.5-262 and shall be (one (1) or more rooms physically arranged to create housekeeping establishment for occupancy by one (1) family with separate toilet facilities. The abbreviation 'DDBU' shall mean 'dwelling density bonus unit.')."

    b. Section 9.5-4 (D-31(b)) creates a new definition of "dwelling half unit" to mean a "deed restricted affordable housing unit(s) as defined in MCC Section 9.5-4 (A-4-5) that range in size from 400 to 750 square feet which shall be considered one half (.5) of a

dwelling unit for the purposes of calculating density as laid out in Section 9.5-262."

c. Section 9.5-262 adds the following parenthetical allowance for density calculations for deed restricted affordable or employee housing units providing that units which range in size from 400 to 750 square feet shall be considered a dwelling half-unit as defined above.

d. Section 9.5-352 creates a new category for required number of off street parking spaces requiring that dwelling half-units are only required to have 1.0 space per dwelling half unit as a minimal number off street parking.

16. The Final Order of the DCA found the Ordinance in question to be "inconsistent with the 2010 Monroe County Comprehensive Plan" in that "The Plan does not address half allocations or density bonuses for half allocations." Petitioner contends that the Ordinance in question is consistent with the 2010 Monroe County Comprehensive Plan, specifically;

(a) Goal 601 which states "Monroe County shall adopt programs and policies to facilitate access by all current and future residents to adequate affordable housing that is safe, decent and structurally sound and that meets the needs of the population based on type, tenure characteristics, unit size and individual preferences."

(b) Policy 601.1.12 which states the County "shall adopt land development regulations which may include density bonuses, impact fee waiver program, and other possible regulations to encourage affordable housing." [Emphasis added]

(c) Section 7.2.2 of the Monroe County 2010 Comprehensive Plan Technical Document provides for "special housing needs." The Department of Community Affairs established an affordable housing task force for the Florida Keys in conjunction with the provision of technical assistance to Monroe County and made specific recommendations to the County to include regulatory reform to "explore and support the concept of establishing a new zoning designation for affordable housing. This could be handled as an overlay zone combined with other zoning tools or by site specific designations and/or special exceptions for specific sites." Other recommendations of the DCA's Task Force were as follows:

(1) "Local ordinances should be adopted which ease land development requirements and construction regulations to reduce the cost of affordable housing development."

(2) "The following incentives should be provided for affordable housing projects and programs:

. . .

- Relaxation of traffic study requirements

- Density relaxation"

(d) Section 7.3.2 of the Monroe County 2010 Comprehensive Plan Technical Document further provides for strategies to meet the diverse housing needs of Monroe County's projected population to include:

(1) "A range of residential land use categories shall be utilized;

(2) "A variety of residential density shall be provided to encourage the private sector to construct a variety of housing unit types."

(e) The Department of Community Affairs has failed to follow the legislative intent of Florida Statute, Section 380.0552, which designates the Florida Keys Area as an Area of Critical State Concern and which granted the DCA the authority to reject the Ordinance in question, specifically:

"(2) LEGISLATIVE INTENT – it is hereby declared that it is the intent of the legislature is: . . .
(d) to provide for affordable housing in close proximity to places of employment in the Florida Keys."

17. (a) In rejection of the Ordinance on the grounds that it was inconsistent with the principles for guiding development as set forth in Florida Statutes, Section 380.0552(7) the Department of Community Affairs has violated the specific intent of the legislature which states: "the

principles shall be construed as a whole and no specific provision shall be construed or applied in isolation from the other provisions".

(b) Furthermore, one of the principles [F.S. §380.055(7)(j)] provides for Monroe County: "(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys."

(c) The Department of Community Affairs has selectively utilized individual principles for guiding development without consideration of the affordable housing crisis in Monroe County and the necessity for implementation of ordinances adopted for the purpose of increasing the supply of affordable housing.

18. The Department of Community Affairs has ignored Florida Statute 125.01055 which states:

> Affordable housing -- Notwithstanding any other provision of law, a county may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Concise Statement of Ultimate Facts Alleged

19. The Ordinance which adopted the Land Development Regulations which were rejected by the Final Order of the Department are consistent with Monroe County's approved and adopted 2010 Comprehensive Plan and is specifically authorized by Florida Statute Section 125.01055 in order to increase the supply of affordable housing within Monroe County.

Rules or Statutes Petitioner Contends Require Reversal or Modification of the Agency's Proposed Action

20. The Final Order violates the legislative intent as stated in Section 380.0552 and the principles for guiding development, Section 380.0552(7).
21. Florida Statutes Section 125.01055 specifically authorizes the County to enact the Ordinance which has been rejected by the Department of Community Affairs.

Relief Sought by Petitioner

WHEREFORE, it is respectfully requested that the Division of Administrative Hearings conduct a formal administrative hearing on the issues raised in this Petition and enter a Final Order determine the Final Order of the Department of Community Affairs to be invalid for the reasons stated above.

Respectfully submitted this 21st day of July, 2006.

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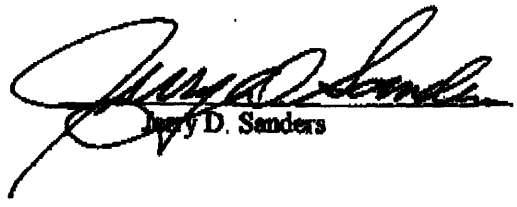
By: Jerry D. Sanders
Assistant County Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to the Secretary of the Department of Community and its General Counsel at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100.



Jerry D. Sanders

ORDINANCE NO. 015 - 2006

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADDING TO EXISTING DEFINITIONS (Sec. 9.5-4); AMENDING MAXIMUM RESIDENTIAL DENSITY AND DISTRICT OPEN SPACE (Sec. 9.5-262) TO ALLOW FOR DENSITY BONUSES FOR AFFORDABLE UNITS OF 750 SQ. FT. OR LESS; AMENDING REQUIRED PARKING (Sec. 9.5-352); AMENDING AND/OR ADDING FOR CONSISTENCY PURPOSES RELATED PROVISIONS; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES

WHEREAS, the Board of County Commissioners has considered the comments of the public, recommendations of the Planning Commission, recommendations of staff and the Workforce Housing Task Force and its counsel, and other matters, and;

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

1. The lack of sufficient affordable housing opportunities for the local workforce creates serious risks to the local economy.

2. There is limited land area suitable for residential development remaining in the County.

3. There is a current estimated unmet need of about 7,317 affordable units the County.

4. Allowing a density bonus will allow for the creation of more affordable housing under the Code, is a legitimate state interest and is proper to implement Goals 101 and 601 of the plan (e.g., Objective 101.4; Policy 101.4.5; Policy 601.1.12 and Objectives 601.2 and 601.6).

5. These amendments to the land development regulations are appropriate in that they recognize the need for additional detail and comprehensiveness in addressing housing needs in Monroe County, based upon, among other factors, new issues, including accelerated conversion of existing affordable housing stock, increased housing pressures due to housing loss caused by Hurricane Wilma, and the changed projections and assumptions regarding resulting demographic trends.

6. These amendments to the land development regulations specifically further Fla. Stat. § 163.3202(3) by implementing innovative land development regulation provisions such as transfer of development rights, incentive and inclusionary housing.

7. These amendments to the land development regulations are necessary to ensure that, despite the limited availability of developable lands, the County's existing and future housing stock includes adequate affordable housing opportunities.

8. The proposed amendments to the Land Development Regulations are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THE FOLLOWING: That the preceding findings support its decision to approve the amendments to the Land Development Regulations of the Monroe County Code as provided herein:

Section 1.

Add Sec. 9.5-4(D-31)(a) as follows:

(D-31)(a) *Dwelling, density bonus unit* means the additional number of dwelling half units that can be added to a site pursuant to the means as defined in Section 9.5-262** and shall be one (1) or more rooms physically arranged to create a housekeeping establishment for occupancy by one (1) family with separate toilet facilities. The abbreviation "DDBU" shall mean "dwelling density bonus unit".

Section 2.

Add Sec. 9.5-4(D-31) (b) as follows:

(D-31)(b) *Dwelling, half unit* means deed restricted affordable housing units as defined in MCC § 9.5-4 (A-4-5) that range in size from 400 to 750 square feet which shall be considered one-half (.5) of a dwelling unit for the purpose of calculating density as laid out in §9.5-262**.

Section 3.

Amend chart rows of Sec. 9.5-262 and add ** row as follows:

Maximum residential density and district open space.*,

Land use district	Allocated density DU/acre	*Maximum net density DU/buildable area*	*Open space ratio**
Urban Residential	6.0	12.0	0.2
(Affordable and Employee housing)	6.0	25.0**	0.2
Suburban Commercial	3.0	6.0	0.2
(Affordable and Employee housing)	3.0	18.0**	0.2
Mixed Use	1.0	12.0	0.2
(Affordable and Employee housing)	1.0	18.0**	0.2

** For the purposes of these density calculations only, notwithstanding the definition of a dwelling unit as defined in §9.5-4 (D-31), deed restricted affordable or employee housing units (as defined in MCC§§9.5-(A-4-5) and (E-1), respectively), in the SC, MU and UR

land use districts that range in size from 400 to 750 square feet shall be considered a *dwelling half unit*. An equal number of additional *dwelling half unit(s)* shall be available for each dwelling half unit provided. The additional dwelling half units shall be defined as *dwelling density bonus unit(s).*

Section 4.

Amend Section 9.5-352 by adding row as follows:

(c) *Required Number of Off-Street Parking Spaces:* The following is the number of parking spaces to be provided for each use:

TABLE INSET:

Specific Use Category	Minimum Required Number of Spaces
Dwelling half units	1.0 spaces per dwelling half unit

Section 5. Severability.

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

Section 6. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

Section 7. Transmittal

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 and as required by F.S. 380.05(6) and (11).

Section 8. Filing

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 9. Effective Date.

This ordinance shall become effective as provided by law and stated above. Where Comprehensive Plan amendments may be required in order for any part of this ordinance to be deemed consistent with the Comprehensive Plan, the effective date of such part shall be as of the effective date of the required Comprehensive Plan amendment and as otherwise required by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 19th day of April, 2006.

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

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
Mayor Charles "Sonny" McCoy

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

_____
Deputy Clerk

APPROVED AS TO FORM:

_____
County Attorney

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Date: 4/24/06

FILED FOR RECORD
2006 MAY 10 PM 1:43
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA.