MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

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To: **Monroe County Planning Commission**

Through: **Townsley Schwab, Sr. Director of Planning and Environmental Resources** TS
Mitch Harvey, Comprehensive Plan Manager MH

From: **Kathy Grasser, Comprehensive Planner**

Date: **June 2, 2009**

RE: **Request to create new Monroe County Year 2010 Comprehensive Plan Policy 101.4.20 discouraging future land use map changes which increase density/intensity; requiring Monroe County to complete a Year 2020 needs analysis based on projected growth and other criteria**

Meeting: **June 10, 2009**

I. BACKGROUND:

The Florida Administration Commission (F.A.C.) is proposing new Rule 28-20.130 implementing Section 380.0552(4) of the Florida Statutes. The rule requires Monroe County to report annually to the F.A.C. describing its progress in completing the remaining work program tasks. The work program tasks are outlined in the Monroe County Year 2010 Comprehensive Plan Policy 101.2.13 and Rule 28-20.110 Florida Administrative Code.

To assist in completing work program tasks Year 6, Task C; and Year 8, Task F, a new policy regarding carrying capacity and habitat protection must be created and transmitted to the Department of Community Affairs (DCA) prior to July 31, 2009.

Work Program Year 6, Task C implements the carrying capacity study and the adoption of Monroe County Year 2010 Comprehensive Plan amendments establishing a rate of growth and development standards ensuring any development does not exceed the county's environmental and marine system capacity while accommodating additional impacts.

Work Program Year 8, Task F requires amendments to be adopted to the Monroe County Year 2010 Comprehensive Plan and Monroe County Land Development Regulations enacting overlay designations, eliminating or revising the Habitat Evaluation Index and modifying the ROGO/NROGO system to guide development away from environmentally sensitive lands.

The new Monroe County Year 2010 Comprehensive Plan Policy 101.4.20 shall be as follows:

Discourage future land use map changes, throughout unincorporated Monroe County, including Ocean Reef, which increase allowable density/intensity. Monroe County shall complete a needs analysis through 2020 based upon the amount of vacant lands, the adopted density of the future land use designations and their existing yields, the projected population, the projected rate of growth allocations and the availability of public facilities and services.

II. ANALYSIS

A. Consistency of the proposed amendment with the provisions and intent of the Florida Statutes:

Florida Statutes (F.S.) Section 163.3177(6)(a) bases the future land use plan on surveys, studies and data in and surrounding the area. The data should include the amount of land needed for anticipated growth, projected population and availability of public facilities, compatibility of adjacent lands and the discouragement of urban sprawl, among other items. F. S. Section 163.3178(2)(b) requires environmental, socioeconomic, and fiscal impact of development and redevelopment to support infrastructures as well as having plans and principles to defer development from environmentally sensitive areas.

1. Pursuant to F.S Section 163.3177(6)(a), which states "The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; the discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy."

2. F.S. Section 163.3178(2)(b), which states "An analysis of the environmental, socioeconomic, and fiscal impact of development and redevelopment proposed in the future land use plan, with required infrastructure to support this development or redevelopment, on the natural and historical resources of the coast and the plans and principles to be used to control development and redevelopment to eliminate or mitigate the adverse impacts on coastal wetlands; living marine resources; barrier islands, including beach and dune systems; unique wildlife habitat; historical and archaeological sites; and other fragile coastal resources."

The following rules by the Florida Administrative Code (F.A.C.) regulate the protection of natural habitat and restrict activities that adversely affect the endangered and threatened wildlife while moving development away from environmentally sensitive areas.

1. 9J-5.006(3)(b)4 F.A.C. which states "Ensure the protection of natural resources and historic resources."

2. 9J-5.0012(3)(b)1. F.A.C. which states "Protect, conserve, or enhance remaining coastal wetlands, living marine resources, coastal barriers, and wildlife habitat."

3. 9J-5.0013(2)(c)3. F.A.C. which states "Protection of native vegetative communities from destruction by development activities."

4. 9J-5.0013(2)(c)5. F.A.C. which states "Restriction of activities known to adversely affect the survival of endangered and threatened wildlife."

5. 9J-5.0013(2)(c)6. F.A.C. which states "Protection and conservation of the natural functions of existing soils, fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including estuarine marshes, freshwater beaches and shores, and marine habitats."

6. 9J-5.0013(3)(b). F.A.C. which states "Future land uses which are incompatible with the protection and conservation of wetlands and wetland functions shall be directed away from wetlands. The type, intensity or density, extent, distribution and location of allowable land uses and the types, values, functions, sizes, conditions and locations of wetlands are land use factors which shall be considered when directing incompatible land uses away from wetlands."

The proposed amendment is consistent with the provisions and intent of the above Florida Statutes and the Florida Administrative Code.

B. *Consistency of the proposed amendment with the provisions and intent of Monroe County Year 2010 Comprehensive Plan:*

Goal 101 enhances the quality of life, ensures safety of people and protection of natural resources. Goal 105 provides a framework for future development and land acquisition for the next 20 years. Policy 105.1.5 charges Monroe County to direct future residential development to Tier III lands in accordance with Policy 105.2.2. Policy 105.1.6 directs the county to revise NROGO in accordance with Policies 105.2.1 and 105.2.15. Goal 105.2.1 defines Tier 1 as environmentally sensitive, development severely restricted and the retirement of privately owned vacant lands should be used for resource conservation and passive recreation purposes. Policy 105.2.2 directs the county to create an overlay map for the Tier system. Policy 105.2.15 directs the county to refer development to community centers which are located in the Tier III designations. Section 4.2 of the Year 2010 Monroe County Comprehensive Plan requires availability of public facilities and ability to meet the level of service standards to be concurrent with the impact of new development.

1. Pursuant to Year 2010 Monroe County Comprehensive Plan, Goal 101 which states Monroe County "shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources. [9J-5.006(3)a]"

2. Pursuant to Monroe County Year 2010 Comprehensive Plan, Goal 105 which states "Monroe County shall undertake a comprehensive land acquisition program and smart growth initiatives in conjunction with its Livable CommuniKeys Program in a manner that recognizes the finite capacity for new development in the Florida Keys

by providing economic and housing opportunities for residents without compromising the biodiversity of the natural environment and the continued ability of the natural and manmade systems to sustain livable communities in the Florida Keys for future generations."

3. Pursuant to Monroe County Year 2010 Comprehensive Plan, Policy 105.1.5 which states "Monroe County shall prepare amendments to this Plan and its Land Development Regulations that comprehensively revise the existing residential permit allocation system to direct the preponderance of future residential development to areas designated as an overlay on the zoning map(s) as Infill (Tier III) in accordance with Policy 105.2.2."

4. Pursuant to Monroe County Year 2010 Comprehensive Plan, Policy 105.1.6 which states "Monroe County shall prepare amendments to this Plan and it's Land Development Regulations that comprehensively revise the existing non-residential permit allocation system in a manner that implements Policies 105.2.1 and 105.2.15 and is consistent with and furthers this Plan."

5. Pursuant to Monroe County Year 2010 Comprehensive Plan, Policy 105.2.1 which states "Monroe County shall designate all lands outside of mainland Monroe County, except for the Ocean Reef planned development, into three general categories for purposes of its Land Acquisition Program and smart growth initiatives in accordance with the criteria in Policy 205.1.1. These three categories are: Natural Area (Tier 1); Transition and Sprawl Reduction Area (Tier II) on Big Pine Key and No Name Key only; and Infill Area (Tier III)."

6. Pursuant to Monroe County Year 2010 Comprehensive Plan, Policy 105.2.2 which states "Monroe County shall prepare an overlay map(s) designating geographic areas of the County as one of the three Tiers in accordance with the guidance in Policy 105.2.1, which shall be incorporated as an overlay on the zoning map(s) with supporting text amendments in the Land Development Regulations. These maps are to be used to guide the Land Acquisition Program and the smart growth initiatives in conjunction with the Livable CommuniKeys Program (Policy 101.20.1)."

7. Pursuant to Monroe County Year 2010 Comprehensive Plan Policy 105.2.15, which states "Where appropriate, as part of the Livable CommuniKeys Planning Process, Community Centers shall be designated within areas designated as Tier III (Infill Area). A Community Center is characterized as a defined geographic area with a mix of retail, personal service, office and tourist and residential uses (generally of greater than 8 units per acre). Community Centers shall be designated as receiving areas for transfer of development rights and shall receive special incentives in the non-residential permit allocation system."

8. Pursuant to Monroe County Year 2010 Comprehensive Plan Section 4.2, which states "Monroe County will adopt the programs described in Sections 4.2.1 to 4.2.3 in support of these goals, objectives and policies. These programs will ensure that public facilities and services meeting the levels of service standards established in the Comprehensive Plan will be available concurrent with the impacts of development."

The proposed amendment is consistent with the provisions and intent of the above Monroe County Year 2010 Comprehensive Plan Goals, Objectives and Policies.

C. *Consistency of the proposed amendment with the provisions and intent of Livable CommuniKeys Plans:*

The Key Largo Livable CommuniKeys Master Plan Strategy 1.3 supports the utilization of the FLUM to regulate density and intensity of individual parcels. The Key Largo Livable CommuniKeys Master Plan Action Item 1.3.1 continues to utilize the FLUM to protect the density and intensity and to regulate and promote orderly development. Strategy 2.1 of the Big Pine and No Name Key Livable CommuniKeys Master Plan regulates development with respect to density and intensity by using the tier map overlay to guide future development.

1. Key Largo Livable CommuniKeys Master Plan Strategy 1.3, states "continue to utilize the Land Use District Map and supporting FLUM to regulate land use type, density and intensity on individual parcels within the planning areas.

2. Key Largo Livable CommuniKeys Master Plan Action Item 1.3.1, states "Continue to use the FLUM and Land Use District Maps to regulate development of individual parcels with respect to density, intensity, bulk regulations, and all other land development regulations. This will protect the existing conformance status of most uses and promote orderly development consistent with the Comprehensive Plan."

3. The Big Pine and No Name Key Livable CommuniKeys Master Plan Strategy 2.1, states "Continue to utilize the Land Use District Maps and supporting FLUM to regulate land use type, density and intensity on an individual parcel basis within the planning area. The distribution of future development shall be guided by a Tier System Overlay Map pursuant to the comprehensive plan."

The proposed amendment is consistent with the provisions and intent of the above Livable CommuniKeys Master Plans.

D. *Consistency of the proposed amendment with the provisions and intent of Monroe County Code:*

Section 114-2 of the Monroe County Code requires all development to be served by adequate public facilities. Section 138-23 indicates any residential ROGO allocations will not be used for new transient units. Section 138-24(a) indicates how many affordable housing allocations are available annually.

1. Monroe County Code Section 114-2 states "After February 28, 1988, all development or land shall be served by adequate public facilities."

2. Monroe County Code Section 138-23 states "Moratorium on new transient units states new transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2008."

3. Monroe County Code Section 138-24(a) specifies 71 affordable housing allocations are to be divided into two categories: 1) Very Low, Low, and Median have 36 allocations and 2) Moderate has 35 allocations. Affordable housing residential allocations for all four (4) ROGO quarters, including the two available for Big Pine Key, shall be made available at the beginning of the first quarter for a ROGO year.

The proposed amendment is consistent with the provisions and intent of the above of Monroe County Code.

E. *Consistency with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern pursuant to F.S. Chapter 380.0552(7)*:

For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the principles for guiding development and any amendments to the principles, the principles shall be construed as a whole and no specific provision shall be construed or applied in isolation from the other provisions.

Guiding Principles (a), (b), (c) and (e) are consistent with the proposed amendment. These principles manage land use and development while protecting natural resources. Guiding Principles (f) and (g) are consistent with the proposed amendment. These principles provide a vision for future development or land acquisition in the Florida Keys. Guiding Principles (d), (j), (k) and (l) are consistent with the proposed amendment. These principles provide for sound economic development and health, safety and the welfare of current and future populations. Guiding Principles (h) and (i) are consistent with the proposed amendment. These principles ensure adequate public facilities are available for development.

(a) To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.

(b) To protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

(c) To protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

(d) To ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.

(e) To limit the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) To enhance natural scenic resources, promote the aesthetic benefits of the natural environment, and ensure that development is compatible with the unique historic character of the Florida Keys.

(g) To protect the historical heritage of the Florida Keys.

(h) To protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;

2. Sewage collection and disposal facilities;
3. Solid waste collection and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.

(i) To limit the adverse impacts of public investments on the environmental resources of the Florida Keys.

(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

(k) To provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post disaster reconstruction plan.

(l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

The proposed amendment is consistent with the provisions and intent of the above Principles for Guiding Development in the Florida Keys Area of Critical State Concern as a whole and not inconsistent with any one principle.

F. *Implementation Strategy of Policy 101.4.20:*

Monroe County Board of County Commissioners shall adopt Policy 101.4.20 and incorporate it into the Year 2010 Comprehensive Plan. This policy shall discourage FLUM amendments in unincorporated Monroe County, including Ocean Reef, which increase density/intensity. This policy will require Monroe County to create a Year 2020 needs analysis based on certain criteria.

The discouragement of FLUM amendments throughout unincorporated Monroe County, including Ocean Reef, which increase allowable density/intensity, will be implemented by basing FLUM amendment recommendations on regulations and policies of, but not limited to, the State of Florida, Monroe County and state land planning agencies. Data and analyses shall be based on, but not limited to, Florida Statutes, Monroe County Year 2010 Comprehensive Plan, Monroe County Code and the Livable CommuniKeys Master Plans. All goals, objectives, policies, standards, findings and conclusions within the comprehensive plan and its support documents, and within plan amendments and their support documents, shall be based on relevant and appropriate data and the analyses applicable to each element (F.A.C. 9J-5.005(2)(a)). Additionally, amendments shall be compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria named by the local government (F.S. 163.3194(3)(a)).

Proposed Policy 101.4.20 also requires Monroe County to complete a Year 2020 needs analyses. The needs analyses, or evaluation and appraisal report (EAR) is required every seven (7) years (Chapter 163.3191 F.S.). The EAR data includes sixteen (16) criteria as set forth in Chapter 163.3191(2)(a) through (p) F.S. The report will assist in the Year 2020 Comprehensive Plan update.

G. *The implementation of Policy 101.4.20 currently uses the following policies and regulations to discourage FLUM amendments which increase density/intensity and require Monroe County to complete a Year 2020 needs analysis:*

1. Pursuant to 9J-5.005(6) Plan Implementation Requirements, comprehensive plan policies are to be implemented according to F. S. Section 163.3161(5), Sections 163.3194, 163.3201, and 163.3202, F.S. These sections contain goals, objectives and policies which describe how Monroe County programs, activities, and land development regulations will be initiated, modified or continued to implement the new comprehensive plan policy in a consistent manner.

2. Policy 105.1.5 charges Monroe County to direct future residential development to Tier III lands in accordance with Policy 105.2.2.

3. Policy 105.1.6 directs the county to revise NROGO in accordance with Policies 105.2.1 and 105.2.15.

4. Goal 105.2.1 defines Tier I as environmentally sensitive, development severely restricted and the retirement of privately owned vacant lands should be used for resource conservation and passive recreation purposes.

5. Policy 105.2.2 directs the county to create an overlay map for the Tier system.

6. Policy 105.2.15 directs the county to refer development to community centers which are located in the Tier III designations.

7. Section 114-2 of the Monroe County Code requires all development to be served by adequate public facilities.

8. The Rate of Growth Ordinance and the Nonresidential Rate of Growth ordinance are dictated by Chapter 138 of the Monroe County Code.

9. Section 138-23 stipulates that residential ROGO allocations will not be used for new transient units.

10. Section 138-24(a) indicates how many affordable housing allocations are available annually.

11. The Livable CommuniKeys Program (LCP), Master Plan for Future Development of Big Pine Key and No Name Key was adopted on August 18, 2004 under Ordinance 029-2004. The LCP envisioned the issuance of 200 residential dwelling units over 20 year horizon at a rate of roughly 10 per year. A minimum of twenty percent of the 10 units per year are to be set aside for affordable housing development.

12. The Key Largo Livable CommuniKeys Master Plan Strategy 1.3 supports the utilization of the FLUM to regulate density and intensity of individual parcels.

13. The Key Largo Livable CommuniKeys Master Plan Action Item 1.3.1 continues to utilize the FLUM to protect the density and intensity and to regulate and promote orderly development.

14. The Big Pine and No Name Key Livable CommuniKeys Master Plan Strategy 2.1 regulate development with respect to density and intensity by using the tier map overlay to guide future development.

15. Chapters 163.3177 and 163.3178 states any future land use plan's analysis will be based on surveys and data. The data and analysis used as part of the FLUM amendment process includes the Monroe County Year 2010 Comprehensive Plan, Land Development Regulations, Florida Statutes, Florida Administration Commission, Monroe County's transportation and waste management consultant reports, Florida Keys Aqueduct Authority reports, Monroe County School Board and the Monroe County Parks and Recreation Department reports.

16. Chapter 163.3191 states "Monroe County shall adopt an evaluation and appraisal report (EAR) every seven (7) years," and will include data such as projected growth and other criteria. The last Monroe County EAR completed was in year 2004. Additionally, the Monroe County Year 2010 Comprehensive Plan is in the process of being updated. The EAR will be part of the process that will assist in updating the Comprehensive Plan. Data in the report will include updated population projections; vacant and developable land analysis; social economic and environmental impacts; water supply and transportation studies.

17. Chapter 163.3191(1) F.S. states (the) "evaluation and appraisal of comprehensive plan planning program shall be a continuous and ongoing process. Each local government shall adopt an evaluation and appraisal report once every 7 years assessing the progress in implementing the local government's comprehensive plan."

III. CONCLUSIONS:

1. The amendment is in the interest of the health, safety and welfare of the public.

2. The proposed amendment is consistent with and furthers the policies of the Florida Statutes by requiring data and analysis to be an intricate part of the Carrying Capacity Study and proposed future land use map amendments.

3. The proposed amendment is consistent with and furthers the policies of the Florida Administration Commission by protecting the natural areas as well as restricting activities that adversely affect endangered and threatened wildlife while moving development away from environmentally sensitive areas.

4. The proposed amendment is consistent with and furthers the policies of the Monroe County Year 2010 Comprehensive Plan Goals, Objectives and Policies by requiring density/intensity, land character and natural resources inventory are part of the FLUM amendment review process. It also ensures public facilities are available and adequate for new development.

5. The proposed text amendment is consistent with and furthers the strategies and action items of the Livable CommuniKeys Master Plans which protects natural resources and manages land development.

6. The proposed amendment is consistent with and furthers the policies of the Monroe County Code by requiring all development to be served by public facilities.

7. The proposed text amendment is consistent with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern as a whole, and is not inconsistent with any principle which recognizes land use management, public safety, health and welfare, economic development and protects the natural environment.

IV. RECOMMENDATION:

Staff recommends **APPROVAL** to the Monroe County Planning Commission.