BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: August 18, 2004 Division: Growth Management

Bulk Item: Yes ___ No X Department: Planning and Environmental Resources

AGENDA ITEM WORDING:
A public hearing to consider a request for Administrative Relief from David Thompson for Block 3, Lot 4 of Oceana, RE# 00085440.000200.

ITEM BACKGROUND:
A building permit and ROGO allocation were applied for on April 13, 2000 (Year 8, Quarter 3). The applicant applied for administrative relief on May 4, 2004 (Year 12, Quarter 4) and is within the allowable time frame to be eligible for administrative relief under Section 9.5-122.2(f) of the Monroe County Land Development Regulations. The lot contains hardwood hammock, is in the CNA and received –2 points in ROGO.

Staff recommends that administrative relief be granted in the form of an offer to purchase the lot for fair market value.

PREVIOUS RELEVANT BOCC ACTION:
Board of County Commissioners Resolution Number 223-2004 was adopted on June 16, 2004 directing staff to identify small parcels with indigenous hammocks for purchase.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: _____ **BUDGETED:** Yes ____ No ___
COST TO COUNTY: _____ **SOURCE OF FUNDS:** Land Authority

REVENUE PRODUCING: Yes ___ No X **AMOUNT PER MONTH** N/A **Year** ____

APPROVED BY: County Atty X OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL: _____
Timothy J. McGarry, AICP

DOCUMENTATION: Included X To Follow ____ Not Required ____

DISPOSITION: _____ **AGENDA ITEM #** P7

Revised 2/27/01

KW

RESOLUTION NO. - 2004

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING THE ADMINISTRATIVE RELIEF FOR DAVID THOMPSON ON THE LOT DESCRIBED AS BLOCK 3, LOT 4, UNRECORDED PLAT OCEANA, KEY LARGO, REAL ESTATE NUMBER 00085440.000200 IN THE FORM OF AN OFFER TO PURCHASE THE LOT FOR FAIR MARKET VALUE.

WHEREAS, David Thompson has submitted an application for a building permit allocation under the Residential Rate of Growth Ordinance (ROGO) in April of 2000; and

WHEREAS, the application has been in the ROGO system for at least three of the last four consecutive annual allocation periods; and

WHEREAS, David Thompson has applied for administrative relief under Monroe County Code Section 9.5 122.2 (f); and

WHEREAS, the Board of County Commissioners (BOCC) has the authority to grant administrative relief under Section 9.5 122.2. (f) (6) and may grant the applicant a building allocation, offer to buy the property at fair market value, or provide such other relief as may be necessary and appropriate; and

WHEREAS, the lot contains hammock and the applicant received negative two environmental points in ROGO; and

WHEREAS, Board of County Commissioners Resolution 223-2004 directs staff to identify small parcels with indigenous hammock and pinelands for recommended purchase; and

WHEREAS, Policy 101.6.5 of the 2010 Comprehensive Plan provides criteria to be used for determining lands that are appropriate for acquisition and the criteria includes the environmental sensitivity of the vegetative habitat on the lot; and

WHEREAS, the subject property, located in Oceana is environmentally sensitive and is within the boundaries of the Conservation and Natural Area;

WHEREAS, the Monroe County Board of County Commissioners makes the following findings of facts and conclusions of law:

1) The Thompson property, Lot 4 RE# 00085440.000200, application for ROGO scored two negative points because the lot is determined to contain low quality hammock according to the Habitat Evaluation Index (HEI); and

2) Policy 101.6.1 of the 2010 Comprehensive Plan and Section 9.5-122.2(f) of the Land Development Regulations provides a mechanism whereby an applicant who has not received an allocation award in ROGO may apply to the Board of County Commissioners for Administrative Relief; and

3) The applicant has been in the ROGO system for three of the last four annual allocation periods and therefore qualifies for administrative relief; and

4) Resolution 223-2004 directs staff to recommend purchase to the Monroe County Land Authority of small parcels with indigenous hammock and pinelands; and

5) Objective 101.6 directs the County to expand the Monroe County Land Authority acquisition program to provide for the purchase of land from property owners that have not been awarded an allocation; and

6) Policy 101.6.5 and Policy 101.6.6 directs the County to prioritize acquisition based on the environmental sensitivity of the land.

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

1) Administrative Relief is granted to Mr. Thompson for Lot 4, RE # 00085440.000200, in the form of an offer to purchase the property for just compensation.

2) The Land Authority is requested to contact the property owner to begin negotiations for purchase of the property.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the _____ day of _____ 2004.

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

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY_____
Mayor Murray Nelson

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

_____
DEPUTY CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Date: 7-30-04

Monroe County

Growth Management Division
2798 Overseas Highway
Suite 410
Marathon, Florida 33050
Phone: (305) 289-2500
FAX: (305) 289-2536

Board of County Commissioners
Mayor Murray Nelson, District 5
Mayor Pro Tem David Rice, District 4
Dixie M. Spehar, District 1
George Neugent, District 2
Charles "Sonny" McCoy, District 3

To: Board of County Commissioners

From: K. Marlene Conaway, Director
Department of Planning and Environmental Resources

Date: July 26, 2004

Subject: **David Thompson, Administrative Relief Request**

Background on Subject Property:
The subject property is zoned Improved Subdivision (IS) Land Use District and is located at the subdivision of Oceana, Block 3, Lot 4, Real Estate Number 00085440.000200. The applicant entered the Residential Rate of Growth Ordinance system on April 13, 2000, after purchasing the property in August 1999 with an appraised value of $14,000.

Permitting History:
A building permit and ROGO allocation were applied for on April 13, 2000. The application scored fifteen (15 points): ten (10) points from Planning; seven (7) points from building; and negative two (-2) for biology because the subject property was determined to be low quality hammock by the Upper Keys Biologist.

Currently, with the addition of four (4) Perseverance Points the property scores seventeen (19) points (as of Tuesday, July 13th, 2004). Since 2000 (Year 8, 4th Quarter of ROGO), two (2) ROGO allocation awards have been issued to lots in the Oceana subdivision. These include Permit Numbers: 02-3-3248 and 02-3-4095

The applicant applied for administrative relief on May 4, 2004 and is within the allowable time frame to be eligible for administrative relief under Section 9.5-122.2(f) of the Monroe County Land Development Regulations.

Development Potential:

Monroe County

Zoning – The property is zoned Improved Subdivision (IS) which allows one single-family residential dwelling and accessory uses. As an Improved Subdivision, it has no TDR value under the current code.

Future Land Use Map (FLUM) – The FLUM indicates the property to be Residential Medium (RM) which is intended for single-family residential use.

Land Type - The subject property was determined to be low quality hammock in the Habitat Evaluation Index (HEI), as reviewed by the Upper Keys Biologist. The property was given a point assignment of negative two (-2) for being in Habitat Group 2 which is defined in Section 9.5-122.3(7) and includes the following: High hammock (low quality); Low hammock (low quality); Scarified land with saltmarsh and buttonwood; and scarified land with beach/berm (design/standards). This is the second least environmentally sensitive category of the four described in Section 9.5-122.3(7).

Neighboring Properties – The Thompson Property (RE 00085440.000200) is located between Oceana Boulevard to the north and Dolphin Avenue to the south. The property adjacent and to the west is forested and without a residence. The property adjacent and to the east is developed with a single family home.

ROGO – The ROGO point system is designed to direct growth to protect natural resources and encourage infill to improved subdivision lots. In response to Objectives 101.5 of the Monroe County 2010 Comprehensive Plan, which directs the County to protect natural resources, Land Development Regulations (LDRs) have been adopted that score minus ROGO points for any lots in environmentally sensitive lands. The lot was given a negative two (-2) for being in Habitat Group 2 which is defined in Section 9.5-122.3(7) of the Land Development Regulations.

The applicant has not taken advantage of options available to him under the ROGO scoring system to increase his competitiveness in the ROGO system as most other applicants, who have received allocations have.

Smart Growth Initiative – Monroe County is in the process of adopting LDRs and a zoning overlay which will identify appropriate areas for future infill development and areas for acquisition. Goal 105 of the 2010 Comprehensive Plan directs the County to designate all lands into one of three Tiers for purposes of the land acquisition program and smart growth initiative. The tiers are defined in Policy 105.2.1.

It is important to note that the subject property, located in Oceana subdivision, meets the criteria for a Natural Area (Tier I) as defined in Goal 105. Although a single-family residential dwelling and accessory uses are allowable, new development is to be severely restricted and privately owned vacant lands are to be acquired or development rights retired for resource conservation and passive recreation purposes. Policy 105.2.12 directs that the preferred form of administrative relief for any land within Tier I or Tier II is a purchase offer.

Conservation and Natural Area – The lot is within the boundaries of the Conservation and Natural Area (CNA) as adopted by the Board of County Commissioners on June 16, 2004.

Monroe County

BOCC Resolution No. 223-2004, is a resolution of the BOCC that is directed towards preserving as much of the *indigenous hammocks and pinelands* as possible. It further directs staff to identify and recommend for purchase by the Land Authority, small parcels containing indigenous hammocks and pinelands throughout Monroe county that are not covered by "Florida Forever" funds. The resolution states:

> Monroe County's Growth Management Division is hereby directed to:
>
> 1. Closely monitor those small parcels in the CNA areas to prevent un-permitted clearing.
> 2. Limit the issuance of permits for land clearing so that the best interests of the public good, including the encouragement of building affordable housing, are protected.
> 3. **Identify these small parcels, not covered by the "Florida Forever Funds" to the Land Authority for recommended purchase.**

Eligibility for Administrative Relief Options:
Section 9.5-122.2(f) of the Monroe County Land Development Regulations and Policy 101.6.1 of the 2010 Comprehensive Plan provides a mechanism whereby an applicant who has not received an allocation award in ROGO may apply to the Board of County Commissioners for administrative relief. The applicant is eligible for Administrative Relief having complied with all requirements of the dwelling unit allocation system and having been considered in at least three (3) of the last four consecutive annual allocation periods and having submitted their application for Administrative Relief no earlier than the third annual allocation period and no later than ninety (90) days following the close of the fourth annual allocation period.

Relief Options under Administrative Relief:
The remedies available to an applicant for Administrative relief pursuant to Section 9.5-122.2(f) include issuance of an allocation award or just compensation by purchase of the property or such other relief as may be necessary or appropriate.

Although the subject property does not contain any significant habitat for endangered or threatened animal species, it does contain sensitive environmental features. The subdivision has also been designated Tier I for sprawl reduction. Therefore the subject property does meet the guidelines established under Policy 101.6.6 and Policy 102.4.2 of the Year 2010 Comprehensive Plan for the purchase of property under Administrative Relief.

Staff Analysis:
The Growth Management Division has reviewed the application and determined it is not appropriate to offer an allocation award to this applicant. The property contains fragments of environmentally sensitive lands, received two negative points (-2) in ROGO and is located within a subdivision with other lots containing fragmented hammock.

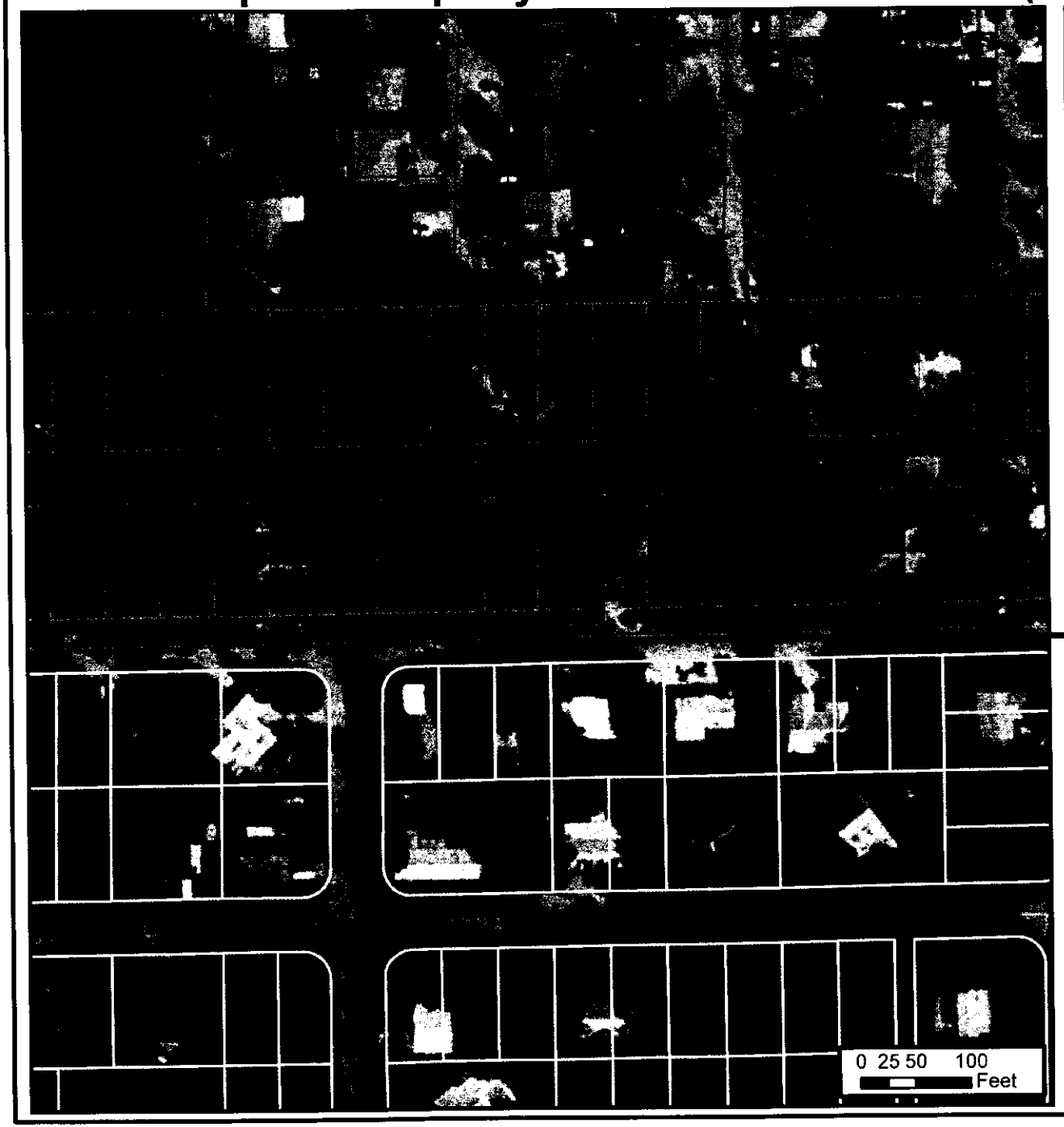
The appropriate County action for this property is to offer to purchase the property from the lot owner (Resolution 223-2004). If the owner chooses not to sell to the County, the application may remain in the ROGO system and accrue two points (+2) for each year over four years that s/he

continues in ROGO. The granting of an allocation award is not the preferred relief option and is not consistent with the policies for administrative relief under the Year 2010 Comprehensive Plan.

Recommendation:
It is recommended that the Board of County Commissioners find that the applicant has met the criteria and qualifies for Administrative Relief. It is further recommended that an order be prepared that establishes this relief as an offer to purchase the lot for fair market value by Monroe County.

Cc: Timothy J. McGarry, AICP, Director of Growth Management
Mark Rosch, Monroe County Land Authority
Joel Reed, Planner
Richard Collins, Esq.

Thompson Property - Oceana Subdivision (RE 0085440.000200)



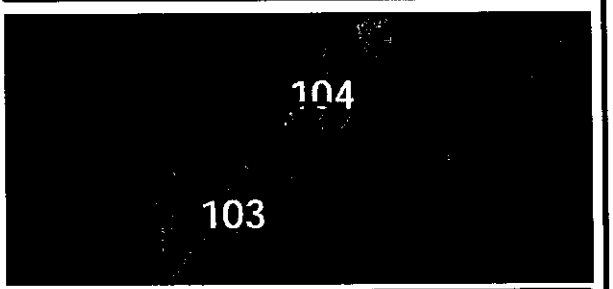
B = Built (But Difficult to Discern)

= Tier III

= Tier II

= Tier I

2003 Aerial Photographs



This map is for Monroe County Growth Management Division purposes only The data contained herein is illustrative only and may not accurately depict boundaries, parcels, roads, right of ways, or identification information.
7/04
JK