



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

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To: Monroe County Development Review Committee
Emily Schemper, Acting Senior Director of Planning & Environmental Resources

From: Devin Rains, Principal Planner

Date: April 6, 2018

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 135-6 CERTIFICATES OF APPROPRIATENESS, CREATING A MATRIX ESTABLISHING TYPES OF WORK DONE TO A DESIGNATED HISTORIC PROPERTY OR STRUCTURE OR ANY PROPERTY OR STRUCTURE WITHIN THE TAVERNIER HISTORIC DISTRICT THAT CAN BE APPROVED BY A REGULAR CERTIFICATE OF APPROPRIATENESS, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2018-069)*

Meeting: April 24, 2018

I. REQUEST

This is a request from the Planning & Environmental Resources Department, per the direction of the Monroe County Historic Preservation Commission (HPC), to amend the Monroe County Land Development Code (LDC) Section 135-6 – Certificates of Appropriateness. *The subject of this staff report is the proposed Land Development Code text amendment.*

II. BACKGROUND INFORMATION

On July 10, 2017, at a regularly scheduled meeting, the HPC discussed an approval matrix to establish a staff approval process for certain work to be performed.

On December 4, 2017, at a regularly scheduled meeting, the HPC passed a motion to proceed with the establishment of a staff approval process for certain work to be performed. An approval matrix had previously been drafted and is the subject of the proposed Land Development Code text amendment.

III. ANALYSIS OF PROPOSED AMENDMENT

LDC Section 135-6 currently reads as follows:

Sec. 135-6. Certificates of Appropriateness.

(a) Certificate of appropriateness required.

Except as provided herein, a building, moving, or demolition permit, or any other development order, shall not be issued for a designated historic property or property within the Tavernier Historic District Overlay, until a certificate of appropriateness is awarded. A certificate of appropriateness is not required for the issuance of any building permits for interior improvements to a designated historic property or property within the Tavernier Historic District Overlay unless the interior of the property is cited as significant in the property's designation resolution. Within the Tavernier Historic District Overlay, contributing structures, noncontributing structures and new buildings shall require a certificate of appropriateness as if they were a designated historic property, and shall be reviewed by the Planning Director or the HPC, as required, based on the Tavernier Historic District Preservation Guidelines.

(b) Regular certificate of appropriateness.

A regular certificate of appropriateness is required for ordinary repair and maintenance that requires a building permit, except as provided for in subsection (a) of this section. A regular certificate shall be issued for any work that will, to the satisfaction of the Planning Director, not change the appearance of the building, structure, or object. The owner of a designated historic property who desires a regular certificate of appropriateness shall file an application with the Planning and Environmental Resource Department, on a form prescribed by the Planning Director. Upon the receipt of a complete application for a regular certificate of appropriateness, the Planning Director shall approve the application, deny it, approve it with conditions, or pass the application on to the HPC for further review. If the decision is to deny or pass the application to the HPC, the Planning Director shall notify the owner of the decision by certified mail. A denied application shall include an explanatory statement of the Planning Director's basis for his decision. The Planning Director's decision may be appealed pursuant to Section 102-185.

(c) Special certificate of appropriateness.

A special certificate of appropriateness shall be required prior to the issuance of a building permit and shall be issued for any work involving substantial improvement, relocation, new construction, or any work that will result in a change to the original appearance of a designated historic property. The owner of a designated historic property who desires a special certificate of appropriateness shall file an application with the Planning and Environmental Resources Department, on a form prescribed by the Planning Director. The application shall contain the full plans and specifications, a site plan, and if deemed applicable, samples of any materials necessary to fully describe the proposed appearance, colors, texture, materials, and design of the building or structure, any outbuilding, wall, courtyard, fence, unique landscape feature, paving, signage, and exterior lighting. The information shall be adequate to enable the HPC to visualize the effect of the proposed work on the historic property. When the Planning Director determines that the application is complete, he shall schedule and notice the application for a public hearing before the HPC, in accordance with Section 135-3(e). In determining whether to grant or deny

the application, or grant it with conditions, the HPC shall evaluate the application according to a set of guidelines based on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. At the conclusion of the public hearing, the HPC shall, by written resolution, grant, deny, or grant with conditions, the application. The resolution shall contain the elements set forth in Section 110-7(b), together with an explanation of the basis for the HPC's decision. Upon the filing of the resolution with the secretary to the HPC, the secretary shall send a copy of the resolution by certified mail to the applicant.

The current provisions of Section 135-6 limits approval by a regular certificate of appropriateness to work that will not change the appearance of the building, structure, or object. The proposed amendment would amend Section 135-6 to include a matrix with provisions for work to be done to a historic property and the type of certificate of appropriateness required. The purpose of the matrix is to add specific types of work that can be approved by a regular certificate of appropriateness.

IV. PROPOSED AMENDMENT (Deletions are ~~stricken through~~ and additions are underlined.)

Sec. 135-6. Certificates of Appropriateness.

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(2) Within the Tavernier Historic District Overlay, contributing structures, noncontributing structures and new buildings shall require a certificate of appropriateness as if they were a designated historic property, and shall be reviewed by the Planning Director or the HPC, as required, based on the Tavernier Historic District Preservation Guidelines.

(3) Work to be done to a designated historic property or structure or any property or structure within the Tavernier Historic District shall require a certificate of appropriateness in accordance with this chapter and shall be in accordance with the following table:

<u>Certificate of Appropriateness Approval Matrix</u> ^(a)		
<u>Work to be Done</u>	<u>Regular Certificate</u> ^(a)	<u>Special Certificate</u>
<u>Additions</u>		<u>X</u>
<u>Accessory Structures</u>		<u>X</u>
<u>Awnings, New Installation</u>		<u>X</u>

<u>Awnings, Replacement/Color Change</u>	<u>X</u>	
<u>Decks, Porches, or Patios</u>		<u>X</u>
<u>Demolitions</u>		<u>X</u>
<u>Docks, Boat Lifts, and Dock Structures</u>		<u>X</u>
<u>Door Replacement, In-Kind (per Preservation Guidelines)</u>	<u>X</u>	
<u>Contributing Structures - Door Replacement with Different Material or Different Style</u>		<u>X</u>
<u>Non-Contributing Structures - Door Replacement - Different Material or Different Style</u>	<u>X</u>	
<u>Exterior Surfaces - In-Kind Replacement</u>	<u>X</u>	
<u>Exterior Surfaces, Replacement with New Material</u>		<u>X</u>
<u>Driveways</u>		<u>X</u>
<u>Fences, Walls, Gates</u>	<u>X</u>	
<u>New Construction</u>		<u>X</u>
<u>Painting</u>	<u>X</u>	
<u>Pools</u>		<u>X</u>
<u>Roof Repair - Replacement In-Kind</u>	<u>X</u>	
<u>Contributing Structures - Roof Replacement with Different Material</u>		<u>X</u>
<u>Non-Contributing Structure - Roof Replacement with Compatible Material</u>	<u>X</u>	
<u>Signs</u>		<u>X</u>
<u>Site Lighting</u>		<u>X</u>
<u>Site Lighting Replacement - In-Kind</u>	<u>X</u>	
<u>Shutters - Wood or Removable Metal Panel System</u>	<u>X</u>	
<u>Shutters - Non-Wood</u>		<u>X</u>
<u>Window Replacement - In-Kind</u>	<u>X</u>	

<u>Window Replacement - New Material or New Style</u>		<u>X</u>
<u>Elevation of a Structure</u>		<u>X</u>
<u>Mechanical Equipment Including Pad or Stand, Not Visible from Street</u>	<u>X</u>	
<u>Mechanical Equipment Including Pad or Stand, Visible from Street</u>		<u>X</u>
<u>Crawl Space Infill</u>	<u>X</u>	
<u>Energy Saving Devices (for example, solar devices)</u>		<u>X</u>
<u>Non-Contributing Structures - ADA Improvements</u>	<u>X</u>	
<u>Contributing Structures - ADA Improvements</u>		<u>X</u>
<u>Landscape Features (for example, fountains, or arbors) Not Visible from Street</u>	<u>X</u>	
<u>Landscape Features (for example, fountains, or arbors) Visible from Street</u>		<u>X</u>
<u>Staff May Refer Any Application to the HPC for Review</u>		
(a) <u>Work to be done that is eligible for approval by regular certificate of appropriateness per this matrix shall be reviewed per the Tavernier Historic District Preservation Guidelines. Work to be done that is inconsistent with these Guidelines shall require a special certificate of appropriateness.</u>		

(b) Regular certificate of appropriateness.

A regular certificate of appropriateness is required for ordinary repair and maintenance that requires a building permit, except as provided for in subsection (a)(1) of this section. A regular certificate shall be issued for any work that will, to the satisfaction of the Planning Director, not change the appearance of the building, structure, or object, and as provided for in subsection (a)(3) of this section. The owner of a designated historic property who desires a regular certificate of appropriateness shall file an application with the Planning and Environmental Resource Department, on a form prescribed by the Planning Director. Upon the receipt of a complete application for a regular certificate of appropriateness, the Planning Director shall approve the application, deny it, approve it with conditions, or pass the application on to the HPC for further review. If the decision is to deny or pass the application to the HPC, the Planning Director shall notify the owner of the decision by certified mail. A denied application

shall include an explanatory statement of the Planning Director's basis for his decision. The Planning Director's decision may be appealed pursuant to Section 102-185.

(c) Special certificate of appropriateness.

A special certificate of appropriateness shall be required prior to the issuance of a building permit and shall be issued for any work involving substantial improvement, relocation, new construction, or any work that will result in a change to the original appearance of a designated historic property, or as provided for in subsection (a)(3) of this section. The owner of a designated historic property who desires a special certificate of appropriateness shall file an application with the Planning and Environmental Resources Department, on a form prescribed by the Planning Director. The application shall contain the full plans and specifications, a site plan, and if deemed applicable, samples of any materials necessary to fully describe the proposed appearance, colors, texture, materials, and design of the building or structure, any outbuilding, wall, courtyard, fence, unique landscape feature, paving, signage, and exterior lighting. The information shall be adequate to enable the HPC to visualize the effect of the proposed work on the historic property. When the Planning Director determines that the application is complete, he shall schedule and notice the application for a public hearing before the HPC, in accordance with Section 135-3(e). In determining whether to grant or deny the application, or grant it with conditions, the HPC shall evaluate the application according to a set of guidelines based on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. At the conclusion of the public hearing, the HPC shall, by written resolution, grant, deny, or grant with conditions, the application. The resolution shall contain the elements set forth in Section 110-7(b), together with an explanation of the basis for the HPC's decision. Upon the filing of the resolution with the secretary to the HPC, the secretary shall send a copy of the resolution by certified mail to the applicant.

V. CONSISTENCY WITH THE MONROE COUNTY YEAR 2030 COMPREHENSIVE PLAN AND PRINCIPLES FOR GUIDING DEVELOPMENT

A. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe County Year 2030 Comprehensive Plan. Specifically, it furthers:

GOAL 101

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. [F.S. § 163.3177(1)]

Objective 101.5

Monroe County shall regulate future development and redevelopment to maintain and enhance the character of the community and protect natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map. [F.S. § 163.3177(6)(a)]

Policy 101.5.21

The principal purpose of the Historic (H) 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. [F.S. § 163.3177(6)(a)3.f.].

GOAL 104

Monroe County shall recognize, designate, protect, and preserve its historic resources. [F.S. § 163.3177(6)(a)3.f.]

Objective 104.3

Monroe County shall adopt and implement measures for the protection and preservation of designated local historic, cultural and archaeological landmarks/districts.

Policy 104.3.1

Monroe County shall maintain land development regulations that provide protection for designated local historic, cultural and archaeological landmarks/districts listed on the Florida Keys Historic Register. The adopted LDC shall:

1. authorize a historic/archaeological review board to review development proposals which impact designated local historic, cultural and archaeological landmarks/districts;
2. list the qualifications and selection criteria for review board members;
3. specify the restrictions on archaeological sites resulting from local designation. Establish standards to address the siting and design of proposed developments to minimize impacts on archaeological resources, and the proper documentation and recording of the site including retrieving of artifacts;
4. specify the restrictions on the demolition and alteration of historic structures resulting from local designation. Establish standards to evaluate alterations to historic structures which are consistent with the U.S. Department of the Interior's "Standards for Rehabilitation";
5. specify the restrictions on historic districts resulting from local designation. Establish exterior architectural standards to evaluate development proposals within designated historic districts with the intent of encouraging compatibility with the architectural features of historic significance to the particular district;
6. establish a procedure for reviewing development and redevelopment proposals which impact designated local historic, cultural and archaeological landmarks/districts;
7. specify procedures where development activities uncover unknown archaeological resources;
8. provide procedures for enforcement and consequences of non-compliance;
9. provide incentives such as transfer of development rights, tax credits, tax

- relief, special property tax assessments, building code waivers, building application fee exemptions, zoning variances, and FEMA exemptions to encourage the conservation and rehabilitation of privately-owned designated local historic, cultural or archaeological landmarks; and
10. specify permitting and review procedures that reconcile redevelopment of designated local historic, cultural and archaeological landmarks with their potential nonconforming status.

B. The amendment is not inconsistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statutes.

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.

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting 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) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting 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, treatment, and disposal facilities;
 3. Solid waste treatment, 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) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.
 - (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of F.S. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
 - (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
 - (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
 - (m) Providing 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.
 - (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is not inconsistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle.

C. The amendment is consistent with one or more of the required provisions of Monroe County Land Development Code Section 102-158(d)(7)(b):

1. Changed projections (e.g., regarding public service needs) from those on which the text or boundary was based; **N/A**
2. Changed assumptions (e.g., regarding demographic trends) from those on which the existing text or boundary was based; **N/A**
3. Data errors, including errors in mapping, vegetative types and natural features which contributed to the application of the existing text or boundary; **N/A**
4. New issues which arose after the application of the existing text or boundary; **The proposed amendment addresses the issue identified by the Historic Preservation Commission of the need for allowance for approval by regular certificate of appropriateness for certain types of work to be done to designated historic property or structure or any property or structure within the Tavernier Historic District.**
5. Recognition of a need for additional detail or comprehensiveness; **The proposed amendment addresses the need for additional detail or comprehensiveness regarding the types of work to be done to designated historic property or structure or any property or structure within the Tavernier Historic District that can be approved by a regular certificate of appropriateness.**

6. Data updates; **N/A**
7. Consistency with the Comprehensive Plan and the principles for guiding development as defined in Section 380.0552, Florida Statutes. **Yes**

VI. STAFF RECOMMENDATION

Staff recommends APPROVAL of the proposed amendment.

Staff has found that the proposed text amendment would be consistent with one or more of the required provisions of Monroe County Land Development Code Section 135-6. Specifically, staff has found that the proposed text amendments are necessary due to recognition of a need for additional detail or comprehensiveness.

Staff has also found that the proposed text amendment would be consistent with the Monroe County Year 2030 Comprehensive Plan, the Florida Keys Principles for Guiding Development, and Sections 163.3194, 163.3201 and 163.3202, Florida Statutes.