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MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

8 **To:** Monroe County Development Review Committee and
9 Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources
10
11 **From:** Mayté Santamaria, Senior Planning Policy Advisor
12
13 **Date:** date
14
15 **Subject:** An ordinance by Monroe County Board of County Commissioners adopting
16 amendments to the Monroe County 2030 Comprehensive Plan amending the Glossary
17 to modify the definition of Accessory Use or Accessory Structure, modify the
18 definition of Dwelling Unit, delete the definition of Family, modify the definition of
19 Household, create a definition for kitchen, create a definition for Lock-out Unit,
20 modify the definition of Transient Unit; create a definition for wet bar; and amending
21 Policy 101.3.5 to address the term Lock-out Unit. (File 2019 - 098)
22

23 **Meeting:** date

24
25 **I. REQUEST**
26

27 The Monroe County Planning & Environmental Resources Department is proposing an amendment
28 to the 2030 Comprehensive Plan amending the Glossary to modify the definition of Accessory Use
29 or Accessory Structure, modify the definition of Dwelling Unit, delete the definition of Family,
30 modify the definition of Household, create a definition for kitchen, create a definition for Lock-out
31 Unit (*specifying that lock-out units are separate independent living area/habitable spaces and*
32 *shall be considered a unit (dwelling unit and/or transient unit) which requires an additional*
33 *ROGO allocation or ROGO exemption and will be counted as a full unit (dwelling unit and/or*
34 *transient unit) when computing the allowable density on a site), modify the definition of Transient
35 Unit; create a definition for wet bar; and amending Policy 101.3.5 to address the term Lock-out
36 Unit.
37*

38 **II. BACKGROUND INFORMATION**
39

40 On April 13, 2016, at a special public meeting, the BOCC adopted the 2030 Comprehensive Plan
41 and Land Development Code. The 2030 Comprehensive Plan was adopted pursuant to Ordinance
42 005-2016 was transmitted to the Department of Economic Opportunity (DEO) on May 4, 2016.
43 DEO issued a notice of intent to find the amendment “in compliance” on June 20, 2016. The
44 Monroe County Year 2030 Comprehensive Plan became effective upon the posting of the
45 Notice of Intent on the DEO Website on June 20, 2016.
46

47 The Monroe County Land Development Code was adopted pursuant to Ordinance 006-2016 and
48 was transmitted to DEO on May 24, 2016. On July 26, 2016, DEO published Final Order

1 DEO-16-130 in the Florida Administrative Register approving the Monroe County Land
2 Development Code. The Final Order would have become effective 21 days after publication in the
3 Florida Administrative Register (August 16, 2016) but a petition was filed. On August 10, 2016,
4 the Petitioners filed a Petition with DEO, challenging the DEO Final Order. On November 22,
5 2016, the BOCC adopted an ordinance amending Section 130-165 to resolve the Petition
6 challenging the DEO issued Final Order, satisfying a stipulated settlement agreement and allowing
7 the Monroe County Land Development Code to become effective. The County's updated Land
8 Development Code became effective on February 3, 2017.

9
10 The previous 2010 Comprehensive Plan did not include any definitions. The 2010 Land
11 Development Code included definitions which were amended with the adoption of the new Land
12 Development Code in April 2016. Both documents include a definition for family. Neither
13 document includes a definition of "lock-out."

14
15 The Monroe County Board of County Commissioners, at a regular meeting on February 15,
16 2017 in Key West, Florida, directed staff to impose a temporary moratorium upon certain
17 development applications proposing occupancy by "three unrelated people" or "two unrelated
18 people and any children related to either of them" of a dwelling unit or utilizing the term
19 "lock-out," due to pending legislation.

20
21 The Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular
22 meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance
23 to impose a temporary moratorium deferring the approval of new applications or received
24 applications that have not been fully approved, commencing March 15, 2017, for comprehensive
25 plan or land development code amendments, development agreements (including 380 development
26 agreements), and minor and major conditional use permits (excluding applications proposing only
27 affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two
28 unrelated people and any children related to either of them" of a dwelling unit, and applications
29 utilizing the term "lock-out."

30
31 On July 19, 2017, the BOCC adopted interim development Ordinance 012-2017 implementing the
32 365 day temporary moratorium described above.

33
34 On August 18, 2018, the BOCC adopted interim development Ordinance 018-2018, extending the
35 365 day moratorium described above.

36
37 On July 17, 2019, the BOCC adopted interim development Ordinance 027-2019 extending the 365
38 day moratorium described above. This moratorium into effect in November 8, 2019 and runs
39 through November 8, 2020 or until Comp Plan and/or LDC amendments are adopted and
40 effective, whichever comes first.

41
42 Staff is proposing a corresponding amendment to the Land Development Code. The subject of this
43 staff report is the proposed amendment to the Comprehensive Plan.

44
45
46 **Community Meeting and Public Participation**

47 In accordance with LDC Section 102-159(b)(3), a Community Meeting was held on
48 _____ in Marathon to provide for public input. There was ___ public in attendance.

1
2 **Development Review Committee and Public Input**

3 The Development Review Committee considered the proposed amendment at a regular meeting on
4 _____ and received public input.

5
6 **Planning Commission and Public Input**

7 The Planning Commission considered the proposed amendment at a regular meeting
8 on _____, provided for public input and recommended _____.

9
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11 **III. PROPOSED COMPREHENSIVE PLAN TEXT AMENDMENTS**

12
13 Proposed Amendment (deletions are stricken through; additions are shown in underlined):

14
15 **2030 Comprehensive Plan - GLOSSARY**

16 **General**

17 If definitions sought are not within this section, the County shall utilize the adopted definitions
18 of its LDC and, secondly, refer to the Florida Statutes. If a definition is not provided in these
19 documents, the County shall utilize the term as commonly used.

20
21 **Defined Terms**

22 *Accessory Use or Accessory Structure* means a use or structure that:

- 23 (1) Is subordinate to and serves an existing principal use or principal structure; and
24 (2) Is subordinate in area, extent and purpose to an existing principal use or principal
25 structure served (for this definition docks, pools, pool decks, driveways are excluded
26 from total area); and
27 (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or
28 principal structure served; and
29 (4) Is located on the same lot/parcel or on a lot/parcel that is under the same ownership as the
30 lot/parcel on which the principal use or principal structure is located; and
31 (5) Is located on the same lot/parcel or on a contiguous lot/parcel as an existing principal use
32 or principal structure, excluding accessory docking facilities that may be permitted on
33 adjacent lots/parcels pursuant to section 118-12 of the County's LDC; and
34 (6) Is located in the same land use (zoning) district as the principal use or principal structure,
35 excluding off-site parking facilities pursuant to section 114-67 of the County's LDC; and;
36 (7) Accessory uses/structures shall not include secondary dwelling units or lock-out units or
37 any other habitable structures that are occupied by a separate and independent household.

38
39 *Density* means an objective measurement of the magnitude of residential use on a site. Density
40 is measured and expressed as the number of dwelling units/rooms/spaces per acre of upland.

41
42 *Density, Allocated* means the number of dwelling units or rooms/spaces which may be permitted
43 to be developed per gross acre of upland without the use of Transferable Development Rights
44 (TDRs).

45
46 *Density, Maximum Net* means the maximum number of dwelling units or rooms/spaces which
47 may be permitted to be developed per buildable acre, with the use of Transferable Development
48 Rights (TDRs) or for affordable housing.

Dwelling Unit means one or more rooms physically arranged for occupancy by one household sharing common living, kitchen (cooking), and bathroom toilet facilities. Dwelling units shall not include additional dwelling units, secondary dwelling units, lock-out units, or any other habitable structures that create a separate independent living area that are occupied by a separate and independent household, without an additional ROGO allocation or ROGO exemption. In reviewing development proposals for dwelling units, to ensure lock-out units or any other habitable structures that create a separate independent living area are not created, the proposal shall comply with the following:

<u>Bldg. type</u> ²	<u>Separate Entrance</u> ³	<u>Lockable Internal Connection</u> ⁴	<u>Unlockable Internal Connection</u> ⁵	<u>Full Kitchen</u> ⁶	<u>Wet Bar</u> ⁷	<u>Full Bath</u> ⁸	<u>Half Bath</u> ⁸	<u>Allowed</u> ⁹
<u>ACC.</u>	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>NO</u>
	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>-</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>NO</u>
	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>YES</u> ¹⁰
<u>ADD.</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>NO</u>
	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>YES</u> ¹⁰
	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>YES</u> ¹⁰
	<u>X</u>	<u>-</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>YES</u> ¹⁰
	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>YES</u>
	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>YES</u>
<u>-</u>	<u>-</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>NO</u>

- General Note: Not all-possible project design options are shown. As a rule of thumb, if an option allows a full kitchen, then a wet bar is also permitted in place of or in addition to a full kitchen; or, if an option allows a full bath, then a half bath is also permitted in place of or in addition to a full bath.
- ACC. = Attached or unattached accessory addition to principal structure with no internal connection to the structure. May also be considered a lock-out unit.
ADD. = Addition to principal structure with an internal connection to principal structure. May also be considered a lock-out unit.
- A separate entrance is any entrance including sliding glass doors. A special exception may be made if the entrance is into an enclosed courtyard or pool area. The separate entrance shall not create lock-out units, secondary dwelling units, guest units, dormitory or any other habitable structures that create a separate independent living area.
- A lockable internal connection exists when either household can lock out the other party.
- An unlockable internal connection exists when one party cannot exclude the other party. An open wall is an unlockable internal connection. A door or doorway is not an unlockable internal connection. To be an unlockable internal connection, the cased opening must be 42 inches or more in width.
- A full kitchen is any food preparation facility larger than a wet bar. Plumbing 'stub outs' shall be considered a kitchen.
- A wet bar is a food or drink preparation area limited to a total counter surface area of 16 square feet (including a sink with design limitations of one bin and limited to one (1) square foot in size) with electricity limited to 110 volt service.

- 1 8. A full bath contains, at a minimum, a sink, toilet and bath or shower. A half bath, at a maximum, may
2 contain a toilet and a sink.
3 9. YES = development proposal/design may be approved.
4 NO = development proposal/design shall not be approved.
5 10. Requires a restrictive covenant limiting the dwelling unit to for occupancy by a single household only.
6 Proposal cannot create lock-out units, secondary dwelling units, guest units, dormitory or any other
7 habitable structures that create a separate independent living area occupied by a separate and
8 independent household.

9
10 ~~*Family means a person living alone, or people living together as a single household and sharing*~~
11 ~~*common living, cooking, and toilet facilities:*~~

- 12 ~~(1) Any number of people related by blood, marriage, adoption, guardianship, or duly authorized~~
13 ~~eustodial relationship;~~
14 ~~(2) three unrelated people;~~
15 ~~(3) two unrelated people and any children related to either of them.~~

16
17 ~~*Household means all the people who occupy a dwelling housing unit. A household includes the*~~
18 ~~*related family members and all the unrelated people, if any, such as lodgers, foster children,*~~
19 ~~*wards, or employees who share the housing unit. A person living alone in a housing unit, or a*~~
20 ~~*group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a*~~
21 ~~*household.*~~

22
23 *Kitchen means any food preparation area larger than a wet bar, intended or designed to be used*
24 *for cooking or the preparation of food. The presence of a range, oven, utility connections suitable*
25 *for servicing a range or oven, or plumbing “stub-outs”, shall be considered as establishing a*
26 *kitchen.*

27
28 *Lock-out unit means any structure or room or group of rooms or portion of a single family or*
29 *multi-family dwelling or transient unit which creates a separate independent living area which*
30 *can be accessed and locked or keyed separately from the principal entry to a residential dwelling*
31 *unit or transient unit. Lock-out units create a separate independent living area/habitable space,*
32 *which shall be considered a unit (dwelling unit and/or transient unit) which requires an additional*
33 *ROGO allocation or ROGO exemption and will be counted as a full unit (dwelling unit and/or*
34 *transient unit) when computing the allowable density on a site.*

35
36 *Room, Hotel or Motel, means a unit consisting of a room or rooms in a public lodging*
37 *establishment as defined by Florida Statutes, intended for transient lodging only for periods not*
38 *exceeding 30 days. Transient occupancy shall conform to the definition contained in Florida*
39 *Statutes. For the purposes of density restriction:*

- 40 (1) Hotel or motel unit may be a single bedroom and 1½ bathrooms or a hotel/motel unit may
41 be a suite which may include a kitchenette but no more than 1½ bathrooms and one bedroom
42 and one other living area.
43 (2) Suites containing more than one bedroom and 1½ baths may be constructed; however, each
44 bedroom/full bath combination shall be considered a hotel/motel unit.
45 (3) All entrances to a hotel or motel unit shall share the same key or means of controlling
46 access so that the hotel or motel unit as defined herein is not divisible into separately rentable
47 units.
48

1 *Transient Unit* means a dwelling unit used for transient occupancy such as a hotel or motel room,
2 seasonal residential unit, or space for parking a recreational vehicle or travel trailer. Transient
3 units, limited to hotel or motel rooms, may include lock-out units that meet the criteria within the
4 definition of “Room, Hotel or Motel” and shall require an additional ROGO exemption for each
5 lock-out unit.
6

7 Wet bar means is a food or drink preparation area limited to a total counter surface area of 16
8 square feet, a single one-bin sink of one square foot, and electrical service limited to 110 volt
9 service.

10 *****

11
12 **Policy 101.3.1**

13 Monroe County shall maintain a Permit Allocation System for new residential development
14 known as the Residential Rate of Growth Ordinance (ROGO) System. The Permit Allocation
15 System shall limit the number of permits issued for new residential dwelling units. The ROGO
16 allocation system shall apply within the unincorporated area of the county, excluding areas
17 within the county mainland and within the Ocean Reef planned development (Future
18 development in the Ocean Reef planned development is based upon the December 2010 Ocean
19 Reef Club Vested Development Rights Letter recognized and issued by the Department of
20 Community Affairs). New residential dwelling units included in the ROGO allocation system
21 include the following: affordable housing units; market rate dwelling units; mobile homes; and
22 institutional residential units (except hospital rooms).
23

24 Vessels are expressly excluded from the allocation system, as the vessels do not occupy a distinct
25 location, and therefore cannot be accounted for in the County's hurricane evacuation model.
26 Under no circumstances shall a vessel, including live-aboard vessels, or associated wet slips be
27 transferred upland or converted to a dwelling unit of any other type. Vessels or associated wet
28 slips are not considered ROGO allocation awards, and may not be used as the basis for any type
29 of ROGO exemption or TRE (Transfer of ROGO Exemption).
30

31 ROGO Allocations for rooms, hotel or motel; campground spaces; transient residential units; and
32 seasonal residential units are subject to Policy 101.3.5.
33

34 **Policy 101.3.5**

35 Due to the limited number of allocations and the State's requirement that the County maintain a
36 maximum hurricane evacuation clearance time of 24 hours, Monroe County shall prohibit new
37 transient residential allocations for hotel or motel rooms, and any lock-out units, campground
38 spaces, or spaces for parking a recreational vehicle or travel trailer until May 2022. Lawfully
39 established transient units shall be entitled to one unit for each type of unit in existence before
40 January 4, 1996 for use as a ROGO exemption.
41

IV. ANALYSIS OF PROPOSED AMENDMENT

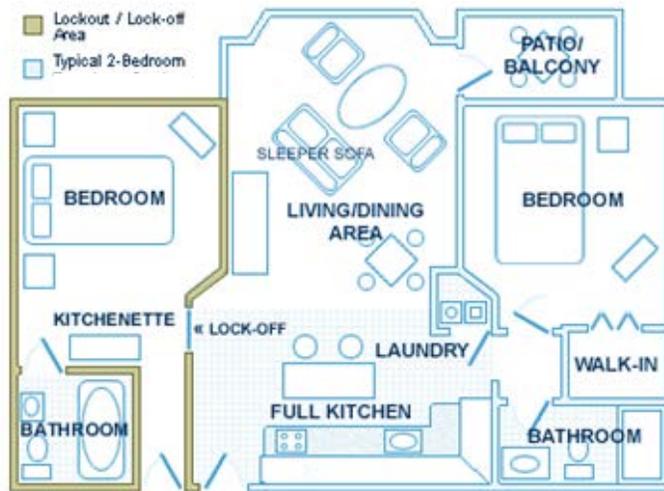
LOCK-OUT

The BOCC directed staff to propose amendments to address applications proposing development with the use of “lock-outs” of units which could be utilized as separate dwelling unit or another potentially habitable structure without the requirement of a separate ROGO allocation/exemption.

The requirement in Florida Statute, Administration Commission Rule and the Comprehensive Plan is that hurricane evacuation clearance must be maintained at 24 hours for the resident population. The policies and regulations adopted in the Monroe County Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of the citizens of the Florida Keys and to strengthen our local government capability to manage land use and development. As a direct result of State’s legislative and administrative growth restriction mandates, the County has adopted local ordinances, such as Rate of Growth Ordinance (ROGO), to fairly and competitively allocate the limited number of permits for new dwelling units.

The BOCC previously discussed the use of a “lock-out” (a separate, independent living space) within a dwelling unit - for concerns with developing without a ROGO allocation and potentially circumventing density limitation. These discussions have identified a concern that the use of “lock-outs” will create unintended impacts/consequences of additional units, vehicles, people and disturbances (noise complaints) and the “lock-outs” are not in line with the state mandated Rate of Growth Ordinance (ROGO) process for maintaining hurricane evacuation clearance times. Currently, the Monroe County 2030 Comprehensive Plan and Land Development Code are silent on use of “lock-outs” and density is calculated based on units and not an undefined “lock-out.”

Example of a lock-out unit configuration:



Note, the proposed amendments to the ‘dwelling unit’ definition with the table of allowed and not allowed configurations, would not allow the configuration depicted above.

<u>Bldg. type</u> ²	<u>Separate Entrance</u> ³	<u>Lockable Internal Connection</u> ⁴	<u>Unlockable Internal Connection</u> ⁵	<u>Full Kitchen</u> ⁶	<u>Wet Bar</u> ⁷	<u>Full Bath</u> ⁸	<u>Half Bath</u> ⁸	<u>Allowed</u> ⁹
<u>ADD.</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>NO</u>
	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>X</u>	<u>-</u>	<u>X</u>	<u>NO</u>

The adopted 2030 Comprehensive Plan does not include any policies related to the use of “lock-outs” which could be utilized as separate dwelling unit or another potentially habitable structure without the requirement of a separate ROGO allocation/exemption but does includes the following definitions:

Dwelling Unit means one or more rooms physically arranged for occupancy by one household sharing common living, cooking, and toilet facilities.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship, or duly authorized custodial relationship;
- (2) three unrelated people;
- (3) two unrelated people and any children related to either of them.

The County reviews dwelling unit development proposals based on a Memorandum of Understanding (MOU) between Monroe County and the Florida Department of Community Affairs (DCA, now DEO) which establishes guidelines for the approval of single family residential building permits to ensure that no separate independent living areas are created which are not in compliance with the Land Development Regulations. This MOU was approved by the BOCC on February 11, 1998, and specified guidelines which focus on elements of a residence and accessory structures that may create or could create separate independent living areas, such as separate entrances, lockability of internal connections, and existence of key housekeeping facilities, such as kitchens, wet bars, and bathrooms. An excerpt from the approved MOU is provided below.

**ATTACHMENT A
GUIDELINES FOR APPROVING ADDITIONS THAT DO NOT CREATE
AN ADDITIONAL DWELLING UNIT¹**

Bld. type ²	Separate entrance ³	lockable internal connection ⁴	unlockable internal connection ⁵	full kitchen ⁶	wet bar ⁷	Full Bath ⁸	½ Bath ⁹	Allowed? ⁹
acc. bld.	X	NA	NA	X		X		NO
"	X	NA	NA	X			X	NO
"	X	NA	NA		X	X		NO
"	X	NA	NA		X		X	NO
"	X	NA	NA			X		YES
add.	X	X	----	X		X		NO
"	X	X	----		X	X		NO
"	X	X	----		X		X	NO
"	X	X	----			X		YES
"	X	X	----				X	YES
"	X	----	X	X		X		NO
"	X	----	X		X	X		NO
"	X	----	X		X		X	YES ¹⁰
"	X	----	X			X		YES
"		----	X		X	X		YES
"		----	X	X		X		NO

-
1. General Note: Not all possible project design options are shown. As a rule of thumb, if an option allows a full kitchen then a wet bar is also permitted in place of or in addition to a full kitchen; or, if an option allows a full bath, then a ½ bath is also permitted in place of or in addition to a full bath.
 2. acc = Attached or unattached accessory addition to principal structure with no internal connection to the structure.
add = Addition to principal structure with an internal connection to principal structure.
 3. A separate entrance is any entrance including sliding glass doors. A special exception may be made if the entrance is onto an enclosed courtyard or pool area. Care should be applied to assure a guest house or dormitory is not created.
 4. A lockable internal connection exists when either party can lock out the other party.
 5. An unlockable internal connection exists when one party can not exclude the other party. An open wall is an unlockable internal connection. A door or doorway is not an unlockable internal connection.
 6. A full kitchen is any food preparation facility larger than a wet bar. Plumbing "stub outs" shall be considered a kitchen.
 7. A wet bar is a food or drink preparation area limited to a total counter surface area of 16 square feet (including a sink with design limitations of one bin and limited to one (1) square foot in size) with electricity limited to 110 volt service.
 8. A full bath contains, at a minimum, a sink, toilet and bath or shower. A half bath, at a maximum, may contain a toilet and a sink.
 9. NO = Design can not be approved.
YES = Design can be approved.
Approval of any project design that does not clearly fall within one of the listed options can only be approved by the Planning Director or Development Review Senior Administrator, after consultation with the Planning Manager of the DCA Field Office.
 10. Requires covenant restricting dwelling unit to single family occupancy only.

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To address the BOCC's direction on 'lock-outs' and provide consistency with the MOU between the County and DCA that has been utilized since 1998, staff is recommending including the provisions of the MOU within the definition of "dwelling unit" to ensure separate independent living areas are not created and creating a definition for "lock-out unit" to specify that lock-out units are separate independent living areas/habitable spaces and shall be considered a unit (dwelling unit and/or transient unit) which requires an additional ROGO allocation or ROGO exemption and will be counted as a full unit (dwelling unit and/or transient unit) when computing the allowable density on a site.

1 **FAMILY**

2 The BOCC directed staff to propose amendments to address applications with proposed occupancy
3 by "three unrelated people" or "two unrelated people and any children related to either of them" of
4 a dwelling unit, and applications utilizing the term "lock-out." Along with the proposed
5 amendments to address "lock-out units," staff is proposing to delete the definition of "family," as
6 the term does not appear to be utilized in the code (see exhibit 6) and does not appear necessary.
7 Additionally, staff is proposing to amend the definition of "household" to simplify the definition.
8 The lock-out unit amendments should address the concerns of the BOCC regarding
9 impacts/consequences of additional units, vehicles, people and disturbances (noise complaints) and
10 the creation of "lock-out units" are not in line with the state mandated Rate of Growth Ordinance
11 (ROGO) process for maintaining hurricane evacuation clearance times.

12
13 Staff is proposing the following amendments:

14
15 ~~Family means a person living alone, or people living together as a single household and sharing~~
16 ~~common living, cooking, and toilet facilities:~~

- 17 ~~(1) Any number of people related by blood, marriage, adoption, guardianship, or duly~~
18 ~~authorized custodial relationship;~~
19 ~~(2) three unrelated people;~~
20 ~~(3) two unrelated people and any children related to either of them.~~

21
22 ~~Household means all the people who occupy a housing dwelling unit. A household includes the~~
23 ~~related family members and all the unrelated people, if any, such as lodgers, foster children,~~
24 ~~wards, or employees who share the housing unit. A person living alone in a housing unit, or a~~
25 ~~group of unrelated people sharing a housing unit such as partners or roomers, is also counted as~~
26 ~~a household.~~

27
28 In developing the recommended amendments, staff completed a review of the adopted code
29 definitions of multiple local governments throughout the State of Florida for the term 'family,'
30 including definitions used by the U.S. Census Bureau, the U.S. Department of Housing and Urban
31 Development, and definitions provided in the APA Planner's Dictionary. Many of the definitions
32 are similar to the County's adopted definition and address people related by blood, marriage,
33 adoption, guardianship, domestic partnership or duly-authorized custodial relationship as well as
34 maximum numbers of unrelated people. There is not a consistent or standard definition for the
35 terms "family" or "household" – nor a consistent maximum number of people.

Local Government	Definition of Family	Provision of unrelated people
Monroe County	Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities: (1) Any number of people related by blood, marriage, adoption, guardianship, domestic partnership or duly-authorized custodial relationship; (2) Three unrelated people; (3) Two unrelated people and any children related to either of them.	Up to 3 unrelated people
City of Key West, FL	Family means: (1) One person or a group of two or more persons related by blood, marriage, adoption, or foster care occupying a dwelling unit as a	Up to 4 unrelated people

	<p>separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities. Such family may also include up to two unrelated persons who serve as servants or caretakers for the housekeeping unit; or</p> <p>(2) Up to four unrelated persons occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities.</p>	
City of Marathon, FL	Family: One (1) or more persons occupying a living unit as a single, nonprofit housekeeping unit.	No limit
Village of Islamorada, FL	Family means an individual or two or more persons related to each other by blood, marriage, or adoption; or no more than six unrelated individuals living together as a single housekeeping unit. This definition does not apply to a group occupying a boardinghouse, hotel, or motel.	Up to 6 unrelated people
Sarasota, FL	Family: An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four persons not related by blood, marriage or adoption, living together as a single housekeeping unit.	Up to 4 unrelated people
Alachua County, FL	Family: One or more persons occupying a living unit as a single, nonprofit housekeeping unit.	No limit
Miami Beach, FL	Family means an individual or two or more persons related by blood or marriage, or a group of not more than three persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.	Up to 3 unrelated people
Broward County, FL	Family: Any number of persons living together as a single housekeeping unit, whether legally related to each other or not. The persons constituting a family may also include gratuitous guests and domestic servants, but shall not include paying guests.	No Limit
Fort Myers, FL	Family means one or more persons living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, club, fraternity, or hotel. A personal caretaker or nursing care provider serving one of the family members and who lives onsite is also considered a family member.	No limit
Lauderdale-By-The-Sea, FL	Family. One person or a group of two or more persons living together and interrelated by bonds of consanguinity, domestic partnership, marriage or legal adoption, or a group of persons not more than three in number who are not so interrelated, occupying the whole or part of a dwelling as a separate housekeeping unit with a single set of culinary facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants. Any person under the age of 18 years whose legal custody has been awarded to the State Department of Children and Families (DCF) or to a child-placing agency licensed by DCF, or who is otherwise considered to be a foster child under the laws of the State, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this chapter. Nothing herein shall be construed to include any roomer or boarder as a member of a family.	Up to 3 unrelated people
Lee County, FL	Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, provided that a group of three or more adults who are not related by blood, marriage or adoption shall not be deemed to constitute a family, and further provided that domestic employees may be housed on the premises without being counted as a separate or additional family. The term "family" shall not be construed	Up to 2 unrelated people

	to mean a fraternity, sorority, club, monastery, convent or institutional group.	
Martin County, FL	Family: 1. One or more persons related by blood, marriage, adoption, or guardianship occupying a single residential dwelling unit as a single housekeeping unit and sharing common facilities; or 2. Any group of up to five persons occupying a single dwelling unit as a single housekeeping unit and sharing common facilities.	Up to 5 unrelated people
Orange County, FL	Family shall mean an individual; or two (2) or more persons related by blood, marriage or adoption, exclusive of household servants, occupying a dwelling and living as a single housekeeping unit; or four (4) or fewer persons, not related by blood, marriage or adoption, exclusive of household servants, occupying a dwelling and living as a single housekeeping unit, in either case as distinguished from persons occupying a boardinghouse, lodging house, rooming house, nursing home, community residential home, or hotel, as herein defined.	Up to 4 unrelated people
City of Orlando, FL	Family: One or more persons occupying a single dwelling unit and living as a single housekeeping unit, provided that unless all members are related by blood, marriage, adoption or foster care responsibility, no such family shall contain over five persons. This term includes Community Residential Homes occupied by not over six CRH residents; but does not include any fraternity, sorority, club, convent, monastery, or group housing.	Does not mention unrelated people Family is a max of 5 people.
St. Pete Beach, FL	Family means one or more individuals related by blood, marriage, or adoption or fostering of children under the age of 25, and up to two unrelated persons who serve as caretakers, servants, or housekeepers, occupying a dwelling unit and living as a single household unit. Family shall also be defined as four or less unrelated individuals for the purposes of residential occupancy. The term "family" shall not be construed to mean a fraternity, sorority, club, or other institutional group.	Up to 4 unrelated people
Town of Palm Beach, FL	Family means an individual; or two or more persons related by legal adoption, blood, or a licit marriage; or a group of not more than three persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.	Up to 3 unrelated people
Pensacola, FL	Family means one or more persons occupying a dwelling unit and using common utility services, provided that unless all members are related by blood or marriage, no such family shall contain over four (4) persons.	Does not mention unrelated people Family is a max of 4 people
Jacksonville, FL	Family means one or more persons occupying a single dwelling unit; provided, that, unless all members are related by law, blood, adoption or marriage, no family shall contain over five persons. Domestic servants employed on the premises may be housed on the premises without being counted as a separate or additional family or families. The term family shall not be construed to mean a fraternity, sorority, club, monastery or convent, rooming or boardinghouse, emergency shelter, emergency shelter home, group care home, residential treatment facility, recovery	Does not mention unrelated people Family is a max of 5 people

	home or nursing home, foster care home or family care home.	
St. Lucie County, FL	Family: One (1) or more persons occupying a single housekeeping unit, provided that unless all members are related by blood, legal adoption, or marriage, no such family shall contain over six (6) persons , and provided further that such family may include gratuitous guests and domestic servants.	Does not mention unrelated people Family is a max of 6 people

U.S. Census Bureau

Family: A family is a group of two people or more (one of whom is the householder) related by birth, marriage, or adoption and residing together; all such people (including related subfamily members) are considered as members of one family. Beginning with the 1980 Current Population Survey, unrelated subfamilies (referred to in the past as secondary families) are no longer included in the count of families, nor are the members of unrelated subfamilies included in the count of family members. The number of families is equal to the number of family households, however, the count of family members differs from the count of family household members because family household members include any non-relatives living in the household.

Family group: A family group is any two or more people (not necessarily including a householder) residing together, and related by birth, marriage, or adoption. A household may be composed of one such group, more than one, or none at all. The count of family groups includes family households, related subfamilies, and unrelated subfamilies.

Family household: A family household is a household maintained by a householder who is in a family (as defined above), and includes any unrelated people (unrelated subfamily members and/or secondary individuals) who may be residing there. The number of family households is equal to the number of families. The count of family household members differs from the count of family members, however, in that the family household members include all people living in the household, whereas family members include only the householder and his/her relatives. See the definition of family.

HUD (§ 570.3 – Definitions)

Family refers to the definition of “family” in 24 CFR 5.403.

24 CFR 5.403: *Family* includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
 - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (ii) An elderly family;
 - (iii) A near-elderly family;
 - (iv) A disabled family;
 - (v) A displaced family; and
 - (vi) The remaining member of a tenant family.

Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

1
2
3 **APA- A Planners Dictionary**

4 **Family:** A person living alone, or any of the following groups living together as a single nonprofit
5 housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of
6 people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship; (2) two
7 unrelated people; (3) two unrelated people and any children related to either of them; (4) not more than
8 eight people who are: (a) residents of a “Family Home” as defined in the [state code] and this ordinance; or
9 (b) “handicapped” as defined in the Fair Housing Act . . . and this ordinance. This definition does not
10 include persons currently illegally using or addicted to a “controlled substance”; (5) three or more people
11 who are granted a special-use permit as a “functional family” pursuant to the special use permit procedures
12 section of this ordinance. Family does not include any society, club, fraternity, sorority, association, lodge
13 combine, federation, coterie, or like organization; any group of individuals whose association is temporary
14 or seasonal in nature; any group of individuals who are in a group living arrangement as a result of criminal
15 offenses. (Ames, Iowa)

16
17 One or more persons occupying a single dwelling unit, as a single housekeeping unit, provided that unless
18 all members are related by blood, marriage, or adoption, no such family shall contain over six persons,
19 including any roomers, boarders, and/or domestic servants. A home for independent living with support
20 personnel that provides room and board, personal care and habilitation services in a family environment as a
21 single-housekeeping unit for not more than six resident elderly or disabled persons (mentally and/or
22 physically impaired) with at least one, but not more than two resident staff persons shall be considered a
23 family. (Tulsa, Okla.)

24
25 Two or more persons related by blood, marriage, adoption, or not more than four persons not related by
26 blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization. (Boone
27 County, Mo.)

28
29 An individual or two or more persons related to each other by blood, marriage, or adoption, or a group of
30 not more than four persons not all so related, together with his or their domestic servants, living in a
31 dwelling unit. A family may include, in addition thereto, not more than two boarders, roomers, or
32 permanent guests, whether or not gratuitous. (Roswell, N. Mex.)

33
34 One or two persons or parents, with their direct lineal descendants and adopted or legally cared for children
35 (and including the domestic employees thereof) together with not more than two persons not so related,
36 living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional
37 group of four or fewer persons living in such housekeeping unit shall be considered a separate family for the
38 purpose of this code. (St. Paul, Minn.)

39
40 Two or more persons related to each other by blood, marriage, or legal adoption living together as a single
41 housekeeping unit; or a group of not more than three persons who need not be related by blood, marriage, or
42 legal adoption, living together as a single housekeeping unit and occupying a single dwelling unit. (Lake
43 County, Ill.)

44
45 One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a
46 group occupying a rooming house or motel. (Gorham, Maine)

47
48 One or more persons occupying a premise[s] and living as a single housekeeping unit as distinguished from
49 a group occupying a boardinghouse, lodging house, or hotel as herein defined. (Scottsdale, Ariz.)

50
51 An individual, or two or more persons related by blood, marriage or adoption, or a group of unrelated
52 persons which, if it numbers five or more persons, must be living together as a group in a dwelling unit,

1 using common cooking facilities and as a group bear the generic character of a family as a relatively
2 permanent household. (Santa Rosa, Calif.)
3

4 Any number of persons living together as a single housekeeping unit under a common housekeeping
5 management plan. (Clarkdale, Ariz.)
6

7 One or more persons immediately related by blood, marriage or adoption living together as a single
8 housekeeping unit in a dwelling unit together with any domestic employees. A group of not more than six
9 unrelated persons living together as a single housekeeping unit with their domestic employees shall also be
10 considered a family. (Lake Elsinore, Calif.)
11

12 Either: (a) One or more persons related by blood, adoption, or marriage, living and cooking together as a
13 single nonprofit housekeeping unit, inclusive of household servants, or (b) Two to six persons living and
14 cooking together as a single nonprofit housekeeping unit having a continuing nontransient domestic
15 character though not related by blood, adoption, or marriage. This definition shall not include any society,
16 club, coterie or organization which is not a recognized religious order nor does it include any group of
17 individuals whose association is temporary or seasonal or similar to a resort, boarding house, motel, hotel,
18 or whose association is for an anticipated limited duration or for a determinable period such as a school term
19 or terms. (Beverly Hills, Calif.)
20

21 **Household:** The person or persons occupying a dwelling unit (Growing Smart Legislative Guidebook).
22

23 A family living together in a single dwelling unit with common access to, and common use of, all living and
24 eating areas and all areas and facilities for the preparation and storage of food within the dwelling
25 unit. (Siskiyou County, Calif.)
26

27 A family living together in a single dwelling unit with common access to and use of all living and eating
28 areas within the dwelling unit. (Clarkdale, Ariz.)
29

30 A domestic establishment including a member or members of a family or others living under the same roof.
31 (Sandy, Ore.)
32

33 Any number of individuals living together on the premises as a single housekeeping unit, as distinguished
34 from a group occupying a boarding house, lodging house, or hotel as defined herein. (Vadnais Heights,
35 Minn.)
36

37 **V. CONSISTENCY WITH THE MONROE COUNTY COMPREHENSIVE PLAN, THE**
38 **PRINCIPLES FOR GUIDING DEVELOPMENT, AND FLORIDA STATUTES.**

39
40 **A. The proposed amendment is consistent with the Goals, Objectives and Policies of the**
41 **Monroe County 2030 Comprehensive Plan. Specifically, it furthers:**
42

43 **GOAL 101:** Monroe County shall manage future growth to enhance the quality of life, ensure
44 the safety of County residents and visitors, and protect valuable natural resources.
45

46 **Objective 101.3:** Monroe County shall regulate new residential development based upon the
47 finite carrying capacity of the natural and man-made systems and the growth capacity while
48 maintaining a maximum hurricane evacuation clearance time of 24 hours.
49

50 **Policy 101.3.1:** Monroe County shall maintain a Permit Allocation System for new residential
51 development known as the Residential Rate of Growth Ordinance (ROGO) System. The Permit

1 Allocation System shall limit the number of permits issued for new residential dwelling units.
2 The ROGO allocation system shall apply within the unincorporated area of the county,
3 excluding areas within the county mainland and within the Ocean Reef planned development
4 (Future development in the Ocean Reef planned development is based upon the December
5 2010 Ocean Reef Club Vested Development Rights Letter recognized and issued by the
6 Department of Community Affairs). New residential dwelling units included in the ROGO
7 allocation system include the following: affordable housing units; market rate dwelling units;
8 mobile homes; and institutional residential units (except hospital rooms).
9

10 Vessels are expressly excluded from the allocation system, as the vessels do not occupy a
11 distinct location, and therefore cannot be accounted for in the County's hurricane evacuation
12 model. Under no circumstances shall a vessel, including live-aboard vessels, or associated wet
13 slips be transferred upland or converted to a dwelling unit of any other type. Vessels or
14 associated wet slips are not considered ROGO allocation awards, and may not be used as the
15 basis for any type of ROGO exemption or TRE (Transfer of ROGO Exemption).
16

17 ROGO Allocations for rooms, hotel or motel; campground spaces; transient residential units;
18 and seasonal residential units are subject to Policy 101.3.5.
19

20 **Policy 101.3.5:** Due to the limited number of allocations and the State's requirement that the
21 County maintain a maximum hurricane evacuation clearance time of 24 hours, Monroe County
22 shall prohibit new transient residential allocations for hotel or motel rooms, campground
23 spaces, or spaces for parking a recreational vehicle or travel trailer until May 2022. Lawfully
24 established transient units shall be entitled to one unit for each type of unit in existence before
25 January 4, 1996 for use as a ROGO exemption.
26

27 **Policy 301.2.3:** Monroe County shall not permit new development which would significantly
28 degrade the LOS below the adopted LOS standards on U.S. 1 (overall) unless the proportionate
29 share of the impact is mitigated. The development of one single family residential unit, on a
30 single parcel, shall be considered de minimis and shall not be subject to this requirement. A
31 five percent projected decrease in travel speeds, below LOS C, is a significant degradation in
32 the level of service on U.S. 1. Traffic volume which exceeds the LOS D standard by more than
33 five percent is a significant degradation in the level of service on any other County road.
34

35 **B. The amendment is consistent with the Principles for Guiding Development for the Florida**
36 **Keys Area, Section 380.0552(7), Florida Statutes.**
37

38 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the
39 principles for guiding development and any amendments to the principles, the principles shall be
40 construed as a whole and no specific provision shall be construed or applied in isolation from the other
41 provisions.
42

- 43 (a) Strengthening local government capabilities for managing land use and development so that local
44 government is able to achieve these objectives without continuing the area of critical state concern
45 designation.
46 (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass
47 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.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 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 postdisaster 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 proposed amendment is consistent with the Part II of Chapter 163, Florida Statute (F.S.). Specifically, the amendment furthers:

163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities,

1 housing, and other requirements and services; and conserve, develop, utilize, and protect natural
2 resources within their jurisdictions.
3

4 163.3161(6), F.S. – It is the intent of this act that adopted comprehensive plans shall have the legal
5 status set out in this act and that no public or private development shall be permitted except in
6 conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in
7 conformity with this act.
8

9 163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards, and
10 strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal
11 development of the area that reflects community commitments to implement the plan and its
12 elements. These principles and strategies shall guide future decisions in a consistent manner and
13 shall contain programs and activities to ensure comprehensive plans are implemented. The sections
14 of the comprehensive plan containing the principles and strategies, generally provided as goals,
15 objectives, and policies, shall describe how the local government’s programs, activities, and land
16 development regulations will be initiated, modified, or continued to implement the comprehensive
17 plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing
18 regulations in the comprehensive plan but rather to require identification of those programs,
19 activities, and land development regulations that will be part of the strategy for implementing the
20 comprehensive plan and the principles that describe how the programs, activities, and land
21 development regulations will be carried out. The plan shall establish meaningful and predictable
22 standards for the use and development of land and provide meaningful guidelines for the content of
23 more detailed land development and use regulations.
24

25 163.31771(2)(a), F.S. – “Accessory dwelling unit” means an ancillary or secondary living unit, that has
26 a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the
27 same lot, as the primary dwelling unit.
28

29 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory
30 authority.—It is the intent of this act that adopted comprehensive plans or elements thereof shall be
31 implemented, in part, by the adoption and enforcement of appropriate local regulations on the
32 development of lands and waters within an area. It is the intent of this act that the adoption and
33 enforcement by a governing body of regulations for the development of land or the adoption and
34 enforcement by a governing body of a land development code for an area shall be based on, be
35 related to, and be a means of implementation for an adopted comprehensive plan as required by this
36 act.
37

38 VI. PROCESS

39
40 Comprehensive Plan Amendments may be proposed by the Board of County Commissioners, the
41 Planning Commission, the Director of Planning, or the owner or other person having a
42 contractual interest in property to be affected by a proposed amendment. The Director of
43 Planning shall review and process applications as they are received and pass them onto the
44 Development Review Committee and the Planning Commission.
45

46 The Planning Commission shall hold at least one public hearing. The Planning Commission shall
47 review the application, the reports and recommendations of the Department of Planning &
48 Environmental Resources and the Development Review Committee and the testimony given at
49 the public hearing. The Planning Commission shall submit its recommendations and findings to
50 the Board of County Commissioners (BOCC). The BOCC holds a public hearing to consider the
51 transmittal of the proposed comprehensive plan amendment, and considers the staff report, staff

1 recommendation, and the testimony given at the public hearing. The BOCC may or may not
2 recommend transmittal to the State Land Planning Agency. The amendment is transmitted to
3 State Land Planning Agency, which then reviews the proposal and issues an Objections,
4 Recommendations and Comments (ORC) Report. Upon receipt of the ORC report, the County
5 has 180 days to adopt the amendments, adopt the amendments with changes or not adopt the
6 amendment.
7
8

9 **VII. STAFF RECOMMENDATION**

10 Staff recommends approval of the proposed amendment.
11
12

13 **VIII. EXHIBITS**

- 14
15 1. February 15, 2017 Monroe County BOCC agenda item for the IDO
16 2. Resolution 087-2017 and March 15, 2017 Monroe County BOCC agenda item
17 3. Ordinance 012-2017 and July 19, 2017 Monroe County BOCC agenda item
18 4. Ordinance 018-2018 and August 15, 2018 Monroe County BOCC agenda item
19 5. Ordinance 027-2019 and July 17, 2019 Monroe County BOCC agenda item
20 6. Search results of the term “family” within the Monroe County Code of Ordinances,
21 Comprehensive Plan and Land Development Code
22 7. February 19, 1998 Monroe County BOCC agenda item for the MOU with DCA

County of Monroe
The Florida Keys



BOARD OF COUNTY COMMISSIONERS

Mayor George Neugent, District 2
Mayor Pro Tem David Rice, District 4
Danny L. Kolhage, District 1
Heather Carruthers, District 3
Sylvia J. Murphy, District 5

County Commission Meeting
February 15, 2017
Agenda Item Number: L.7
Agenda Item Summary #2667

BULK ITEM: No

DEPARTMENT: BOCC District 3

TIME APPROXIMATE:
10:00 A.M.

STAFF CONTACT: Carol Schreck (305) 292-3430

AGENDA ITEM WORDING: Discussion and direction to staff to propose an Interim Development Ordinance to not process private applications for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits, with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; and family and the undefined term "lock-out" of a dwelling unit.

ITEM BACKGROUND: The requirement in Florida Statute, Administration Commission Rule and Comprehensive Plan is that hurricane evacuation clearance be within 24 hours. The policies and regulations adopted in the Monroe County Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of the citizens of the Florida Keys and to strengthen our local government capability to manage land use and development.

There has been recent discussion regarding the use of a "lock-out" (an undefined term in the comprehensive plan or land development code but typically defined as a separate space with a bedroom/bathroom) within a dwelling unit.

"Lock-outs" may create unintended consequences, not discussed or analyzed during the recently adopted comprehensive plan and land development code amendments, adopted in April 2016. Further edits may be needed to specifically address current definitions of Dwelling Unit, Household, Family, and Permanent Residential unit and the undefined term of "lock-out."

History of Definitions:

Prior to the adoption in April 2016 of the 2030 Comprehensive Plan and Land Development Code, the 2010 Comprehensive Plan included:

2010 Comprehensive Plan and Land Development Code:

The previous 2010 Comprehensive Plan did not include any definitions or any policies related to the use of “lock-outs” of dwelling units which could be utilized as separate guest unit or another potentially habitable structure without the requirement of a separate ROGO allocation. Instead, the code relied on the definition of dwelling unit and did not limit the occupancy by unrelated family members.

2010 Land Development Code definitions

Dwelling unit means one or more rooms physically arranged to create a housekeeping establishment for occupancy by one family with separate toilet facilities. The abbreviation "DU" means dwelling unit.

Permanent residential unit means a dwelling unit that is designed for, and capable of, serving as a residence for a full housekeeping unit which includes a kitchen composed of at least a refrigerator and stove.*

The Land Development Code did not include a definition for *family*.

2030 Comprehensive Plan:

The newly adopted 2030 Comprehensive Plan includes the following new definitions:

Dwelling Unit means one or more rooms physically arranged for occupancy by one household sharing common living, cooking, and toilet facilities.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship, or duly authorized custodial relationship;
- (2) three unrelated people;
- (3) two unrelated people and any children related to either of them.

“2030” Land Development Code:

The newly adopted 2030 Code includes the following definitions:

Dwelling unit means one or more rooms physically arranged for occupancy by one residential household sharing common living, cooking, and toilet facilities.

~~*Dwelling unit means one or more rooms physically arranged to create a housekeeping establishment for occupancy by one family with separate toilet facilities. The abbreviation "DU" means dwelling unit.*~~

Dwelling unit means one or more rooms physically arranged for occupancy by one residential household sharing common living, cooking, and toilet facilities.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship, domestic partnership or duly-authorized custodial relationship;
- (2) Three unrelated people;
- (3) Two unrelated people and any children related to either of them.

Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship, domestic partnership or duly-authorized custodial relationship;*
- (2) Three unrelated people;*
- (3) Two unrelated people and any children related to either of them.*

Permanent residential unit means a dwelling unit that is designed for, and capable of, serving as a residence for a household for non-transient occupancy, excluding hotel, motel, and recreational vehicle.

Permanent residential unit means a dwelling unit that is designed for, and capable of, serving as a residence for a household full housekeeping unit which includes a kitchen composed of at least a refrigerator and stove for non-transient occupancy, excluding hotel, motel, and recreational vehicle.

* This definition is currently included in the Land Development Code but that term only appears once, in one Section 138-22(2)b.2.(i).

PREVIOUS RELEVANT BOCC ACTION:

December 11, 2013: Development Agreement approved by BOCC for Oceanside Investors allowing the transfer of 46 market-rate TREs from three sender sites to the Oceanside property, with the transferred market-rate TRE's to be converted to, or replaced with, an equivalent amount of 99-year

deed-restricted affordable housing, prior to a C.O. being issued for market-rate units at Oceanside. The agreement approved the addition of up to 78 [32+ 46] new, market-rate residential dwelling units, which may be used as vacation rentals, up to 5 new hotel rooms, a new restaurant with up to 150 seats, and other improvements related to the existing, partially-condominiumized marina and accessory development.

June 30, 2014: BOCC approved a right-of-way abandonment of a segment of Peninsular Avenue located north of the Oceanside property (lying between Block 46 and Block 60). As a result, the Oceanside property increased in size.

2014: Oceanside Investors entered into a purchase and sale agreement with Monroe County to purchase the Hickory House property located north of the Oceanside property. On February 3, 2015, Oceanside Investors closed on the Hickory House property. As a result, the Oceanside Marina property increased in size.

December 10, 2014: Development Agreement approved by BOCC for the 1st amendment to the development agreement, adding adjacent property and the abandoned right-of-way, increased the allowed number of hotel rooms from 5 to 17, allowed the transfer of up to 12 vested rights associated with a previous approval related to Hawk's Cay and amended the conceptual site plan.

March 18, 2015: BOCC approved a right-of-way abandonment of a segment of Peninsular Avenue located north of the Oceanside property (lying between Block 46 and Block 60). As a result, the Oceanside Marina property increased in size.

June 10, 2015: Development Agreement approved by BOCC for the 2nd amendment to the development agreement, adding adjacent abandoned right-of-way, increased the total number of transferred market rate residential units from 78 to 79 [32+ 47] and amended the conceptual site plan.

CONTRACT/AGREEMENT CHANGES:

n/a

STAFF RECOMMENDATION:

DOCUMENTATION:

oceanside summary timeline and staff _2-1-17 (MinuteTraaq printer)

FINANCIAL IMPACT:

<p>Effective Date: Expiration Date: Total Dollar Value of Contract: Total Cost to County: Current Year Portion:</p>

Budgeted:
Source of Funds:
CPI:
Indirect Costs:
Estimated Ongoing Costs Not Included in above dollar amounts:

Revenue Producing: **If yes, amount:**

Grant:

County Match:

Insurance Required:

Additional Details:

REVIEWED BY:

Bob Shillinger

Completed

02/01/2017 2:54 PM

Kathy Peters

Completed

02/01/2017 3:07 PM

Board of County Commissioners

Pending

02/15/2017 9:00 AM

Timeline of Approvals & Staff	Summary of item approved
Approved by Planning Director Tim McGarry on July 23, 1996	1996: Development Order #12-96, a minor conditional use permit for part of the Oceanside property, 5970 Peninsular Avenue (real estate # 00127420-000100 only) allowed for the construction of a 9,600 SF storage building and other associated accessory improvements.
Approved by Planning Commission on July 10, 1997	1997: PC Resolution # P52-97, an amendment to the major conditional use permit for part of the Oceanside property, 5950 Peninsular Avenue (real estate # 00127420-000000 only) allowed for the construction of 22 attached, market rate residential dwelling units ; one boat storage building; an addition to an existing restaurant; and other associated accessory improvements.
Signed by County Mayor, Shirley Freeman, on January 19, 2000	1999: Development Agreement between the County, the Florida Department of Community Affairs, Paradise Island Park, Inc. and Key West Oceanside allowing the transfer of 22 market-rate TREs and TDRs from Paradise Island Park to the Oceanside property (recorded on April 7, 2000).
	Following issuance of PC Resolution # P52-97, Oceanside Investors' predecessor in interest acquired 5970 Peninsular Avenue. Further, the 22 attached, market rate residential dwelling units were constructed.
Signed by County Mayor McCoy on July 19, 2006	2006: 380 Agreement between Overseas Redevelopment Company, LLC, Department of Community Affairs and Monroe County allowing the redevelopment of Overseas Trailer Park on Stock Island as a 49-unit workforce housing project and the offsite transfer of 32 market rate ROGO exemptions.
<p>Approved by Planning Commission on April 11, 2007 (<i>vote</i>: three Yes, one No, and one Absent)</p> <p>Aref Joulani is Planning Director</p> <p>Staff report by Julianne Thomas</p> <p>(<i>Applicant is Kings Point Marina LLC</i>)</p> <p>Transmitted to DCA on 5/11/07, DCA did not appeal the item.</p>	<p>2007: PC Resolution # P21-07, an amendment to a major conditional use permit for part of the current Oceanside property, 5950 and 5970 Peninsular Avenue (real estate # 00127420-000000 and 00127420-000100, as well as other property associated with a condominium development) allowed for the demolition of several buildings and construction of 32 attached, market-rate residential dwelling units; 2 boat barns; 8 wet slips; and other associated accessory improvements. P21-07 authorized vacation rental use of the 32 attached dwelling units and linked the affordable housing project at Overseas Trailer Park to serve as the required affordable housing for this project.</p> <p>PC authorizes the vacation rental use of attached units.</p>
<p>Resolution 402-2013</p> <p>Approved by BOCC on December 11, 2013 (Mayor Sylvia Murphy – unanimous approval)</p>	<p>2013: Development Agreement approved for Oceanside Investors allowing the transfer (1:1) of 46 market-rate TREs from three sender sites to the Oceanside property, with the transferred market-rate TRE's to be converted to, or replaced with, an equivalent amount of 99-year deed-restricted</p>

<p>Staff report by Joe Haberman</p> <p>Townsley Schwab is Planning Director</p> <p>BOCC Agenda item summary staff contact: Joe Haberman & Christine Hurley</p> <p>PC recommended approval to BOCC via Resolution P29-13, approved on November 15, 2013 – unanimous approval</p> <p>Transmitted to DEO (formerly DCA) on 1/3/14, DEO did not appeal the item.</p>	<p>affordable housing, prior to a C.O. being issued for market-rate units at Oceanside. The agreement approved the addition of up to 78 [32+ 46] new, market-rate residential dwelling units, which may be used as vacation rentals, up to 5 new hotel rooms, a new restaurant with up to 150 seats, and other improvements related to the existing, partially-condominiumized marina and accessory development.</p>
<p>Approved by Planning Commission on February 26, 2014</p> <p>Staff report by Joe Haberman</p> <p>Townsley Schwab is Planning Director</p> <p>Transmitted to DEO (formerly DCA) on 5/1/14, DEO did not appeal the item.</p>	<p>2013: PC Resolution # P04-14, an amendment to the major conditional use permit to improve the marina’s facilities, construct 78 new market rate residential dwelling units, construct 5 new hotel rooms, construct a new restaurant and carry out associated site improvements.</p>
<p>Approved by Planning Director Townsley Schwab on November 19, 2014</p> <p>Staff report by Karl Bursa & Mike Roberts</p> <p>Transmitted to DEO (formerly DCA) on 12/19/14, DEO did not appeal the item</p>	<p>2014: Development Order #04-14, a minor conditional use permit allowing the transfer of 9.3 TDR’s required to facilitate the project approved for the Oceanside property. The Development Order required the sender site(s) to be a) dedicated to the County or b) placed in a conservation easement prohibiting its future development.</p>
<p>Resolution 116-2014</p> <p>Approved by BOCC on June 30, 2014 (Mayor Sylvia Murphy – vote: three Yes, one No, and one Abstained)</p> <p>Staff report by Joe Haberman</p> <p>Townsley Schwab is Planning Director</p> <p>BOCC Agenda item summary staff contact: Joe Haberman & Christine Hurley</p> <p>Memo from Susan Grimsley & Bob Shillinger (memo addresses termination of right of way on water)</p> <p>Does not get sent to DEO per MOU</p>	<p>2014: Resolution # 116-2014 approved for a right-of-way abandonment of a segment of Peninsular Avenue located north of the Oceanside property (lying between Block 46 and Block 60). As a result, the Oceanside property increased in size.</p>
<p>BOCC approved Commercial Purchase and</p>	<p>2014: Oceanside Investors entered into a purchase and sale</p>

<p>Sale Agreement on August 20, 2014. (Mayor Sylvia Murphy – vote: four Yes, one No)</p>	<p>agreement with Monroe County to purchase the Hickory House property located north of the Oceanside property. On February 3, 2015, Oceanside Investors closed on the Hickory House property. As a result, the Oceanside Marina property increased in size.</p>
<p>Resolution 373-2014</p> <p>Approved by BOCC on June 10, 2015 (Mayor Danny Kolhage – unanimous approval)</p> <p>Staff report by Joe Haberman</p> <p>Townsley Schwab is Planning Director</p> <p>BOCC Agenda item summary staff contact: Joe Haberman & Christine Hurley</p> <p>PC recommended approval to BOCC via Resolution P40-14, approved on November 19, 2014 – unanimous approval (Lustberg absent)</p> <p>Transmitted to DEO (formerly DCA) on 1/7/15, DEO did not appeal the item.</p>	<p>2014: Resolution # 373-2014, 1st amendment to the development agreement, adding adjacent property and the abandoned right-of-way, increased the allowed number of hotel rooms from 5 to 17, allowed the transfer of up to 12 vested rights associated with a previous approval related to Hawk’s Cay and amended the conceptual site plan.</p>
<p>Approved by Planning Director Townsley Schwab on December 12, 2014</p> <p>Staff report by Matt Coyle</p> <p>Transmitted to DEO (formerly DCA) on 1/12/15, DEO did not appeal the item</p>	<p>2014: Development Order #06-14, a minor conditional use permit allowing the transfer of 24.1 TDRs required to facilitate the project approved for the Oceanside property. The Development Order required the sender site(s) to be a) dedicated to the County or b) placed in a conservation easement prohibiting its future development.</p>
<p>Resolution 115-2015</p> <p>Approved by BOCC on March 18, 2015 (Mayor Danny Kolhage – <i>vote</i>: one No, four Yes)</p> <p>Staff report by Joe Haberman</p> <p>Townsley Schwab is Planning Director <i>(During BOCC meeting, Mayté Santamaria appointed replacement Planning Director after Townsley’s retirement – up to 6 month overlap - expected to retire April 2015)</i></p> <p>BOCC Agenda item summary staff contact: Joe Haberman & Christine Hurley</p> <p>Does not get sent to DEO per MOU</p>	<p>2015: Resolution # 115-2015 approved for a right-of-way abandonment of a segment of Peninsular Avenue located north of the Oceanside property (lying between Block 46 and Block 60). As a result, the Oceanside Marina property increased in size.</p>

<p>Approved by Planning Commission on November 19, 2014 (unanimous approval- Lustberg absent)</p> <p>Staff report by Joe Haberman</p> <p>Townsley Schwab is Planning Director</p> <p>Transmitted to DEO (formerly DCA) on 4/24/15, DEO did not appeal the item.</p>	<p>2015: PC Resolution # P41-14, an amendment to the major conditional use permit to add adjacent property and the abandoned roadway, increase the allowed number of hotel rooms from 5 to 17 and amend the approved site plan.</p>
<p>Approved by Planning Director Mayté Santamaria on May 22, 2015</p> <p>Staff report by Matt Coyle & Joe Haberman</p> <p>Transmitted to DEO (formerly DCA) on 6/25/15, DEO did not appeal the item</p>	<p>2015: Development Order #04-15 (<i>typo previously typed 06-15</i>), a minor conditional use permit allowing the transfer of 5 transient TRES to the Oceanside property.</p>
<p>Resolution 158-2015</p> <p>Approved by BOCC on June 10, 2015 (Mayor Danny Kolhage – unanimous approval)</p> <p>Staff report by Matt Coyle</p> <p>Townsley Schwab is Planning Director (<i>Dec 2014 Mayté Santamaria appointed replacement Planning Director after Townsley's retirement – up to 6 month overlap</i>)</p> <p>BOCC Agenda item summary staff contact: Matt Coyle & Christine Hurley</p> <p>PC recommended approval to BOCC via Resolution P11-15, approved on April 29, 2015 – unanimous approval (Werling absent)</p> <p>Transmitted to DEO (formerly DCA) on 8/12/15, DEO did not appeal the item.</p>	<p>2015: Resolution No. 158-2015, 2nd amendment to the development agreement, adding adjacent abandoned right-of-way, increased the total number of transferred market rate residential units from 78 to 79 [32+ 47] and amended the conceptual site plan.</p>
<p>Approved by Planning Director Mayté Santamaria on June 25, 2015</p> <p>Staff report by Matt Coyle</p> <p>Transmitted to DEO (formerly DCA) on 7/27/15, DEO did not appeal the item</p>	<p>2015: Development Order #05-15, a minor conditional use permit allowing the transfer of 45 ROGO market rate exemptions to the Oceanside Property.</p>
<p>Approved by Planning Director Mayté Santamaria on October 22, 2015</p>	<p>2015: Development Order #07-15, a minor conditional use permit allowing the transfer of 2 ROGO market rate exemptions to the Oceanside Property.</p>

<p>Staff report by Matt Coyle & Joe Haberman</p> <p>Transmitted to DEO (formerly DCA) on 12/10/15, DEO did not appeal the item</p>	
<p>Approved by Planning Director Mayté Santamaria on October 22, 2015</p> <p>Staff report by Matt Coyle & Mike Roberts</p> <p>Transmitted to DEO (formerly DCA) on 12/10/15, DEO did not appeal the item</p>	<p>2015: Development Order #09-15, a minor conditional use permit allowing the transfer of 0.4 TDR's to the Oceanside property. The Development Order required the sender site(s) to be a) dedicated to the County or b) placed in a conservation easement prohibiting its future development.</p>
<p>Approved by Planning Director Mayté Santamaria on October 22, 2015</p> <p>Staff report by Matt Coyle & Mike Roberts</p> <p>Transmitted to DEO (formerly DCA) on 12/10/15, DEO did not appeal the item</p>	<p>2015: Development Order #08-15, a minor conditional use permit allowing the transfer of 1 TDR to the Oceanside property. The Development Order required the sender site(s) to be a) dedicated to the County or b) placed in a conservation easement prohibiting its future development.</p>
<p>Approved by Planning Director Mayté Santamaria on December 10, 2015</p> <p>Staff report by Matt Coyle</p> <p>Does not get sent to DEO per MOU</p>	<p>2015: minor deviation approved to the major conditional use permit in order to allow the construction of one additional market rate residential dwelling unit.</p>
<p>Approved by Planning Director Mayté Santamaria on February 1, 2016</p> <p>Staff report by Matt Coyle</p> <p>Does not get sent to DEO per MOU</p>	<p>2016: minor deviation approved to the major conditional use permit in order to revise the approved site plan by removing the resort swimming pool on the northernmost parcel (RE # 00126210-000000), relocation of the watersports, fitness and restroom building and the reconfiguration of the off-street parking for the site.</p>
<p>Approved by Planning Director Mayté Santamaria on August 1, 2016</p> <p>Staff report by Devin Rains</p> <p>Does not get sent to DEO per MOU</p>	<p>2016: minor deviation approved to the major conditional use permit in order to revise the approved site plan by removing of the gatehouse building and the repositioning of the proposed dockmaster building, the reconfiguration of the off-street parking (parking maintained at 346 spaces), sidewalks, add arbors, add the provision for bait and ice vending and expansion of the fish cleaning station, and other changes to open space for the site (File # 2016-103).</p>
<p>Approved by Planning Commission on December 15, 2016</p> <p>Staff report by Kevin Bond</p> <p>Mayté Santamaria is Planning Director</p> <p>Does not get sent to DEO per MOU</p>	<p>2016: 6COP S (Special Motel/Hotel) Alcoholic Beverage Use Permit approval, which would allow beer, wine and liquor in connection with operation of hotel, motel, motor court or condominium; sale by the drink for consumption on premises and package sales in sealed containers</p>

<p>Approved by Planning Director Mayté Santamaria on December 23, 2016</p> <p>Staff report by Kevin Bond</p> <p>Does not get sent to DEO per MOU</p>	<p>2016: Exemption to a Special Vacation Rental Permit approval, exemption only applies to the 79 market-rate residential dwelling units, configured into “lockouts” consisting of no more than one bedroom and one bathroom, which may be used as vacation rentals pursuant to the approved Development Agreement (the original agreement approved on December 11, 2013 via BOCC Resolution No. 402-2013; the first amendment to the agreement approved on December 10, 2014 via BOCC Resolution No. 373-2014; and the second amendment to the agreement approved on June 10, 2015 via BOCC Resolution No. 158-2015).</p>
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**MONROE COUNTY, FLORIDA
RESOLUTION NO. 087 -2017**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, DIRECTING THE MONROE COUNTY PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO PROCESS AN INTERIM DEVELOPMENT ORDINANCE TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING MARCH 15, 2017, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF AN INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners of Monroe County, at a regular meeting on February 15, 2017 in Key West, Florida, passed a motion to direct staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation; and

WHEREAS, Monroe County policies and regulations adopted in the Monroe County Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of the citizens of the Florida Keys and to strengthen our local government capability to manage land use and development; and

WHEREAS, the Monroe County BOCC has identified and discusses concerns with the existing definitions in the County Comprehensive Plan and Land Development Code, including discussion of the undefined term of "lock-out;" and

WHEREAS, the Monroe County Comprehensive Plan and Land Development Code are silent on use of "lock-outs" and this use was not discussed during the update process and further edits are needed to specifically address "lock-outs;" and

WHEREAS, an ordinance addressing the interim time period between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] is necessary to ensure that any new definitions and code requirements are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process; and

WHEREAS, staff has been directed to process an ordinance to ensure that no new private applications will be processed for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits, (excluding applications proposing only affordable housing dwelling units) with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit and applications utilizing the term "lock-out," commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out," providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

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

Staff of the Monroe County Planning and Environmental Resources Department shall process an interim development ordinance to defer approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out;" commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 15th day of March 2017.

Mayor George Neugent	<u>Yes</u>
Mayor <i>Pro Tem</i> David Rice	<u>Yes</u>
Commissioner Danny L. Kolhage	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY *George L. Neugent*
Mayor George Neugent



ATTEST: KEVIN MADOK, CLERK

Kevin Madok

DEPUTY CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

Steven T. Williams
STEVEN T. WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 3/24/17

FILED FOR RECORD
2017 APR 25 PM 2:14
CLERK, CIVIL DIVISION
MONROE COUNTY, FLORIDA



County Commission Meeting

March 15, 2017

Agenda Item Number: H.7

Agenda Item Summary #2727

BULK ITEM: Yes

DEPARTMENT: Planning/Environmental Resources

TIME APPROXIMATE:
n/a

STAFF CONTACT: Mayte Santamaria (305) 289-2500

AGENDA ITEM WORDING: Approval of a resolution of the Board of County Commissioners of Monroe County, Florida, directing the Monroe County Planning and Environmental Resources Department to process an ordinance to defer the approval of new private applications for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units), with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out," commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

ITEM BACKGROUND:

On February 15, 2017, the BOCC discussed and provided direction to staff to propose an Interim Development Ordinance to not process comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional uses applications, with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; and family and the undefined term "lock-out" of a dwelling unit.

The February 15, 2017 agenda item is attached.

The proposed resolution will initiate the interim development ordinance to defer the approval of new private applications for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units), with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a

dwelling unit, and applications utilizing the term “lock-out,” commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

The resolution would take effect immediately upon adoption.

PREVIOUS RELEVANT BOCC ACTION:

On February 15, 2017, the BOCC discussed and provided direction to staff to propose an Interim Development Ordinance to not process comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional uses applications, with proposed occupancy by “three unrelated people” or “two unrelated people and any children related to either of them” of a dwelling unit until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; and family and the undefined term “lock-out” of a dwelling unit.

CONTRACT/AGREEMENT CHANGES:

n/a

STAFF RECOMMENDATION: Approval

DOCUMENTATION:

Resolution directing an IDO (Carruthers discussion item)
Carruthers-Discussion item on IDO 2-15-17

FINANCIAL IMPACT:

<p>Effective Date: Expiration Date:</p> <p>Total Dollar Value of Contract: Total Cost to County: Current Year Portion: Budgeted: Source of Funds: CPI: Indirect Costs: Estimated Ongoing Costs Not Included in above dollar amounts:</p> <p>Revenue Producing: If yes, amount: Grant: County Match:</p>
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Insurance Required:

Additional Details:

REVIEWED BY:

Mayte Santamaria	Completed	02/28/2017 9:20 AM
Assistant County Administrator Christine Hurley	Completed	02/28/2017 9:38 AM
Steve Williams	Completed	02/28/2017 2:55 PM
Jaelyn Carnago	Completed	02/28/2017 3:01 PM
Budget and Finance	Skipped	02/27/2017 2:34 PM
Maria Slavik	Skipped	02/27/2017 2:34 PM
Kathy Peters	Completed	02/28/2017 5:21 PM
Board of County Commissioners	Pending	03/15/2017 9:00 AM



**MONROE COUNTY, FLORIDA
RESOLUTION NO. ____-2017**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, DIRECTING THE MONROE COUNTY PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT TO PROCESS AN ORDINANCE TO DEFER THE APPROVAL OF NEW PRIVATE APPLICATIONS FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING MARCH 15, 2017, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF AN INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners of Monroe County, at a regular meeting on February 15, 2017 in Key West, Florida, passed a motion to direct staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation; and

WHEREAS, Monroe County policies and regulations adopted in the Monroe County Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of the citizens of the Florida Keys and to strengthen our local government capability to manage land use and development; and

WHEREAS, the Monroe County BOCC has identified and discusses concerns with the existing definitions in the County Comprehensive Plan and Land Development Code, including discussion of the undefined term of "lock-out;" and

WHEREAS, the Monroe County Comprehensive Plan and Land Development Code are silent on use of “lock-outs” and this use was not discussed during the update process and further edits are needed to specifically address “lock-outs;” and

WHEREAS, an ordinance addressing the interim time period between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] is necessary to ensure that any new definitions and code requirements are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process; and

WHEREAS, staff has been directed to process an ordinance to ensure that no new private applications will be processed for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits, (excluding applications proposing only affordable housing dwelling units) with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit and applications utilizing the term “lock-out;” commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term “lock-out;” providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

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

Staff of the Monroe County Planning and Environmental Resources Department shall process an interim development ordinance which defers the approval of applications, commencing March 15, 2017, of new private applications for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term “lock-out;” commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 15th day of March 2017.

Mayor George Neugent _____
Mayor *Pro Tem* David Rice _____
Commissioner Danny L. Kolhage _____
Commissioner Heather Carruthers _____
Commissioner Sylvia Murphy _____

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

BY _____
Mayor George Neugent

(SEAL)

ATTEST: KEVIN MADOK, CLERK

DEPUTY CLERK

**MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:**


STEVEN T. WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 2/28/17



MONROE COUNTY, FLORIDA
ORDINANCE 012 -2017

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING MARCH 15, 2017, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF AN INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directed staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out;" and

WHEREAS, the Monroe County Board of County Commissioners, at a regular meeting on February 15, 2017 in Key West, Florida, passed a motion to direct staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation; and

WHEREAS, Monroe County policies and regulations adopted in the Monroe County Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of the citizens of the Florida Keys and to strengthen our local government capability to manage land use and development; and

WHEREAS, the Monroe County BOCC has identified and discusses concerns with the existing definitions in the County Comprehensive Plan and Land Development Code, including discussion of the undefined term of "lock-out;" and

WHEREAS, the Monroe County Comprehensive Plan and Land Development Code are silent on use of "lock-outs" and this use was not discussed during the update process and further edits are needed to specifically address "lock-outs;" and

WHEREAS, an ordinance addressing the interim time period between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] is necessary to ensure that any new definitions and code requirements are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process; and

WHEREAS, staff has been directed to process an interim development ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out;" commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out;" providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first;

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

Section 1. Moratorium Imposed. Monroe County Planning and Environmental Resource Department shall defer the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out;" commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first.

Section 2. Term. The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the Board of County Commissioners, shall automatically dissolve upon the adoption of Land Development Code amendments. In no event, however, shall the moratorium imposed by this Ordinance extend beyond 365 days from the effective date of this ordinance.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause of phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Transmittal. This ordinance shall be transmitted to the Florida State Land Planning Agency as required by F.S. 380.05(11) and F.S. 380.0552(9).

Section 5. Filing and an Effective Date. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. 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 State Land Planning Agency or Administration Commission finding the amendment in compliance, and if challenged until such challenge is resolved pursuant to Chapter 120, F.S.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 19th day of July, 2017.

Mayor George Neugent	<u>Yes</u>
Mayor <i>Pro Tem</i> David Rice	<u>Yes</u>
Commissioner Danny L. Kolhage	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY *George E. Neugent*
Mayor George Neugent

FILED FOR RECORD
2017 AUG -2 PM 3:58

CLK. CIR. CL.
MONROE COUNTY, FLA



ATTEST: KEVIN MADOK, CLERK

Kevin Madok
DEPUTY CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Steven T. Williams
STEVEN T. WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 6/27/17



County Commission Meeting
July 19, 2017
Agenda Item Number: O.6
Agenda Item Summary #3144

BULK ITEM: No

DEPARTMENT: Planning/Environmental Resources

TIME APPROXIMATE:
3:00 PM

STAFF CONTACT: Mayte Santamaria (305) 289-2500

AGENDA ITEM WORDING: An ordinance by the Monroe County Board of County Commissioners to defer the approval of new applications or received applications that have not been fully approved for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units), with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out," commencing March 15, 2017, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first; providing for severability; providing for transmittal to the State Land Planning Agency and the Secretary of State; providing for an effective date.

ITEM BACKGROUND:

On April 13, 2016, at a special public meeting, the BOCC adopted the 2030 Comprehensive Plan and Land Development Code to be consistent with the Monroe County Year 2030 Comprehensive Plan.

Ordinance 005-2016 was the adoption ordinance for the Monroe County Year 2030 Comprehensive Plan. This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 4, 2016. On May 6, 2016, DEO determined the comprehensive plan amendment transmittal was complete and issued a notice of intent to find the amendment "in compliance" on June 20, 2016. The Monroe County Year 2030 Comprehensive Plan became effective upon the posting of the Notice of Intent on the DEO Website on June 20, 2016.

Ordinance 006-2016 was the adoption ordinance for the Monroe County Land Development Code. This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 24, 2016. On July 26, 2016, DEO published Final Order DEO-16-130 in the Florida Administrative Register approving the Monroe County Land Development Code (Ordinance 006-2016). The Final

Order would have become effective 21 days after publication in the Florida Administrative Register unless a petition was timely filed. The Land Development Code would have become effective on August 16, 2016. On August 10, 2016, the Petitioners filed a Petition with DEO, challenging the DEO Final Order. On November 22, 2016, the BOCC adopted an ordinance amending Section 130-165 to resolve the Petition challenging the DEO issued Final Order, satisfying a stipulated settlement agreement and allowing the Monroe County Land Development Code to become effective. The County's updated land development code became effective on February 3, 2017.

The previous 2010 Comprehensive Plan did not include any definitions. The 2010 Land Development Code included definitions which were amended with the adoption of the new code in April 2016. Neither document includes a definition of "lock-out."

The Monroe County Board of County Commissioners, at a regular meeting on February 15, 2017 in Key West, Florida, directed staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation.

The Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

PREVIOUS RELEVANT BOCC ACTION:

The Board of County Commissioners on February 15, 2017, directed staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation.

The Board of County Commissioners adopted Resolution 087-2017, on March 15, 2017, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

CONTRACT/AGREEMENT CHANGES:

n/a

STAFF RECOMMENDATION: Approval

DOCUMENTATION:

dwelling unit- IDO - ORDINANCE
dwelling unit-IDO_staff report_BOCC
Definitions IDO BOCC Agenda Item- IDO 3-15-17
Resolution 087-2017_dwelling units

FINANCIAL IMPACT:

<p>Effective Date: Expiration Date: Total Dollar Value of Contract: Total Cost to County: Current Year Portion: Budgeted: Source of Funds: CPI: Indirect Costs: Estimated Ongoing Costs Not Included in above dollar amounts: Revenue Producing: If yes, amount: Grant: County Match: Insurance Required: Additional Details:</p>

REVIEWED BY:

Mayte Santamaria	Completed	06/26/2017 3:31 PM
Christine Hurley	Completed	06/26/2017 4:53 PM
Steve Williams	Completed	06/27/2017 8:42 AM
Jaclyn Carnago	Completed	06/27/2017 11:42 AM
Budget and Finance	Skipped	06/26/2017 3:31 PM
Maria Slavik	Skipped	06/26/2017 3:31 PM
Mayte Santamaria	Completed	06/27/2017 4:49 PM
Kathy Peters	Completed	06/28/2017 12:17 PM
Board of County Commissioners	Pending	07/19/2017 9:00 AM



MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission

From: Mayté Santamaria, Senior Director of Planning & Environmental Resources

Date: June 26, 2017

Subject: AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING MARCH 15, 2017, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF AN INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

Meeting: July 19, 2017

I. REQUEST

The Monroe County Planning & Environmental Resources is proposing an interim development ordinance (IDO) to defer the deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

II. BACKGROUND INFORMATION

On April 13, 2016, at a special public meeting, the BOCC adopted the 2030 Comprehensive Plan and Land Development Code to be consistent with the Monroe County Year 2030 Comprehensive Plan.

Ordinance 005-2016 was the adoption ordinance for the Monroe County Year 2030 Comprehensive Plan. This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 4, 2016. On May 6, 2016, DEO determined the comprehensive plan amendment transmittal was complete and issued a notice of intent to find the amendment "in compliance" on June 20, 2016. The Monroe County Year 2030 Comprehensive Plan became effective upon the posting of the Notice of Intent on the DEO Website on June 20, 2016.

Ordinance 006-2016 was the adoption ordinance for the Monroe County Land Development Code. This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 24, 2016. On July 26, 2016, DEO published Final Order DEO-16-130 in the Florida Administrative Register approving the Monroe County Land Development Code (Ordinance 006-2016). The Final Order would have become effective 21 days after publication in the Florida Administrative Register unless a petition was timely filed. The Land Development Code would have become effective on August 16, 2016. On August 10, 2016, the Petitioners filed a Petition with DEO, challenging the DEO Final Order. On November 22, 2016, the BOCC adopted an ordinance amending Section 130-165 to resolve the Petition challenging the DEO issued Final Order, satisfying a stipulated settlement agreement and allowing the Monroe County Land Development Code to become effective. The County's updated land development code became effective on February 3, 2017.

The previous 2010 Comprehensive Plan did not include any definitions. The 2010 Land Development Code included definitions which were amended with the adoption of the new code in April 2016. Neither document includes a definition of "lock-out."

The Monroe County Board of County Commissioners, at a regular meeting on February 15, 2017 in Key West, Florida, directed staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation.

The Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

On April 26, 2017, the subject file was reviewed by the Development Review Committee.

On May 31, 2017, the subject file was reviewed by the Planning Commission.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed interim development ordinance.

The interim development ordinance provides a period of time between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] to ensure that the amendments are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process.

IV. EXHIBITS

1. BOCC Agenda item



MONROE COUNTY, FLORIDA
ORDINANCE NO. 018 -2018

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AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 012-2017 FOR AN ADDITIONAL 365 DAYS TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING OCTOBER 27, 2018, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (File 2018-090)

WHEREAS, the Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directed staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development

1 agreements), and minor and major conditional use permits (excluding applications proposing only
2 affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two
3 unrelated people and any children related to either of them" of a dwelling unit, and applications
4 utilizing the term "lock-out;" and
5

6 **WHEREAS**, the Monroe County Board of County Commissioners, at a regular meeting on
7 February 5, 2017 in Key West, Florida, passed a motion to direct staff to impose a temporary moratorium
8 upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated
9 people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due
10 to pending legislation; and
11

12 **WHEREAS**, the Board of County Commissioners of Monroe County, at a regular meeting on 19th
13 day of July, 2017 in Marathon, Florida adopted Ordinance 012-2017 imposing a temporary moratorium
14 upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated
15 people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due
16 to pending legislation; and
17

18 **WHEREAS**, Monroe County policies and regulations adopted in the Monroe County
19 Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of
20 the citizens of the Florida Keys and to strengthen our local government capability to manage land use and
21 development; and
22

23 **WHEREAS**, the Monroe County BOCC has identified and discussed concerns with the existing
24 definitions in the County Comprehensive Plan and Land Development Code, including discussion of the
25 undefined term of "lock-out;" and
26

27 **WHEREAS**, the Monroe County Comprehensive Plan and Land Development Code are silent on
28 use of "lock-outs" and this use was not discussed during the update process and further edits are needed
29 to specifically address "lock-outs;" and
30

31 **WHEREAS**, an ordinance addressing the interim time period between the current adopted
32 comprehensive plan and land development code and the adoption of any new amendment(s) [new
33 definitions and/or other code requirements] is necessary to ensure that any new definitions and code
34 requirements are fully evaluated to ensure public health, safety, and welfare of the citizens of
35 unincorporated Monroe County, including the provision of public participation in the planning process;
36 and
37

38 **WHEREAS**, an extension to the temporary moratorium deferring the approval of new
39 applications or received application that have not been fully approved, commencing October 27, 2018,
40 for comprehensive plan or land development code amendments, development agreements (including
41 380 development agreements), and minor and major conditional use permits (excluding applications
42 proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated

1 people" or "two unrelated people and any children related to either of them" of a dwelling unit,
2 and applications utilizing the term "lock-out;" will allow time to review, study, hold public hearings,
3 and prepare and adopt an amendment or amendments to the Land Development Code and the
4 Comprehensive Plan; and
5

6 **WHEREAS**, on June 26, 2018, the Monroe County Development Review Committee (DRC)
7 reviewed the proposed interim development ordinance; and
8

9 **WHEREAS**, at a regularly scheduled meeting held on July 25, 2018, the Monroe County Planning
10 Commission held a public hearing for the purpose of considering the proposed interim development
11 ordinance and provided for public comment; and
12

13 **WHEREAS**, the Monroe County Planning Commission adopted Resolution No. P20-18
14 recommending approval of the proposed interim development ordinance; and
15

16 **WHEREAS**, adoption of this ordinance will further the health, safety and welfare of the citizens
17 of Monroe County.
18

19 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**
20 **OF MONROE COUNTY:**
21

22 **SECTION 1: Recitals.** The above recitals are true and are hereby adopted and confirmed.
23

24 **SECTION 2. MORATORIUM IMPOSED.** Monroe County Planning and Environmental
25 Resource Department shall defer the approval of new applications or received applications that have not
26 been fully approved, commencing October 27, 2018, for comprehensive plan or land development code
27 amendments, development agreements (including 380 development agreements), and minor and major
28 conditional use permits (excluding applications proposing only affordable housing dwelling units); with
29 proposed occupancy by "three unrelated people" or "two unrelated people and any children related to
30 either of them" of a dwelling unit, and applications utilizing the term "lock-out;" commencing October
31 27, 2018, until the BOCC can review and possibly amend the comprehensive plan and land development
32 code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a
33 dwelling unit; providing for expiration within 365 days of the effective date of an interim development
34 ordinance or when the comprehensive plan and land development code amendments become effective,
35 whichever comes first.

36 **SECTION 3. TERM.** The moratorium imposed by this Ordinance is temporary and, unless
37 dissolved earlier by the Board of County Commissioners, shall automatically dissolve upon the adoption
38 of Land Development Code amendments. In no event, however, shall the moratorium imposed by this
39 Ordinance extend beyond 365 days from the effective date of this ordinance.
40

1 **SECTION 4: SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or
2 provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
3 jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance
4 invalid or unconstitutional.

5
6 **SECTION 5: TRANSMITTAL.** This ordinance shall be transmitted to the Florida State Land
7 Planning Agency as required by F.S. 380.05(11) and F.S. 380.0552(9).

8
9 **SECTION 6: Filing of Ordinance and Effective Date.** This Ordinance shall take effect upon
10 filing with the Florida Department of State.

11
12 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida, at a
13 regular meeting of the Board held on the 15th day of Aug, August, 2018.

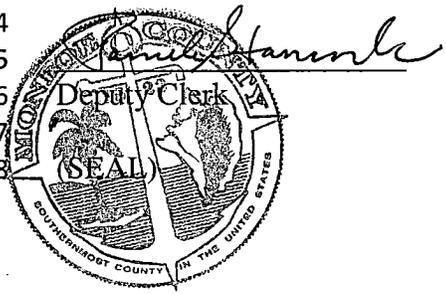
16 Mayor David Rice, District 4	<u>Yes</u>
17 Mayor Pro Tem Sylvia J. Murphy, District 5	<u>Yes</u>
18 Danny L. Kolhage, District 1	<u>Yes</u>
19 George Neugent, District 2	<u>Yes</u>
20 Heather Carruthers, District 3	<u>Yes</u>

FILED FOR RECORD
2018 SEP -4 AM 9:09
CLERK DIRECT
MONROE COUNTY, FL

23 Attest: KEVIN MADOK, CLERK

24 BOARD OF COUNTY COMMISSIONERS
25 OF MONROE COUNTY, FLORIDA

26 By: [Signature]
27 Mayor David Rice
28



MONROE COUNTY ATTORNEY
APPROVED AS TO FORM: [Signature]
STEVEN T. WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 7/30/18



County Commission Meeting
August 15, 2018
Agenda Item Number: R.4
Agenda Item Summary #4251

BULK ITEM: No

DEPARTMENT: Planning/Environmental Resources

TIME APPROXIMATE:
3:00 P.M. PUBLIC HEARING

STAFF CONTACT: Emily Schemper (305) 289-2506

AGENDA ITEM WORDING: An ordinance by the Monroe County Board of County Commissioners extending an interim development ordinance for an additional 365 days to defer the approval of new applications or received applications that have not been fully approved them regarding “lock-out” units commencing October 27, 2018, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first; providing for severability; providing for transmittal to the State Land Planning Agency and the Secretary of State; providing for an effective date.

ITEM BACKGROUND:

The Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term “lock-out.”

At a regular meeting on July 19, 2017, in Marathon, the BOCC adopted interim development Ordinance 012-2017 implementing the moratorium described above. This ordinance is due to expire on October 27, 2018, if the relevant Comprehensive Plan and Land Development Code amendments are not adopted and effective before that date.

Staff is working on BOCC directed amendments related to the development of dwelling units utilizing the term “lock-out”. However, due to the impacts of Hurricane Irma and the prioritization

of hurricane impact related building permits and development orders, an extension to the interim development order is appropriate.

At a regular meeting held on July 25, 2018, the Monroe County Planning Commission reviewed the proposed interim development Ordinance and recommended approval through Resolution P20-18.

PREVIOUS RELEVANT BOCC ACTION:

The BOCC on February 15, 2017, directed staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation.

The BOCC adopted Resolution 087-2017, on March 15, 2017, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

The BOCC adopted interim development Ordinance 012-2017 on July 19, 2017.

CONTRACT/AGREEMENT CHANGES:

n/a

STAFF RECOMMENDATION: Approval

DOCUMENTATION:

2018-090_Staff_Report
Ex.1.Ord-012-2017
Ex.2_Reso_P.20-18
Stamped_Ordinance

FINANCIAL IMPACT:

Effective Date:

Expiration Date:

Total Dollar Value of Contract:

Total Cost to County:

Current Year Portion:

Budgeted:

Source of Funds:

CPI:

Indirect Costs:

Estimated Ongoing Costs Not Included in above dollar amounts:

Revenue Producing: **If yes, amount:**

Grant:

County Match:

Insurance Required:

Additional Details:

REVIEWED BY:

Emily Schemper	Completed	07/27/2018 10:38 AM
Steve Williams	Completed	07/27/2018 3:16 PM
Jaclyn Carnago	Completed	07/30/2018 11:28 AM
Assistant County Administrator Christine Hurley	Completed	07/30/2018 3:55 PM
Budget and Finance	Completed	07/30/2018 5:04 PM
Maria Slavik	Completed	07/31/2018 7:28 AM
Kathy Peters	Completed	07/31/2018 8:24 AM
Board of County Commissioners	Pending	08/15/2018 9:00 AM



MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Board of County Commissioners

Through: Emily Schemper, AICP, CFM, Acting Senior Director of Planning & Environmental Resources

From: Cheryl Cioffari, AICP, Comprehensive Planning Manager

Date: July 24, 2018

Subject: AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 012-2017 FOR AN ADDITIONAL 365 DAYS TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING OCTOBER 27, 2018, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (File 2018-090)

Meeting: August 15, 2018

I. REQUEST

The Monroe County Planning & Environmental Resources is proposing an extension to the interim development ordinance (IDO) to defer the approval of new applications or received applications

that have not been fully approved, commencing October 27, 2018, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

On July 19, 2017, the BOCC adopted interim development Ordinance 012-2017. Staff is seeking an extension to the IDO.

II. BACKGROUND INFORMATION

On April 13, 2016, at a special public meeting, the BOCC adopted the 2030 Comprehensive Plan and Land Development Code to be consistent with the Monroe County Year 2030 Comprehensive Plan.

Ordinance 005-2016 was the adoption ordinance for the Monroe County Year 2030 Comprehensive Plan. This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 4, 2016. On May 6, 2016, DEO determined the comprehensive plan amendment transmittal was complete and issued a notice of intent to find the amendment "in compliance" on June 20, 2016. The Monroe County Year 2030 Comprehensive Plan became effective upon the posting of the Notice of Intent on the DEO Website on June 20, 2016.

Ordinance 006-2016 was the adoption ordinance for the Monroe County Land Development Code. This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 24, 2016. On July 26, 2016, DEO published Final Order DEO-16-130 in the Florida Administrative Register approving the Monroe County Land Development Code (Ordinance 006-2016). The Final Order would have become effective 21 days after publication in the Florida Administrative Register unless a petition was timely filed. The Land Development Code would have become effective on August 16, 2016. On August 10, 2016, the Petitioners filed a Petition with DEO, challenging the DEO Final Order. On November 22, 2016, the BOCC adopted an ordinance amending Section 130-165 to resolve the Petition challenging the DEO issued Final Order, satisfying a stipulated settlement agreement and allowing the Monroe County Land Development Code to become effective. The County's updated land development code became effective on February 3, 2017.

The previous 2010 Comprehensive Plan did not include any definitions. The 2010 Land Development Code included definitions which were amended with the adoption of the new code in April 2016. Neither document includes a definition of "lock-out."

The Monroe County Board of County Commissioners, at a regular meeting on February 15, 2017 in Key West, Florida, directed staff to impose a temporary moratorium upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due to pending legislation.

The Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application

that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term "lock-out."

At a regular meeting on July 19, 2017, in Marathon, the BOCC adopted interim development Ordinance 012-2017 implementing the moratorium described above. This ordinance is due to expire on October 27, 2018, if the relevant Comprehensive Plan and Land Development Code amendments are not adopted and effective before that date.

Staff is working on BOCC directed amendments related to the development of dwelling units utilizing the term "lock-out". However, due to the impacts of Hurricane Irma and the prioritization of hurricane impact related building permits and development orders, an extension to the interim development order is appropriate.

Development Review Committee and Public Input

At a regular meeting held on June 26, 2018, the Development Review Committee (DRC) considered the proposed interim development Ordinance and provided for public comment.

Planning Commission

At a regular meeting held on July 25, 2018, the Monroe County Planning Commission reviewed the proposed interim development Ordinance and recommended approval through Resolution P20-18.

III. STAFF RECOMMENDATION

Staff recommends approval of the proposed extension to the interim development ordinance.

The interim development ordinance provides a period of time between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] to ensure that the amendments are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process.

Staff is working on BOCC directed amendments related to the development of dwelling units utilizing the term "lock-out". However, due to the impacts of Hurricane Irma and the prioritization of hurricane impact related building permits and development orders, an extension to the interim development order is appropriate.

IV. EXHIBITS

1. Ordinance 012-2017
2. Planning Commission Resolution P20-18



MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO.027-2019

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 012-2017, AND EXTENDED THROUGH ORDINANCE 018-2018, FOR AN ADDITIONAL 365 DAYS TO DEFER THE APPROVAL OF NEW APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED FOR COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE AMENDMENTS, DEVELOPMENT AGREEMENTS (INCLUDING 380 DEVELOPMENT AGREEMENTS), AND MINOR AND MAJOR CONDITIONAL USE PERMITS (EXCLUDING APPLICATIONS PROPOSING ONLY AFFORDABLE HOUSING DWELLING UNITS), WITH PROPOSED OCCUPANCY BY "THREE UNRELATED PEOPLE" OR "TWO UNRELATED PEOPLE AND ANY CHILDREN RELATED TO EITHER OF THEM" OF A DWELLING UNIT, AND APPLICATIONS UTILIZING THE TERM "LOCK-OUT," COMMENCING OCTOBER 27, 2019, UNTIL THE BOCC CAN REVIEW AND POSSIBLY AMEND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE REGARDING THE DEFINITIONS OF DWELLING UNIT; HOUSEHOLD; FAMILY AND THE UNDEFINED TERM "LOCK-OUT" OF A DWELLING UNIT; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE. (File 2019-081)

WHEREAS, the Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directed staff to process an ordinance to impose a temporary moratorium deferring the approval of new applications or received application that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land development code amendments, development agreements (including 380 development

1 agreements), and minor and major conditional use permits (excluding applications proposing only
2 affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two
3 unrelated people and any children related to either of them" of a dwelling unit, and applications
4 utilizing the term "lock-out;" and
5

6 **WHEREAS**, the Monroe County Board of County Commissioners, at a regular meeting on
7 February 5, 2017 in Key West, Florida, passed a motion to direct staff to impose a temporary moratorium
8 upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated
9 people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due
10 to pending legislation; and
11

12 **WHEREAS**, the Board of County Commissioners of Monroe County, at a regular meeting on 19th
13 day of July, 2017 in Marathon, Florida adopted Ordinance 012-2017 imposing a temporary moratorium
14 upon certain development applications proposing occupancy by "three unrelated people" or "two unrelated
15 people and any children related to either of them" of a dwelling unit or utilizing the term "lock-out," due
16 to pending legislation; and
17

18 **WHEREAS**, the Board of County Commissioners of Monroe County, at a regular meeting on 28th
19 day of August, 2018 in Marathon, Florida adopted Ordinance 018-2018 extending a temporary
20 moratorium upon certain development applications proposing occupancy by "three unrelated people" or
21 "two unrelated people and any children related to either of them" of a dwelling unit or utilizing the term
22 "lock-out," due to pending legislation; and
23

24 **WHEREAS**, Ordinance 018-2018 is due to expire on October 27, 2019, if the relevant
25 Comprehensive Plan and Land Development Code amendments are not adopted and effective before that
26 date; and
27

28 **WHEREAS**, Monroe County policies and regulations adopted in the Monroe County
29 Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of
30 the citizens of the Florida Keys and to strengthen our local government capability to manage land use and
31 development; and
32

33 **WHEREAS**, the Monroe County BOCC has identified and discussed concerns with the existing
34 definitions in the County Comprehensive Plan and Land Development Code, including discussion of the
35 undefined term of "lock-out;" and
36

37 **WHEREAS**, the Monroe County Comprehensive Plan and Land Development Code are silent on
38 use of "lock-outs" and this use was not discussed during the update process and further edits are needed
39 to specifically address "lock-outs;" and
40

41 **WHEREAS**, an ordinance addressing the interim time period between the current adopted
42 comprehensive plan and land development code and the adoption of any new amendment(s) [new

1 definitions and/or other code requirements] is necessary to ensure that any new definitions and code
2 requirements are fully evaluated to ensure public health, safety, and welfare of the citizens of
3 unincorporated Monroe County, including the provision of public participation in the planning process;
4 and
5

6 **WHEREAS**, an extension to the temporary moratorium deferring the approval of new
7 applications or received application that have not been fully approved, commencing October 27, 2019,
8 for comprehensive plan or land development code amendments, development agreements (including
9 380 development agreements), and minor and major conditional use permits (excluding applications
10 proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated
11 people" or "two unrelated people and any children related to either of them" of a dwelling unit,
12 and applications utilizing the term "lock-out;" will allow time to review, study, hold public hearings,
13 and prepare and adopt an amendment or amendments to the Land Development Code and the
14 Comprehensive Plan; and
15

16 **WHEREAS**, on May 28, 2019, the Monroe County Development Review Committee (DRC)
17 reviewed the proposed interim development ordinance; and
18

19 **WHEREAS**, at a regularly scheduled meeting held on June 26, 2019, the Monroe
20 County Planning Commission held a public hearing for the purpose of considering the proposed interim
21 development ordinance and provided for public comment; and
22

23 **WHEREAS**, the Monroe County Planning Commission adopted Resolution No. P25-19
24 recommending approval of the proposed interim development ordinance; and
25

26 **WHEREAS**, adoption of this ordinance will further the health, safety and welfare of the citizens
27 of Monroe County.
28

29 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**
30 **OF MONROE COUNTY:**
31

32 **SECTION 1: Recitals.** The above recitals are true and are hereby adopted and confirmed.
33

34 **SECTION 2. MORATORIUM IMPOSED.** Monroe County Planning and Environmental
35 Resource Department shall defer the approval of new applications or received applications that have not
36 been fully approved, commencing October 27, 2019, for comprehensive plan or land development code
37 amendments, development agreements (including 380 development agreements), and minor and major
38 conditional use permits (excluding applications proposing only affordable housing dwelling units); with
39 proposed occupancy by "three unrelated people" or "two unrelated people and any children related to
40 either of them" of a dwelling unit, and applications utilizing the term "lock-out;" commencing October
41 27, 2019, until the BOCC can review and possibly amend the comprehensive plan and land development
42 code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a

1 dwelling unit; providing for expiration within 365 days of the effective date of an interim development
2 ordinance or when the comprehensive plan and land development code amendments become effective,
3 whichever comes first.

4 **SECTION 3. TERM.** The moratorium imposed by this Ordinance is temporary and, unless
5 dissolved earlier by the Board of County Commissioners, shall automatically dissolve upon the adoption
6 of Land Development Code amendments. In no event, however, shall the moratorium imposed by this
7 Ordinance extend beyond 365 days from the effective date of this ordinance.

8
9 **SECTION 4: SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or
10 provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
11 jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance
12 invalid or unconstitutional.

13
14 **SECTION 5: TRANSMITTAL.** This ordinance shall be transmitted to the Florida State Land
15 Planning Agency as required by F.S. 380.05(11) and F.S. 380.0552(9).

16
17 **SECTION 6: Filing of Ordinance and Effective Date.** This Ordinance shall take effect upon
18 filing with the Florida Department of State.

19
20 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida,
21 at a regular meeting held on the 17th day of July, 2019.

22
23 Mayor Sylvia Murphy Yes
24 Mayor Pro Tem Danny L. Kolhage Yes
25 Commissioner Heather Carruthers Yes
26 Commissioner Michelle Coldiron Yes
27 Commissioner David Rice Yes

28
29 BOARD OF COUNTY COMMISSIONERS
30 OF MONROE COUNTY, FLORIDA

31 BY Sylvia J. Murphy
32 MAYOR SYLVIA MURPHY



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FILED FOR RECORD
2019 JUL 24 PM 1:01

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
[Signature]
WILLIAMS
ASSISTANT COUNTY ATTORNEY
Date 6/24/19

ATTEST: KEVIN MADOK, CLERK
[Signature]
DEPUTY CLERK



County Commission Meeting
July 17, 2019
Agenda Item Number: P.5
Agenda Item Summary #5721

BULK ITEM: No

DEPARTMENT: Planning/Environmental Resources

TIME APPROXIMATE:
1:30 P.M. PUBLIC HEARING

STAFF CONTACT: Cheryl Cioffari (305) 289-2506

AGENDA ITEM WORDING: A public hearing to consider approval of an ordinance by the Monroe County Board of County Commissioners extending an interim development ordinance for an additional 365 days to defer the approval of new applications or received applications that have not been fully approved them regarding “lock-out” units commencing October 27, 2018, until the BOCC can review and possibly amend the comprehensive plan and land development code regarding the definitions of dwelling unit; household; family and the undefined term "lock-out" of a dwelling unit; providing for expiration within 365 days of the effective date of an interim development ordinance or when the comprehensive plan and land development code amendments become effective, whichever comes first; providing for severability; providing for transmittal to the State Land Planning Agency and the Secretary of State; providing for an effective date.

ITEM BACKGROUND:

The Monroe County Planning & Environmental Resources is proposing an extension to the interim development ordinance (IDO) to defer the approval of new applications or received applications that have not been fully approved, that initially established on July 19, 2017 through Ordinance 012-2017 and extended through Ordinance 009-2018 for an additional 365 days for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term “lock-out.”

On July 19, 2017, the BOCC adopted interim development Ordinance 012-2017. On August 18, 2018, the BOCC adopted interim development Ordinance 018-2018 extending the moratorium for an additional 365 days. The moratorium is currently due to expire on October 27, 2019. Staff is seeking an extension to the IDO.

The Planning Commission considered the proposed amendment at a regular meeting on June 26, 2019 and received public input.

PREVIOUS RELEVANT BOCC ACTION:

At a regular meeting on July 19, 2017, in Marathon, the BOCC adopted interim development Ordinance 012-2017 implementing the moratorium described above.

On August 18, 2018, the BOCC adopted interim development Ordinance 018-2018, extending the moratorium described above.

Interim Development Ordinance 018-2018 is due to expire on October 27, 2019, if the relevant Comprehensive Plan and Land Development Code amendments are not adopted and effective before that date.

CONTRACT/AGREEMENT CHANGES:

n/a

STAFF RECOMMENDATION: Approval

DOCUMENTATION:

2019-081_BOCC_SR_07.17.19
Ex.1.Ord-012-2017
Ordinance 018-2018
2019-081_Ordinance_DRAFT

FINANCIAL IMPACT:

Effective Date:

Expiration Date:

Total Dollar Value of Contract:

Total Cost to County:

Current Year Portion:

Budgeted:

Source of Funds:

CPI:

Indirect Costs:

Estimated Ongoing Costs Not Included in above dollar amounts:

Revenue Producing: **If yes, amount:**

Grant:

County Match:

Insurance Required:

Additional Details:

REVIEWED BY:

Cheryl Cioffari	Completed	06/23/2019 3:57 PM
Steve Williams	Completed	06/24/2019 1:43 PM
Maureen Proffitt	Completed	06/24/2019 1:54 PM
Assistant County Administrator Christine Hurley	Completed	Completed
	06/25/2019 10:20 AM	
Budget and Finance	Completed	06/25/2019 10:30 AM
Maria Slavik	Completed	06/25/2019 11:20 AM
Kathy Peters	Completed	06/25/2019 11:37 AM
Board of County Commissioners	Pending	07/17/2019 9:00 AM



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MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Board of County Commissioners

From: Cheryl Cioffari, AICP, Acting Senior Director of Planning & Environmental Resources

Date: June 21, 2019

Subject: An ordinance by the Monroe County Board of County Commissioners extending an interim development ordinance as initially established on July 19, 2017 through Ordinance 012-2017, and extended through Ordinance 009-2018, for an additional 365 days to defer the approval of new applications or received applications that have not yet been fully approved for Comprehensive Plan or Land Development Code amendments, Development Agreements (including 380 Development Agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units), with proposed occupancy by “three unrelated people” or “two unrelated people and any children related to either of them” of a dwelling unit, and applications utilizing the term “lock-out,” commencing October 27, 2019, until the BOCC can review and possibly amend the Comprehensive Plan and the Land Development Code regarding the definitions of a dwelling unit; household, family and the undefined term “lock-out” of a dwelling unit; providing for expiration within 365 days of the effective date of this Interim Development Ordinance or when the Comprehensive Plan and Land Development Code amendments become effective, whichever comes first (File 2019-081)

Meeting: July 17, 2019

I. REQUEST

The Monroe County Planning & Environmental Resources is proposing an extension to the interim development ordinance (IDO) to defer the approval of new applications or received applications that have not been fully approved, that initially established on July 19, 2017 through Ordinance 012-2017 and extended through Ordinance 009-2018 for an additional 365 days for comprehensive plan or land development code amendments, development agreements (including 380 development agreements), and minor and major conditional use permits (excluding applications proposing only affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two unrelated people and any children related to either of them" of a dwelling unit, and applications utilizing the term “lock-out.”

On July 19, 2017, the BOCC adopted interim development Ordinance 012-2017. On August 18, 2018,

1 the BOCC adopted interim development Ordinance 018-2018 extending the moratorium for an
2 additional 365 days. The moratorium is currently due to expire on October 27, 2019. Staff is seeking
3 an extension to the IDO.
4

5 **II. BACKGROUND INFORMATION**

6
7 On April 13, 2016, at a special public meeting, the BOCC adopted the 2030 Comprehensive Plan
8 and Land Development Code to be consistent with the Monroe County Year 2030 Comprehensive
9 Plan.
10

11 Ordinance 005-2016 was the adoption ordinance for the Monroe County Year 2030
12 Comprehensive Plan. This ordinance was transmitted to the Department of Economic Opportunity
13 (DEO) on May 4, 2016. On May 6, 2016, DEO determined the comprehensive plan amendment
14 transmittal was complete and issued a notice of intent to find the amendment “in compliance” on
15 June 20, 2016. The Monroe County Year 2030 Comprehensive Plan became effective upon the
16 posting of the Notice of Intent on the DEO Website on June 20, 2016.
17

18 Ordinance 006-2016 was the adoption ordinance for the Monroe County Land Development Code.
19 This ordinance was transmitted to the Department of Economic Opportunity (DEO) on May 24,
20 2016. On July 26, 2016, DEO published Final Order DEO-16-130 in the Florida Administrative
21 Register approving the Monroe County Land Development Code (Ordinance 006-2016). The Final
22 Order would have become effective 21 days after publication in the Florida Administrative Register
23 unless a petition was timely filed. The Land Development Code would have become effective on
24 August 16, 2016. On August 10, 2016, the Petitioners filed a Petition with DEO, challenging the
25 DEO Final Order. On November 22, 2016, the BOCC adopted an ordinance amending Section 130-
26 165 to resolve the Petition challenging the DEO issued Final Order, satisfying a stipulated settlement
27 agreement and allowing the Monroe County Land Development Code to become effective. The
28 County’s updated land development code became effective on February 3, 2017.
29

30 The previous 2010 Comprehensive Plan did not include any definitions. The 2010 Land
31 Development Code included definitions which were amended with the adoption of the new code in
32 April 2016. Neither document includes a definition of “lock-out.”
33

34 The Monroe County Board of County Commissioners, at a regular meeting on February 15, 2017
35 in Key West, Florida, directed staff to impose a temporary moratorium upon certain development
36 applications proposing occupancy by "three unrelated people" or "two unrelated people and any
37 children related to either of them" of a dwelling unit or utilizing the term “lock-out,” due to
38 pending legislation.
39

40 The Monroe County Board of County Commissioners adopted Resolution 087-2017, at a regular
41 meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance to
42 impose a temporary moratorium deferring the approval of new applications or received application
43 that have not been fully approved, commencing March 15, 2017, for comprehensive plan or land
44 development code amendments, development agreements (including 380 development
45 agreements), and minor and major conditional use permits (excluding applications proposing only
46 affordable housing dwelling units); with proposed occupancy by "three unrelated people" or "two
47 unrelated people and any children related to either of them" of a dwelling unit, and applications
48 utilizing the term “lock-out.”

1 Staff is working on BOCC directed amendments related to the development of dwelling units
2 utilizing the term “lock-out”. However, due to the impacts of Hurricane Irma and the prioritization
3 of hurricane impact related building permits and development orders, an extension to the interim
4 development order is appropriate.
5

6 **Community Meeting and Public Participation**

7 In accordance with LDC Section 102-159(b)(3), a Community Meeting was held on May 21, 2019
8 in Marathon to provide for public input. There were no members of the public in attendance.
9

10 **Development Review Committee and Public Input**

11 The Development Review Committee considered the proposed amendment at a regular meeting on
12 May 28, 2019 and received public input.
13

14 **Planning Commission and Public Input**

15 The Planning Commission considered the proposed amendment at a regular meeting on June 26, 2019
16 and received public input.
17

18 **Previous BOCC Action**

19 At a regular meeting on July 19, 2017, in Marathon, the BOCC adopted interim development
20 Ordinance 012-2017 implementing the moratorium described above.
21

22 On August 18, 2018, the BOCC adopted interim development Ordinance 018-2018, extending the
23 moratorium described above.
24

25 Interim Development Ordinance 018-2018 is due to expire on October 27, 2019, if the relevant
26 Comprehensive Plan and Land Development Code amendments are not adopted and effective before
27 that date.
28

29 **III. STAFF RECOMMENDATION**

30
31 Staff recommends approval of the proposed extension to the interim development ordinance.
32

33 The interim development ordinance provides a period of time between the current adopted
34 comprehensive plan and land development code and the adoption of any new amendment(s) [new
35 definitions and/or other code requirements] to ensure that the amendments are fully evaluated to
36 ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including
37 the provision of public participation in the planning process.
38

39 Staff is working on BOCC directed amendments related to the development of dwelling units
40 utilizing the term “lock-out”. However, due to the impacts of Hurricane Irma and the prioritization
41 of hurricane impact related building permits and development orders, an extension to the interim
42 development order is appropriate.
43
44

45 **IV. EXHIBITS**

- 46
47 1. Ordinance 012-2017
48 2. Ordinance 018-2018

1 3. Draft Ordinance

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

Municode 55 results

Sec. 114-15. - Accommodation for Mass Transit.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE I. - IN GENERAL

Nonresidential and multi-family uses generating over two thousand (2,000) trips per day shall be developed to encourage mass transit, by including features such as: transit

Sec. 130-47. - Purpose of the Suburban Residential District (SR).

1. Land Development Code
2. Chapter 130 - LAND USE DISTRICTS
3. ARTICLE II. - DISTRICT PURPOSES

areas of low- to medium-density residential uses characterized principally by single-family detached dwellings. This district is predominated by development; however, natural

Sec. 114-14. - Recycling and Solid Waste Collection Areas.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE I. - IN GENERAL

Any nonresidential, mixed use or multi-family residential development shall make adequate provision for a recycling collection area in accordance with the following standards:

Sec. 106-10. - Big Pine Key Area of Critical County Concern.

1. Land Development Code
2. Chapter 106 - AREAS OF CRITICAL COUNTY CONCERN

carried out in the Big Pine Key area of critical county concern except for single-family detached dwellings on lots in the improved subdivision district or on lots having

Sec. 114-109. - Nonconforming Landscaping.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE IV. - LANDSCAPING

All lawfully existing multi-family (3 or more units) and nonresidential development that is nonconforming to the landscaping standards of this article shall be brought into

Sec. 130-34. - Purpose of the Destination Resort District (DR).

1. Land Development Code
2. Chapter 130 - LAND USE DISTRICTS
3. ARTICLE II. - DISTRICT PURPOSES

(1) Single-family homes as of right; or

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

Sec. 139-2. - Affordable Housing Incentive Programs.

1. Land Development Code
2. Chapter 139 - AFFORDABLE AND EMPLOYEE HOUSING

transferred on a 1 for 1 basis where the ROGO exemptions are to be transferred to single-family residential lots or parcels within the same ROGO planning subarea. However, where

Sec. 126-13. - Affordable and Employee Housing Fair Share Impact Fee Trust Fund.

1. Land Development Code
2. Chapter 126 - IMPACT FEES

Parks and Recreation Districts, except for accessory uses, home occupations and single-family, mobile home, and duplex dwellings.

Sec. 131-2. - Maximum Height.

1. Land Development Code
2. Chapter 131 - BULK REGULATIONS

For NEW single family (detached dwelling unit) and multi-family (attached dwelling unit) buildings which are voluntarily elevated

Sec. 102-187. - Variances Granted by the Planning Commission.

1. Land Development Code
2. Chapter 102 - ADMINISTRATION
3. ARTICLE VI. - APPEALS AND VARIANCES
4. DIVISION 1. - GENERALLY

not based on disabilities, handicaps or health of the applicant or members of his family; (7)

Sec. 19-41. - Access driveways.

1. Code of Ordinances
2. Chapter 19 - ROADS AND BRIDGES
3. ARTICLE II. - PUBLIC RIGHT-OF-WAY USE PERMIT

A request to install a single-family residential driveway access shall be submitted indicating the street address, lot

Sec. 114-8. - Installation of Utilities and Driveways.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE I. - IN GENERAL

All driveways for nonresidential or multi-family development shall be composed of compacted fill or concrete not less than four inches

Sec. 114-45. - Energy Conservation Standards.

1. Land Development Code

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE II. - ENERGY AND WATER CONSERVATION STANDARDS

of bicycle racks or other bicycle storage facilities in nonresidential and multi-family developments;

Objective 101.10

1. Comprehensive Plan
2. 3.0 - GOALS, OBJECTIVES AND POLICIES
3. 3.1 - FUTURE LAND USE
4. GOAL 101

concurrent with the impacts of such development. Existing development, except single family residential built prior to November 16, 1992 shall, to the greatest extent possible

Sec. 114-2. - Adequate Facilities and Review Procedures.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE I. - IN GENERAL

The development of one single family residence on a single parcel shall be considered de minimis and shall not be considered

Sec. 2-179. - Duties of the county attorney.

1. Code of Ordinances
2. Chapter 2 - ADMINISTRATION
3. ARTICLE III. - OFFICERS AND EMPLOYEES
4. DIVISION 5. - COUNTY ATTORNEY

case-by-case basis for the purpose of allowing the attorney to handle legal matters for family members, and only if the matter would not create a conflict of interest. If a particular

Sec. 6-200. - Exemptions.

1. Code of Ordinances
2. Chapter 6 - BUILDINGS AND CONSTRUCTION
3. ARTICLE III. - CONSTRUCTION INDUSTRY
4. DIVISION 1. - GENERALLY

supervision themselves, when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners

Sec. 122-5. - Variances to the Floodplain Management Requirements.

1. Land Development Code
2. Chapter 122 - FLOODPLAIN MANAGEMENT

The physical disabilities or handicaps and health of the applicant or members of his family; b.

Objective 301.2

1. Comprehensive Plan
2. 3.0 - GOALS, OBJECTIVES AND POLICIES
3. 3.3 - TRAFFIC CIRCULATION
4. GOAL 301

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

the proportionate share of the impact is mitigated. The development of one single family residential unit, on a single parcel, shall be considered de minimis and shall

Sec. 14-77. - Unlawful practices.

1. Code of Ordinances
2. Chapter 14 - HUMAN RELATIONS
3. ARTICLE III. - HOUSING DISCRIMINATION
4. DIVISION 1. - GENERALLY

national origin, ancestry, sexual orientation, gender identity or expression, familial status or age;

Sec. 114-3. - Surface Water Management Criteria.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE I. - IN GENERAL

(OFW) are subject to additional requirements for mitigation of pollutant loads. Single-family and duplex residences are required to observe best management practices (BMP's) as

Sec. 14-42. - Same—Credit.

1. Code of Ordinances
2. Chapter 14 - HUMAN RELATIONS
3. ARTICLE II. - DISCRIMINATION

disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age. (Code 1979, § 13-103(f);

Sec. 14-74. - Declaration of policy.

1. Code of Ordinances
2. Chapter 14 - HUMAN RELATIONS
3. ARTICLE III. - HOUSING DISCRIMINATION
4. DIVISION 1. - GENERALLY

expression, religion, disability, national origin, ancestry, sexual orientation, familial status, or age, and to that end, to eliminate discrimination in housing.

Sec. 6-100. - Permits required.

1. Code of Ordinances
2. Chapter 6 - BUILDINGS AND CONSTRUCTION
3. ARTICLE II. - BUILDING CODE
4. DIVISION 3. - PERMITS, INSPECTIONS AND CERTIFICATES OF OCCUPANCY
5. Subdivision II. - Permits

Exterior and interior painting of single- and two-family residential buildings.

Sec. 14-43. - Same—Public accommodations.

1. Code of Ordinances
2. Chapter 14 - HUMAN RELATIONS
3. ARTICLE II. - DISCRIMINATION

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age. The prohibition contained in this section, shall not apply to any

Objective 101.7

1. Comprehensive Plan
2. 3.0 - GOALS, OBJECTIVES AND POLICIES
3. 3.1 - FUTURE LAND USE
4. GOAL 101

buildable immediately prior to the effective date of the Plan, no less than a single-family residence. A

Objective 101.9

1. Comprehensive Plan
2. 3.0 - GOALS, OBJECTIVES AND POLICIES
3. 3.1 - FUTURE LAND USE
4. GOAL 101

County Code. Substantial improvement or reconstruction of nonconforming single-family homes shall comply with the setback provisions of the Monroe County Land Development

Objective 101.1

1. Comprehensive Plan
2. 3.0 - GOALS, OBJECTIVES AND POLICIES
3. 3.1 - FUTURE LAND USE
4. GOAL 101

costs for the necessary transportation facilities. The development of a single-family residential unit shall be considered de minimis and shall not be subject to this

Sec. 122-7. - Floodplain Certificate of Compliance Program.

1. Land Development Code
2. Chapter 122 - FLOODPLAIN MANAGEMENT

data from the Monroe County Property Appraiser Office which will identify all single-family residences which contain enclosures that are identified as living area on the ground

Sec. 12-177. - Eligible properties/program requirements.

1. Code of Ordinances
2. Chapter 12 - ENVIRONMENT AND NATURAL RESOURCE PROTECTION
3. ARTICLE VII. - PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM

description) started during the reporting period, separated by building type (e.g., single-family, multifamily, retail, office, industrial, etc.);

Sec. 14-41. - Prohibited conduct—Employment.

1. Code of Ordinances
2. Chapter 14 - HUMAN RELATIONS
3. ARTICLE II. - DISCRIMINATION

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age. No employment agency shall directly or indirectly discriminate against

Sec. 6-23. - Definitions.

- 1. Code of Ordinances
- 2. Chapter 6 - BUILDINGS AND CONSTRUCTION
- 3. ARTICLE II. - BUILDING CODE
- 4. DIVISION 1. - GENERALLY

any building, structure, improvement or accessory thereto, other than a one- or two-family dwelling. Cumulative construction cost

Sec. 102-186. - Variances and Waivers Granted by the Planning Director.

- 1. Land Development Code
- 2. Chapter 102 - ADMINISTRATION
- 3. ARTICLE VI. - APPEALS AND VARIANCES
- 4. DIVISION 1. - GENERALLY

not based on disabilities, handicaps or health of the applicant or members of his family; (7)

Sec. 102-57. - Nonconforming Structures.

- 1. Land Development Code
- 2. Chapter 102 - ADMINISTRATION
- 3. ARTICLE III. - NONCONFORMITIES

Substantial improvement or reconstruction of nonconforming single-family residences shall comply with all applicable setback provisions of this Land Development

Sec. 114-13. - Fences.

- 1. Land Development Code
- 2. Chapter 114 - DEVELOPMENT STANDARDS
- 3. ARTICLE I. - IN GENERAL

For any parcel of land developed with a single-family residential residence and on a local road, a fence located within a clear sight

Sec. 21-46. - Definitions.

- 1. Code of Ordinances
- 2. Chapter 21 - SOLID WASTE
- 3. ARTICLE III. - COLLECTION, DISPOSAL AND ASSESSMENT OF COSTS
- 4. DIVISION 1. - GENERALLY

one or more units in which each unit is designed for residential occupancy by one family only and that is owned pursuant to the provisions of F.S. ch. 718.

Sec. 14-73. - Definitions.

- 1. Code of Ordinances
- 2. Chapter 14 - HUMAN RELATIONS
- 3. ARTICLE III. - HOUSING DISCRIMINATION
- 4. DIVISION 1. - GENERALLY

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age. Executive

Sec. 106-8. - North Key Largo Area of Critical County Concern.

- 1. Land Development Code
- 2. Chapter 106 - AREAS OF CRITICAL COUNTY CONCERN

acquisition effort to be undertaken, except for possible minor exceptions for single-family dwellings units in existing improved subdivisions.

Sec. 114-200. - Traffic Study.

- 1. Land Development Code
- 2. Chapter 114 - DEVELOPMENT STANDARDS
- 3. ARTICLE VII. - ACCESS STANDARDS

Traffic studies shall not be required for applications for a single family residence. (

Objective 212.4

- 1. Comprehensive Plan
- 2. 3.0 - GOALS, OBJECTIVES AND POLICIES
- 3. 3.2 - CONSERVATION AND COASTAL MANAGEMENT
- 4. GOAL 212

Except as provided herein, siting of single family docks, boat ramps, and boat slips on manmade water bodies shall require minus four

Sec. 14-40. - Definitions.

- 1. Code of Ordinances
- 2. Chapter 14 - HUMAN RELATIONS
- 3. ARTICLE II. - DISCRIMINATION

thereof. Familial status means the status of living alone or in any familial relationship whatsoever, including, but not

**Sec. 101-1. - Definitions

- 1. Land Development Code
- 2. Chapter 101 - GENERAL PROVISIONS

includes single family residences but does not include mobile homes or recreational vehicles. Dwelling, single-family

Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities;

(1) Any number of people related by blood, marriage, adoption, guardianship, domestic partnership or duly-authorized custodial relationship;

(2) Three unrelated people;

(3) Two unrelated people and any children related to either of them.

Habitable floor area means any floor area for occupancy and equipped for uses including, but not limited to, kitchen, dining, living, family or recreation room, laundry, bedroom, bathroom ,office, workshop, professional studio or commercial occupancy.

Habitable space means any structure equipped for human habitation such as, but not limited to, office, workshop, kitchen, dining, living, laundry, bathroom, bedroom, den, family or recreational room; professional studio or commercial

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

occupancy including all interior hallways ,corridors, stairways and foyers connecting these areas. Garages, exterior stairs and open decks and patios are not considered habitable structures.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Sec. 14-79. - Exemption for housing for older persons.

1. Code of Ordinances
2. Chapter 14 - HUMAN RELATIONS
3. ARTICLE III. - HOUSING DISCRIMINATION
4. DIVISION 1. - GENERALLY

Any provision of this article regarding familial status does not apply with respect to housing for older persons.

Sec. 138-22. - Type of Development Not Affected.

1. Land Development Code
2. Chapter 138 - RATE OF GROWTH RESTRICTIONS (ROGO/NROGO)
3. ARTICLE II. - RESIDENTIAL RATE OF GROWTH LIMITATIONS (ROGO)

affordable housing unit, pursuant to Sections 101-1 and 139-1, is developed on a Tier III property (single-family residential lots or parcels) and the dwelling unit on the sender site is demolished

****Sec. 139-1. - Affordable and Employee Housing; Administration**

- 1. Land Development Code
- 2. Chapter 139 - AFFORDABLE AND EMPLOYEE HOUSING

When establishing a rental and sales amount, the county shall assume family size as indicated in the table below. This section shall not be used to establish

- i. When establishing a rental and sales amount, the county shall assume family size as indicated in the table below. This section shall not be used to establish the maximum number of individuals who actually live in the unit. This table shall be used in conjunction with the eligibility requirements created by [Section 101-1](#):

Size of Unit	Assumed Family Size	Minimum Occupancy
Efficiency (no separate bedroom)	1	1
One bedroom	2	1
Two bedroom	3	2
Three bedroom	4	3
Four or more bedroom	5	1 per bedroom

Nonresidential Inclusionary Proposed Amendment:

- i. When establishing a rental and sales amount, the county shall base the amounts upon the area median income published for the County on an annual basis by the U.S. Department of Housing and Urban Development and compiled for household size and the income limit of the unit. ~~assume family size as indicated in the table below.~~ This section shall not be used to establish the maximum number of individuals who actually live in the unit. This table shall be used in ~~conjunction with~~ the development of the maximum rental rates and qualifying incomes table compiled by the Planning Department according to the definitions in Section 101-1 ~~eligibility requirements created by Section 101-1~~:

Size of Unit	Assumed Family Household Size	Minimum Occupancy
Efficiency (no separate bedroom)	1	1
One bedroom	2	1
Two bedroom	3	2
Three bedroom	4	3
Four or more bedroom	5	1 per bedroom

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

Objective 1401.4

- 1. Comprehensive Plan
- 2. 3.0 - GOALS, OBJECTIVES AND POLICIES
- 3. 3.14 - CAPITAL IMPROVEMENTS
- 4. GOAL 1401

developments with a trip generation rate of 10 trips or less (such as a single family home) shall be limited to the segment of U.S. 1 most directly impacted by the development

Objective 101.5

- 1. Comprehensive Plan
- 2. 3.0 - GOALS, OBJECTIVES AND POLICIES
- 3. 3.1 - FUTURE LAND USE
- 4. GOAL 101

High (RH) future land use category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured

**GLOSSARY

- 1. Comprehensive Plan

the date the use became nonconforming. F Family means a person living alone, or people living together as a single household and sharing

F
Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities:
 (1) Any number of people related by blood, marriage, adoption, guardianship, or duly authorized custodial relationship;
 (2) three unrelated people;
 (3) two unrelated people and any children related to either of them.

Habitable Space means any structure equipped for human habitation such as, but not limited to, office, workshop, kitchen, dining, living, laundry, bathroom, bedroom, den, family or recreational room; professional studio or commercial occupancy including all interior hallways, corridors, stairways and foyers connecting these areas. Garages, exterior stairs and open decks and patios are not considered habitable structures.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Household Income means all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code. Also known as Adjusted Gross Income.

Sec. 6-198. - Definitions.

- 1. Code of Ordinances
- 2. Chapter 6 - BUILDINGS AND CONSTRUCTION
- 3. ARTICLE III. - CONSTRUCTION INDUSTRY

Exhibit 6

Search results of the term “family” within the Monroe County Code of Ordinances, Comprehensive Plan and Land Development Code

4. DIVISION 1. - GENERALLY

the term residential refers to systems installed in connection with one-family, two-family, or three-family residences not exceeding two stories in height. The following minor

Sec. 142-4. - Signs Requiring a Permit and Specific Standards.

1. Land Development Code
2. Chapter 142 - SIGNS

Multiple-family structures, nonresidential buildings and vacant land shall be allowed one non-illuminated

Sec. 114-67. - Required Off-Street Parking.

1. Land Development Code
2. Chapter 114 - DEVELOPMENT STANDARDS
3. ARTICLE III. - PARKING AND LOADING

Single-family dwelling units, including mobile homes on individual lots or parcels

Objective 107.1

1. Comprehensive Plan
2. 3.0 - GOALS, OBJECTIVES AND POLICIES
3. 3.1 - FUTURE LAND USE
4. GOAL 107

with SS zoning. Single family residences shall be limited to the existing (including any replacement thereof) and no more than four (4) additional single family residences.

Sec. 122-3. - Permit Requirements.

1. Land Development Code
2. Chapter 122 - FLOODPLAIN MANAGEMENT

certifications as state certified residential appraisers for appraising one to four family residential properties and state certified general appraisers for all other properties

Sec. 118-12. - Shoreline Setback.

1. Land Development Code
2. Chapter 118 - ENVIRONMENTAL PROTECTION
3. ARTICLE I. - IN GENERAL

principal use served by the accessory dock or docking facility shall be a single-family residence or two-family residence (duplex).

Sec. 122-4. - Standards for Issuance of Building Permits in Areas of Special Flood Hazard.

1. Land Development Code
2. Chapter 122 - FLOODPLAIN MANAGEMENT

elevation shall be constructed or equipped for such uses as a kitchen, dining room, family room, recreation room, office, bedroom, bathroom or workshop. This prohibition does

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 11, 1998

Division: Growth Management

Bulk Item: Yes ___ No x

Department: Planning

AGENDA ITEM WORDING: Consideration of a Memorandum of Understanding between the Department of Community Affairs and Monroe County establishing guidelines for the approval of single family residential building permits to ensure that no separate independent living areas are created which are not in compliance with the Land Development Regulations.

ITEM BACKGROUND: The Department of Community of Affairs (DCA) and Monroe County Growth Management Division have had different interpretations of what constitutes a dwelling unit, which has resulted in numerous single family residential building permits being appealed and modified by DCA. This lack of consensus has created uncertainty in the development approval process for both the Growth Management Division staff and permit applicants. To respond to this problem, the staffs of DCA and Growth Management Division have reached agreement on guidelines for approval of single family residential building plans, which are incorporated in the proposed MOU between DCA and Monroe County.

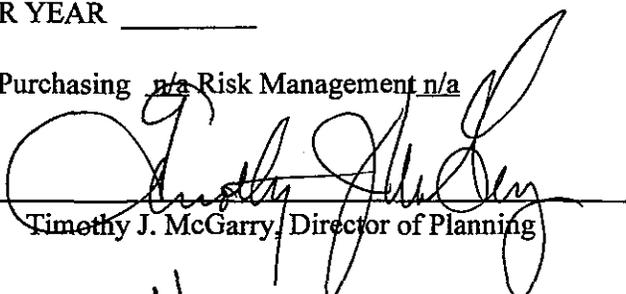
PREVIOUS RELEVANT BOARD ACTION: None

STAFF RECOMMENDATION: Approval

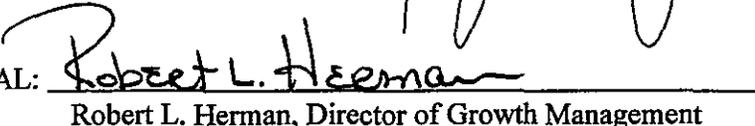
TOTAL COST: n/a BUDGETED: Yes ___ No ___
COST TO COUNTY: n/a
REVENUE PRODUCING? Yes ___ No x
AMOUNT PER MONTH _____ PER YEAR _____

APPROVED BY: County Attorney x OMB/Purchasing n/a Risk Management n/a

DEPARTMENT DIRECTOR APPROVAL: _____


Timothy J. McGarry, Director of Planning

DIVISION DIRECTOR APPROVAL: _____


Robert L. Herman, Director of Growth Management

DOCUMENTATION: Included x To follow ___ Not required ___

DISPOSITION: _____

Agenda Item #: _____

MEMORANDUM

TO: The Board of County Commissioners

FROM: Timothy J. McGarry, Director of Planning 

DATE: January 27, 1998

SUBJECT: **Proposed Memorandum of Understanding
between DCA and Monroe County Related to
the Permitting of Accessory Dwellings**

Overview

The Monroe County Growth Management Division and DCA staffs have worked together to prepare a draft Memorandum of Understanding (MOU), which establishes specific guidelines and procedures to be followed in the permitting of single family residential dwellings and accessory structures to ensure that no separate independent living areas are created which are not in compliance with the Land Development Regulations. These guidelines are summarized in Attachment A to the subject agreement.

The Board of County Commissioners will be asked to approve the attached draft MOU at the Board's February 11 meeting.

Background Analysis

Differences of professional opinion have surfaced between the DCA and Growth Management staffs in permitting single family residential dwellings, additions to existing single family residences, and accessory structures. These differences arise, because of differing professional opinion of what constitutes the creation of a separate independent living area.

The DCA staff has strictly interpreted current Land Development Regulations by relying on existing language in the Land Development Regulations defining "dwelling unit" and "accessory uses and structures." Section 9.5-4(A-2) states that an accessory use can not include **guest units** or any other **potentially habitable structure (emphasis added)**. Section 9.5-4(D-31) defines dwelling unit as "one or more rooms physically arranged to create a housekeeping establishment for occupancy by one family with separate toilet facilities." For example, in the past DCA has appealed permits for unattached accessory structures that contain a bedroom and a full bathroom facility, because they believe this constitutes a potentially habitable structure.

DCA's strict interpretation has caused several permits to be appealed to eliminate full bathrooms and wet bars from building plans for additions or accessory structures. Unfortunately these decisions have made it difficult for individuals to build new homes or additions to their existing homes in manner that meets their needs, even though they have no intention of creating a separate independent living areas or guest units.

Furthermore, the lack of any specific guidelines, acceptable to both the County and DCA, creates problems for the Growth Management staff in its review of residential building plans, since it is uncertain what will be appealed by DCA. This lack of certainty makes it exceedingly difficult for applicants to know what they can or can not build.

This problem is becoming more acute due to the increasing number of permit applications being submitted to the Growth Management Division for significantly large residential dwellings and building additions. The plans for these structures generally proposed design configurations (living areas) with wet bars, additional bathroom facilities, and separate entrances.

To address these problems, the DCA and Growth Management staffs have been working together to reach agreement on guidelines to be followed in the review and approval of single family residential building permits. The results of this mutual effort are presented in the proposed Memorandum of Understanding (MOU). Attachment A of this document contains the specific guidelines to be followed.

It is anticipated this MOU may be eventually supplemented and/or replaced by future amendments to the Land Development Regulations.

Summary of Guidelines

The proposed guidelines focus on elements of a residence and accessory structures that may create or could create separate independent living areas, such as separate entrances, lockability of internal connections, and existence of key housekeeping facilities, such as kitchens, wet bars, and bathrooms.

In summary, the proposed guidelines will allow: wet bars and bathroom facilities in additions or other living areas of a house which have no lockable internal connection; only bathroom facilities in additions or living areas of a house which have lockable internal connections; and, only bathroom facilities in accessory structures. No more than one kitchen facility will be allowed in any single family residence.

If any proposed design doesn't fall within the guidelines in Attachment A, it can only be approved by the Planning Director or Development Review Senior

Administrator, after consultation with the Planning Manager of the DCA field office.

Recommendation

The Growth Management Division recommends adoption of the proposed Memorandum of Understanding by the Board of County Commissioners.

MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN
DEPARTMENT OF COMMUNITY AFFAIRS AND MONROE COUNTY

THIS MEMORANDUM of Understanding is being entered into by and between the Florida Department of Community Affairs (DEPARTMENT) and Monroe County (COUNTY) to provide better coordination between the DEPARTMENT and the COUNTY in the implementation of provisions of Chapter 380, Florida Statutes, and the Monroe County Year 2010 Comprehensive Plan and land development regulations.

I. Witnesseth.

WEREAS, the COUNTY has been declared an Area of Critical State Concern pursuant to sections 380.05 and 380.0552, Florida Statutes, and has adopted a comprehensive land use plan and land development regulations, approved by the State as required by law; and

WHEREAS, the COUNTY is required to issue development orders only in conformity with its approved comprehensive land use plan and land development regulations, and

WHEREAS, the DEPARTMENT is authorized to appeal any COUNTY development order to the Florida Land and Water Adjudicatory Commission if the DEPARTMENT determines that the development order was issued in error; and

WHEREAS, due to a difference in interpretation between the DEPARTMENT and the COUNTY, the COUNTY has been issuing building permits deemed by the DEPARTMENT, as inconsistent with the intent of the provisions of the Monroe County

Year 2010 Comprehensive Plan and Monroe County Code regulating accessory dwelling units, and

WHEREAS, the DEPARTMENT and COUNTY desire to enter into this Memorandum and amicably resolve their differences of interpretation; and

WHEREAS, the COUNTY recognizes that proper administration of its comprehensive land use plan and land development regulations reduces the need for intervention by the DEPARTMENT, and both parties agree to pursue the goal of removal of the Area of Critical State Concern designation in accordance with Section 380.0552, Florida Statutes; and

WHEREAS, the DEPARTMENT and the COUNTY do mutually agree as follows:

1. The Monroe County Building Department shall only approve and issue building permits for those project designs identified as "YES" on the matrix entitled "Guidelines for Approving Additions That Do Not Create an Additional Dwelling Unit" attached hereto as Attachment "A";
2. Any project design which does not clearly fall within the descriptions set forth in the matrix shall require approval by the Director of Planning (or the Development Review Senior Administrator), after consultation with the DEPARTMENT's Planning Manager for the Field Office;
3. An "unlockable internal connector" shall be defined as an "open wall." A door or doorway shall not be included in the definition of "unlockable internal connection."

4. A "wet bar" shall be defined as "a food or drink preparation area limited to a total counter surface area of 16 square feet (including a sink with design limitations of one bin and limited to one (1) square foot in size) with electricity limited to 110 volt service."

II. Modifications.

Modifications to this Memorandum of Understanding shall only be valid when they have been reduced to writing and duly signed by each of the parties hereto.

III. Termination of Memorandum.

Either party may terminate this Memorandum of Understanding at any time, with or without cause. Termination shall take effect one week or five (5) working days, whichever is earlier, after receipt of written notification as evidenced by a certified mail return receipt.

IV Notification.

Notification to the DEPARTMENT shall be directed to the Secretary, Department of Community affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100.

Notification to the COUNTY shall be directed to the Mayor, Monroe County Board of County Commissioners, Monroe County Courthouse, 500 Whitehead Street, Key West, FL 33040 with a copy to the Director of Growth Management, Monroe County Growth Management Division 2798 Overseas Highway, Suite 400, Marathon, FL 33050-2227.

V Effective Date.

This Memorandum of Understanding shall become effective upon execution by both parties, and shall end upon the termination of the Florida Keys Area of Critical State concern designation, unless terminated earlier according to Section IV above.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding.

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
MAYOR/CHAIRMAN (SEAL) DATE

ATTEST: DANNY L. KOLHAGE, Clerk

By: _____
Deputy Clerk

STATE OF FLORIDA,
DEPARTMENT OF COMMUNITY AFFAIRS

By: _____
DATE

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY _____
Attorney's Office

ATTACHMENT A
GUIDELINES FOR APPROVING ADDITIONS THAT DO NOT CREATE
AN ADDITIONAL DWELLING UNIT¹

Bld. type ²	Separate entrance ³	lockable internal connection ⁴	unlockable internal connection ⁵	full kitchen ⁶	wet bar ⁷	Full Bath ⁸	½ Bath ⁸	Allowed? ⁹
acc. bld.	X	NA	NA	X		X		NO
"	X	NA	NA	X			X	NO
"	X	NA	NA		X	X		NO
"	X	NA	NA		X		X	NO
"	X	NA	NA			X		YES
add.	X	X	----	X		X		NO
"	X	X	----		X	X		NO
"	X	X	----		X		X	NO
"	X	X	----			X		YES
"	X	X	----				X	YES
"	X	----	X	X		X		NO
"	X	----	X		X	X		NO
"	X	----	X		X		X	YES ¹⁰
"	X	----	X			X		YES
"		----	X		X	X		YES
"		----	X	X		X		NO

1. General Note: Not all possible project design options are shown. As a rule of thumb, if an option allows a full kitchen then a wet bar is also permitted in place of or in addition to a full kitchen; or, if an option allows a full bath, then a ½ bath is also permitted in place of or in addition to a full bath.
2. acc = Attached or unattached accessory addition to principal structure with no internal connection to the structure.
add = Addition to principal structure with an internal connection to principal structure.
3. A separate entrance is any entrance including sliding glass doors. A special exception may be made if the entrance is onto an enclosed courtyard or pool area. Care should be applied to assure a guest house or dormitory is not created.
4. A lockable internal connection exists when either party can lock out the other party.
5. An unlockable internal connection exists when one party can not exclude the other party. An open wall is an unlockable internal connection. A door or doorway is not an unlockable internal connection.
6. A full kitchen is any food preparation facility larger than a wet bar. Plumbing "stub outs" shall be considered a kitchen.
7. A wet bar is a food or drink preparation area limited to a total counter surface area of 16 square feet (including a sink with design limitations of one bin and limited to one (1) square foot in size) with electricity limited to 110 volt service.
8. A full bath contains, at a minimum, a sink, toilet and bath or shower. A half bath, at a maximum, may contain a toilet and a sink.
9. NO = Design can not be approved.
YES = Design can be approved.
Approval of any project design that does not clearly fall within one of the listed options can only be approved by the Planning Director or Development Review Senior Administrator, after consultation with the Planning Manager of the DCA Field Office.
10. Requires covenant restricting dwelling unit to single family occupancy only.