

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 19, 2008

Division: Growth Management and Housing and
Community Development

Bulk Item: Yes No

Department: _____

Staff Contact Person: Lisa Tennyson/292-4462

AGENDA ITEM WORDING:

A public hearing to adopt an ordinance by the Monroe County Board of County Commissioners amending the Land Development Regulations by adding Section 9.5-266(b)(4)a. to clarify that inclusionary housing requirements may be met through the deed-restriction of existing dwelling units as affordable in lieu of constructing new units.

ITEM BACKGROUND:

At its July 7, 2007 meeting in Key Colony Beach, the Monroe County Workforce Housing Task Force voted to request that the Board clarify that a developer or redeveloper could meet the County's inclusionary housing requirements by deed-restricting as affordable housing an appropriate number of existing dwelling units for the period prescribed for under the County's inclusionary housing ordinance.

PREVIOUS RELEVANT BOCC ACTION:

On April 19, 2006 the Board adopted Ordinance 017-2006 establishing "inclusionary housing" requirements for development and redevelopment which was approved by the Florida Department of Community Affairs and which has since been as a new Section 9.5-266(b) of the Monroe County Code.

At its December 17, 2007 meeting of the Development Review Committee staff recommended approval of the proposed ordinance.

At its February 5, 2008 regular meeting, the Monroe County Planning Commission recommended approval of the proposed ordinance.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required _____

DISPOSITION: _____

AGENDA ITEM # _____



STAFF REPORT

TO: Monroe County Board of County Commissioners

FROM: Lisa Tennyson, Affordable Housing Coordinator

THROUGH: Reggie Paros, Division Director of Housing and Community Development
Townasley Schwab, Acting, Sr., Director of Planning & Environmental Resources

DATE: February 25, 2008

SUBJECT: PROPOSED TEXT AMENDMENT TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS

MEETING DATE: March 19, 2008

I. PROPOSED AMENDMENT:

The proposed amendment is intended to clarify that inclusionary housing requirements set forth in 9.5-266(b) can be met by an applicant through the appropriate deed-restriction of already existing housing units in the County according to prescribed affordability standards. This means that compliance with inclusionary housing need not be accomplished through construction or reconstruction of new or refurbished units, but instead could be accomplished, for instance, through the purchase of an existing duplex and deed-restricting it to meet affordable housing requirements.

A. Previous County Action:

In 2006, the County adopted an inclusionary housing ordinance relating to trailer park and other multiple dwelling unit residential redevelopments. This amendment seeks to clarify inclusionary housing compliance options by adding the following section 9.5-266(b)(4)a.:

a. Compliance with this subsection may be achieved through the deed-restriction of existing dwelling units requiring that the affected units remain subject to the County's affordable housing restrictions for a period not less than the period prescribed in subsection (5)(c)3., below, according to administrative procedures established by the County.

On December 17th, 2007, the Development Review Committee approved the proposed amendment.

On February 5th, 2008, the Monroe County Planning Commission heard the proposed text amendment at its regularly scheduled monthly meeting. The Planning Commission approved the proposed text amendment on a 5-0 vote, and directed staff to include examples of various compliance options. Specifically addressing the Planning Commission directions and public comments, the following modifications were made:

The following example is set forth to illustrate potential application options:

Example: Owner/developer has 100 development rights

- Option 1: Owner/developer may build up to 70 market rate units and shall build 30 affordable units (using conventional compliance method.) The owner's 100 development rights yield a ratio of 70 market rate units and 30 affordable units.
- Option 2: Owner/developer may build up to 70 market rate units and shall purchase and deed-restrict 30 existing market rate units (in lieu of building 30 new affordable units.) The owner's 100 development rights again yield a ratio of 70 market rate units to 30 affordable units.
- Option 3: Owner/developer may build up to 100 new market rates. If the developer wishes to use all 100 development rights for market rate development, his inclusionary compliance requirement to purchase and deed-restrict existing market rate units increases, and in this case for example, calculates to 43 total affordable units. (The owner's 100 development rights yield a ratio of 100 market rate units to 43 affordable units, which is equivalent to the ratio of 70 market rates to 30 affordables: $100/43 = 70/30$.)

B. Sponsor:

The Workforce Housing Taskforce and the Division of Housing and Community Development originated the proposed text amendment; and the Planning Department worked to finalize this ordinance.

C. Characteristics of the proposed text amendment

The proposed amendment clarifies that compliance can be accomplished with the appropriate deed-restriction of existing dwelling units.

This proposed amendment does not address specific criteria for the types and conditions of housing units that shall be deed-restricted. Staff will develop administrative guidelines that outline suitability and habitability requirements that will include but not be limited to ensuring that each housing unit to be deed-restricted meets all current building codes and has a useful life for at least the 30 year deed-restriction period. The Planning and Building Departments shall determine habitability for proposed units to be deed-restricted for each individual project.

II. ANALYSIS:

A. Consistency with the Land Development Regulations

County requirements for amendments to the land development regulations: Pursuant to Section 9.5-511(d)(5)b of the Monroe County Code, the Board of County Commissioners may consider the adoption of an ordinance enacting proposed changes to the text or maps based on one (1) or more of the following factors, for which the following justification is provided:

- (i) *Changed projections (e.g., regarding public service needs) from those on which the text or boundary was based;*

None.

- (ii) *Changed assumptions (e.g., regarding demographic trends);*

The County has encouraged preservation of existing affordable housing stocks through required redevelopment of a percentage of dwelling units in multi-family residential redevelopment projects as “affordable” units.

- (iii) *Data errors, including errors in mapping, vegetative types and natural features described in Volume I of the plan;*

None.

- (iv) *New issues;*

The County adopted an inclusionary housing ordinance in 2006 and clarifications to the ordinance to better facilitate its purposes are to be expected. This amendment does that.

- (v) *Recognition of a need for additional detail or comprehensiveness; or*

Workforce Housing Taskforce and County staff have recognized the need to clarify that appropriate deed-restricting of dwelling units, even offsite units in particular cases, can fully serve the overall intent of the County’s inclusionary housing ordinance and lend planning stability and options for potential housing redevelopers and thereby encourage continued activity in the affordable housing development/redevelopment area.

- (vi) *Data updates;*

None

B. Consistency with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.

The proposed text amendment is consistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle. Specifically, the amendment furthers:

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

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

and

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

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed definition amendment is justified by three (3) of the factors in Section 9.5-511 of the Monroe County Code, which the BOCC may consider for amending the land use regulations:
 - (ii) *Changed assumptions (e.g., County's new Purchase and Development Program); and*
 - (iv) *New issues; and*
 - (v) *Recognition of a need for additional detail or comprehensiveness.*
2. The proposed text amendment is consistent with the following Principles for Guiding Development in the Florida Keys Area of Critical State Concern:

Principles (a), (j) and (l)

3. The proposed text amendment is in the interest of public welfare.

The amendments to the land development regulations contribute to the set of overall programs and policies designed to preserve and protect the County's existing and future affordable and workforce housing stock.

IV. STAFF RECOMMENDATION:

Approval.

ORDINANCE NO. ____ - 2008

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS BY ADDING SECTION 9.5-266(b)(4)a. UNDER ALTERNATIVE COMPLIANCE TO CLARIFY THAT INCLUSIONARY HOUSING REQUIREMENTS MAY BE MET BY DEED-RESTRICTING EXISTING DWELLING UNITS AS AFFORDABLE HOUSING IN LIEU OF CONSTRUCTION OF NEW UNITS; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES

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

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

1. On August 17, 2005 the Board adopted Resolution 320-2005 deferring the acceptance of the applications for the redevelopment of ten (10) or more units of multi-family rental housing or mobile homes located in mobile home parks in order for the County's staff and housing consultants to complete the drafting of an "inclusionary housing" ordinance for the County.

2. On January 18, 2006 the Board adopted Resolution 029-2006 extending the effect of Resolution 320-2005.

3. On April 19, 2006 the Board adopted Ordinance 017-2006 establishing "inclusionary housing" requirements for development and redevelopment which was approved by the Florida Department of Community Affairs and which has since been as a new Section 9.5-266(b) of the Monroe County Code.

4. At its July 7, 2007 meeting in Key Colony Beach, the Monroe County Workforce Housing Task Force voted to request that the Board clarify that a developer or redeveloper could meet the County's inclusionary housing requirements by deed-restricting as affordable housing an appropriate number of existing dwelling units for the period prescribed for under the County's inclusionary housing ordinance.

5. These amendments to the land development regulations specifically further Fla. Stat. Sec. 163.3202(3) and Fla. Stat. Sec. 125.01055 by implementing innovative land development regulation provisions such as transfer of development rights, incentive and inclusionary housing.

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

7. At its December 17, 2007 meeting of the Development Review Committee staff recommended approval of the proposed ordinance.

8. At its February 5, 2008 regular meeting, the Monroe County Planning Commission recommended approval of the proposed ordinance. At this meeting, the Planning Commission also

directed staff to include examples of compliance options in the ordinance. The Planning Commission and this Board considered demonstrated factors supporting the proposed amendment as outlined in the staff report and as required by Section 9.5-511 of the Monroe County Code.

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

Section 1. Section 9.5-266(b) is amended by adding new (4) a. to read as follows:

(4) *Alternative Compliance*

a. Compliance with this subsection may be achieved through the deed-restriction of existing dwelling units requiring that the affected units remain subject to the County's affordable housing restrictions for a period not less than the period prescribed in subsection (5)(c)3., below, according to administrative procedures established by the County.

The following example is set forth to illustrate potential application options:

Example: Owner/developer has 100 development rights

- Option 1: Owner/developer may build up to 70 market rate units and shall build 30 affordable units (using conventional compliance method.) The owner's 100 development rights yield a ratio of 70 market rate units and 30 affordable units.
- Option 2: Owner/developer may build up to 70 market rate units and shall purchase and deed-restrict 30 existing market rate units (in lieu of building 30 new affordable units.) The owner's 100 development rights again yield a ratio of 70 market rate units to 30 affordable units.
- Option 3: Owner/developer may build up to 100 new market rates. If the developer wishes to use all 100 development rights for market rate development, his inclusionary compliance requirement to purchase and deed-restrict existing market rate units increases, and in this case for example, calculates to 43 total affordable units. (The owner's 100 development rights yield a ratio of 100 market rate units to 43 affordable units, which is equivalent to the ratio of 70 market rates to 30 affordables: $100/43 = 70/30$.)

a. b. *In-lieu fees.* The developer of a project subject to the requirements of this subparagraph 9.5-266(b) may contribute a fee in-lieu of the inclusionary housing requirements for all or a percentage of the affordable housing units required by subsection (b)(2). The developer shall pay per unit in-lieu fees the current maximum sales price for a one-bedroom affordable unit as

established under section 9.5-266(a)(M-6.2). All in-lieu fees shall be deposited into the affordable housing trust fund and spent solely for the purposes allowed for that fund. The developer, along with any corresponding in-lieu fees, shall transfer to the County ownership of the associated ROGO-exempt development rights for any affordable unit(s) required by this section for which the in-lieu fee option is used.

~~b.~~ c. *Land Donation.* Upon the acceptance of the board of county commissioners of a proposed onsite or offsite parcel (or parcels), a developer may satisfy the requirements of this subsection 9.5-4 (M-6.2) by donating to the County, or other agency or not-for-profit organization approved by the board, one (1) IS or URM lot for each unit required but not provided through actual construction or in-lieu fees (or a parcel or parcels of land zoned other than IS or URM as long as the donated parcel(s) will support the development of an appropriate number of affordable units). Lots or other parcels so provided shall not be subject to environmental or other constraints that would prohibit immediate construction of affordable housing units. The developer, along with any corresponding donated parcel(s), shall transfer to the County ownership of the associated ROGO allocations or ROGO-exempt development rights for any affordable unit(s) required under this section.

Section 2. Severability.

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

Section 3. Conflicting Provisions.

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

Section 4. Transmittal.

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

Section 5. Filing.

This ordinance shall be filed in the Office of the Secretary of State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 6. Effective Date; Incorporation into Code of Ordinances.

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

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 19th day of March, 2008.

Mayor Charles "Sonny" McCoy _____
Mayor Pro Tem Mario DiGennaro _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner Dixie Spehar _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
Mayor Charles "Sonny" McCoy

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk

APPROVED AS TO FORM:

