

PLANNING COMMISSION
June 26, 2019

Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, June 26, 2019**, beginning at 10:00 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER by Chair Werling

PLEDGE OF ALLEGIANCE

ROLL CALL by Debra Roberts

PLANNING COMMISSION MEMBERS

Denise Werling, Chair	Present
Ron Miller	Present
Tom Coward	Present
Joe Scarpelli	Present
William Wiatt	Absent

STAFF

Cheryl Cioffari, Acting Senior Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Bradley Stein, Development Review Manager	Present
Debra Roberts, Planning Coordinator	Present

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by Mr. Wright.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Ms. Debra Roberts confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

Not required for any agenda items.

CHANGES TO THE AGENDA

There were no changes to the agenda.

APPROVAL OF MINUTES

Motion: Commissioner Coward made a motion to approve the May 29, 2019 meeting minutes. Commissioner Miller seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 010-2017 AND EXTENDED 365 DAYS THROUGH ORDINANCE 019-2018, FOR AN ADDITIONAL 365 DAYS TO DEFER THE ACCEPTANCE AND APPROVAL OF NEW APPLICATIONS FOR THE ESTABLISHMENT OF MEDICAL MARIJUANA TREATMENT CENTERS DISPENSING FACILITIES COMMENCING OCTOBER 27, 2019, UNTIL SUCH TIME AS A COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE AMENDMENT PROCESS IS COMPLETED REGARDING MEDICAL MARIJUANA TREATMENT CENTERS DISPENSING FACILITIES AND 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 2019-061)

(10:02 a.m.) Mr. Bradley Stein, Planning and Development Review Manager, presented the staff report, explaining that this is extending the moratorium in place right now, and that he was available for questions.

Commissioner Coward asked about the timing on this. Mr. Stein explained that the County had been following what the State was doing. There are preemptions right now that have rules in place stating these cannot be within 500 feet of certain locations, et cetera. These cannot be regulated other than the way a pharmacy is regulated, so the County's option is if a pharmacy is allowed in a specific location, a medical marijuana treatment center would be allowed in the same location. Any changes by the State would be mirrored by the County at this point. Ms. Cheryl Cioffari added that the BOCC would have an agenda item at the July 17, 2019, meeting where staff is asking for discussion and direction to make that decision, whether to regulate using the State's laws or to ban it outright.

Chair Werling asked for public comment. There was none. Public comment was closed.

Motion: Commissioner Scarpelli made a motion to approve. Commissioner Coward seconded the motion. There was no opposition. The motion passed unanimously.

2. 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)

(10:06 a.m.) Ms. Cheryl Cioffari, Acting Senior Director of Planning and Environmental Resources, presented the staff report. This interim development ordinance was originally initiated back in July of 2017 through Ordinance 012-2017, and extended last year through 009-2018. Staff is looking for an extension for another 365 days. This is on the list to begin working on and a staff member has been assigned to it. Hopefully the fixes will be coming through shortly. Staff is recommending approval.

Commissioner Miller asked what the significance of the October 27 date was for both Items 1 and 2. Ms. Cioffari responded that this is the date the current moratorium expires for both.

Chair Werling asked for public comment. There was none. Public comment was closed.

Motion: Commissioner Coward made a motion to approve. Commissioner Scarpelli seconded the motion. There was no opposition. The motion passed unanimously.

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING AN INTERIM DEVELOPMENT ORDINANCE AS INITIALLY ESTABLISHED ON JULY 19, 2017 THROUGH ORDINANCE 011-2017, AND EXTENDED THROUGH ORDINANCE 020-2018, FOR AN ADDITIONAL 365 DAYS TO DEFER THE APPROVAL OF NEW PRIVATE APPLICATIONS OR RECEIVED APPLICATIONS THAT HAVE NOT BEEN FULLY APPROVED UTILIZING MONROE COUNTY CODE SECTION 139-2 (AFFORDABLE HOUSING INCENTIVE PROGRAM) TO TRANSFER ROGO EXEMPTIONS FROM MOBILE HOMES TO ANOTHER LOCATION, OR SECTION 138-22(B) TO TRANSFER OFF-SITE MARKET RATE UNITS TO ANOTHER LOCATION, COMMENCING OCTOBER 27, 2019, UNTIL THE LAND DEVELOPMENT CODE IS AMENDED TO LIMIT THE TRANSFER OF ROGO EXEMPTIONS FROM MOBILE HOMES TO ONLY TIER III DESIGNATED PLATTED LOTS WITHIN THE

IMPROVED SUBDIVISION (IS) LAND USE DISTRICT OR THE URBAN RESIDENTIAL MOBILE-HOME (URM) LAND USE DISTRICT AND WITHIN THE SAME ROGO PLANNING SUBAREA FOR THE DEVELOPMENT OF SINGLE FAMILY DETACHED DWELLING UNITS AND THE RECEIVER PROPERTY SHALL NOT BE A WORKING WATERFRONT; EXCEPT TO ALLOW NEW APPLICATIONS, OR RECEIVED APPLICATIONS THAT HAVE NOT FULLY BEEN APPROVED, PURSUANT TO RESOLUTION 203-2018, TO UTILIZE MONROE COUNTY CODE SECTION 139-2 (AFFORDABLE HOUSING INCENTIVE PROGRAM) OR SECTION 138-22(B) (TRANSFER OF ROGO EXEMPTIONS) TO TRANSFER MARKET RATE ROGO EXEMPTIONS TO TIER III PLATTED LOTS WITHIN THE IMPROVED SUBDIVISION (IS) OR URBAN RESIDENTIAL MOBILE-HOME (URM) LAND USE DISTRICT AND WITHIN THE SAME ROGO PLANNING SUBAREA FOR THE DEVELOPMENT OF SINGLE FAMILY DETACHED DWELLING UNITS PROVIDED THE RECEIVER SITE IS NOT A WORKING WATERFRONT; AS RECOMMENDED BY THE AFFORDABLE HOUSING ADVISORY COMMITTEE AND THE BOCC; PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THIS INTERIM DEVELOPMENT ORDINANCE OR WHEN THE 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 2019-082)

(10:09 a.m.) Ms. Cheryl Cioffari presented the staff report. Most of this title covers the purpose of the interim development ordinance. Staff is working on a fix which only requires a change to the Land Development Code to fix the issue with transferring market rate ROGO exemptions to sites designated as Tier III within the URM or IS Zoning Districts, not including a commercial or recreational working waterfront, within the same ROGO planning subarea. The ordinance was brought forward for consideration before DRC yesterday and will be brought to the Planning Commission three months after the community meeting.

Commissioner Miller stated he was confused as to what remained to be done because on page three of four, the last paragraph states, “except as approved through Resolution 203-2018,” which lays it out. Ms. Cioffari explained that it is not codified and needs to go in the Code. The language within the Code of Ordinances needs to be amended so the public knows the exact criteria for transferring. The resolution says no market rate transfers can be submitted unless the criteria set out in Resolution 203-2018 is met. Applications are being accepted currently but it’s preferable to amend the Code. Commissioner Coward asked if there were a lot of projects in the queue now. Ms. Cioffari responded there were not. Commissioner Miller asked what was not allowed at the moment. Ms. Cioffari explained that the idea is to direct those ROGO exemptions to single platted lots as opposed to transferring market rate units to a larger development site that could accommodate more than one unit. This changes several pieces of the Code in Chapters 138 and 139 to specifically lay out the transfer procedure. There are a couple more criteria specified in the Comp Plan, so rather than asking people to go back and look at the Comp Plan, it will be in the Land Development Regulations. Commissioner Miller asked if the wording on page three is what would be codified. Ms. Cioffari responded that it was, in addition to other criteria. Some things are still being worked through.

Commissioner Coward asked if the premise was to push these to larger properties where there could be more density. Ms. Cioffari responded that the push is to push it to single platted properties. There was a project where a lot of market rate units were transferred to one parcel and the community and the Commission felt that it should be modified and directed to single lots. The benefit the County may see is that you are then using existing development rights and retiring vacant parcels that are out in the IS and URM Zoning District. Commissioner Miller stated it would take 365 days to figure out exactly what is being done so that was fine. Commissioner Scarpelli asked if this new ordinance would prevent people from taking market rate units or mobile units and turning them into transient units. Ms. Cioffari responded that currently, that cannot be done, so that would remain the same. There is a private application that will be coming forward for Urban Residential Mobile Home Low which initiated from discussions at Venture Out about interchangeability between mobile homes and RVs, but the moratorium before the Commission now and the associated ordinance has nothing to do with that.

Commissioner Miller stated that going back ten years ago, it was a big no-no to transfer market rate off, and that you could not transfer a market rate. Ms. Cioffari indicated she was not sure about ten years ago, but currently in the Code, when transferring a market rate, there is several criteria that needs to be met, whether it be to provide an affordable housing unit on the sender site, or to build a new affordable housing unit on a different site. So there were discussions and thoughts about the connection between the affordability of parcels and how people may transfer them. Essentially, the fear or concern is someone would buy a unit on a dry lot and then transfer it to a more valuable lot, either waterfront or a larger parcel, things like that. That is why there is now some criteria which speaks to replacing affordable housing units. Commissioner Miller asked how this figured into the ending of allocations. Ms. Cioffari stated that this would be another opportunity for property owners to continue to develop and transfer units around and not need to come to the County asking for a new ROGO allocation. An existing development right is being moved elsewhere. It is another opportunity people can take advantage of. Commissioner Miller added that that's assuming you wouldn't put something on the property that the development right is being transferred from. Ms. Cioffari indicated that was correct. Commissioner Miller asked if this would allow for affordable housing on these properties after the end of the allocations. Ms. Cioffari responded that if there were no allocations, no affordable allocations could be given. If staff is directed to look at other options, there could be discussion about allowing transfers and not requiring a replacement, but history had been provided explaining why there was the requirement for the affordable housing unit to go back on as there is a concern about more affordable, not deed restricted but just generally more affordable parcels being bought up and transferred. These are all considerations the County will have to make as things move forward.

In January of 2019, staff was directed by the BOCC to process amendments to the Comp Plan and Code that would take existing allocations and extend them from 2023 to 2026, allowing time to see how the State will respond with the new census and new hurricane evacuation model. That is the decision from where the County will find out how many allocations are available while still staying compliant with evacuation times.

Commissioner Miller stated that it was a shame that it started out where this would be extended instead of 10 years to 20 years. Staff came up with fifteen reasons why that would give the County more time to do this and that, a lot of work went into it, and then three months later they reversed themselves. Commissioner Miller believes an opportunity had been missed because the wall would be hit again. He then asked for someone to cut him off.

Chair Werling asked for public comment. There was none. Public comment was closed.

Motion: Commissioner Scarpelli made a motion to approve. Commissioner Coward seconded the motion. There was no opposition. The motion passed unanimously.

BOARD DISCUSSION

Commissioner Miller asked if there was any more white paper on the properties that the County may have to buy at the end of ROGO. Ms. Cioffari indicated staff was working on updating that right now.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:22 a.m.