



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Planning Commission

From: Emily Schemper, Sr. Director of Planning and Environmental Resources  
Tiffany Stankiewicz, Development Administrator

Date: May 12, 2021

Subject: Non-Residential Floor Area Evaluation Report (NROGO)  
Quarter 3, Year 29 (January 13, 2021 through April 12, 2021)

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**Meeting Date: May 26, 2021**

1 I BACKGROUND:

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3 Monroe County Code, Chapter 138, Article III (Sections 138-47 through 138-55) establishes the  
4 Nonresidential Rate of Growth Ordinance (NROGO) and the procedure for allocating the non-  
5 residential floor area.

6  
7 On June 9, 2006, the Federal Fish and Wildlife Service Incidental Take Permit (ITP) #TE083411-0  
8 was issued to 1) Monroe County, Growth Management Division, 2) Florida Department of  
9 Transportation, and 3) Florida Department of Community Affairs for the Threatened and  
10 Endangered Species Incidental Take Permit (ITP) since the permittees have defined the geographic  
11 area covered by their Habitat Conservation Plan (HCP) on Big Pine/No Name Key. The ITP  
12 requires the Permittees to ensure that the take of the covered species is minimized and mitigated.  
13 The Permittees are responsible for meeting the terms and conditions of the ITP and implementing  
14 the HCP.

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16 On March 15, 2006, the Board of County Commissioners adopted Ordinance 011-2006 to implement  
17 the Tier System, and subsequently, it was challenged by Florida Keys Citizens Coalition, Inc. and  
18 Protect Key West and the Florida Keys, Inc., d/b/a Last Stand. Thomas G. Pelham, Secretary,  
19 Department of Community Affairs signed the final order (Final Order DCA07-GM166 for DOAH  
20 Case No. 06-2449GM) deciding the challenge on September 26, 2007.

1 The Tier System made changes such as separate districts for allocation distribution, basis of scoring  
2 applications, and administrative relief. The districts are: A) Lower/Upper Keys and B) Big Pine/No  
3 Name Key for NROGO.  
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5 On September 21, 2012, the BOCC adopted Ordinance #021-2012, revising the NROGO allocation  
6 scoring system regarding land dedications and Tier III properties containing wetlands adjacent to  
7 Tier 1 properties. The ordinance became effective on December 31, 2012.  
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9 On April 17, 2013, the BOCC adopted Ordinance #019-2013, and Ordinance #020-2013, revising  
10 the NROGO allocation system. The ordinance became effective on July 13, 2013. The amendments  
11 adopted in April 2013, simplified the NROGO permit allocation system process by:

- 12 • allowing applicants to acquire NROGO awards in less time (up to 4 times a year vs. up to 2  
13 times a year);
- 14 • increasing the maximum amount of de minimis expansion from 100 sq. ft. to 1,000 sq. ft. for  
15 new and existing nonresidential developments with an allocation awarded by building permit  
16 (no competition);
- 17 • commencing NROGO Year 22 (July 13, 2013), distributing the annual NROGO allocation  
18 proportionately to each of the three ROGO subareas: Upper (239 sq. ft. X 96 DU = 22,944  
19 sq. ft.); Lower (239 sq. ft. X 91 DU = 21,749 sq. ft.); and Big Pine/No Name (239 sq. ft. X  
20 10 DU = 2,390 sq. ft.);
- 21 • increasing the maximum amount of a NROGO allocation from 2,500 sq. ft. to 10,000 sq. ft.  
22 per allocation period; and
- 23 • creating NROGO bank accounts to establish a codified mechanism to allocate nonresidential  
24 floor area that went unused or unallocated in previous years or which has been reclaimed.  
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26 On April 13, 2016, the BOCC adopted Ordinance #005-2016, Monroe County Year 2030  
27 Comprehensive Plan. The ordinance became effective on June 20, 2016. The updated  
28 Comprehensive Plan in part revises NROGO.  
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30 On November 22, 2016, the BOCC adopted Ordinance #030-2016, to satisfy a Stipulated Settlement  
31 Agreement regarding BOCC Ordinance 006-2016, which amended the Monroe County Land  
32 Development Code (LDC) to be consistent with the Monroe County Year 2030 Comprehensive Plan.  
33 The ordinance and LDC became effective on February 3, 2017.  
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II. AMOUNT OF FLOOR AREA AVAILABLE

Pursuant to Monroe County Code Section 138-53(e)(13), the Planning and Environmental Resources Department is providing a notification of the NROGO account balances. The balances are as follows:

NROGO Year 29 Balances Available for Quarter 3			
	ANNUAL NROGO	NROGO BANK	
NROGO Year 29 Balances	Year 29 Annual Allocation Amount	Subarea Bank Accounts (rollover from Year 28)	Year 29 General (Joint) Bank Total
Big Pine Key and No Name Key subarea	2,390 SF	19,991	N/A
Upper Keys subarea	22,944 SF	44,395	666,832 SF*
Lower Keys subarea	21,749 SF		
<b>Totals</b>	<b>47,083 SF</b>	<b>64,386</b>	<b>666,832 SF*</b>

\*The YR 29 Bank Totals includes 20,000 SF in reserves for the Upper and Lower Key. (Ord. 020-2013) (Ord. 030-2016)

\*\* Includes NROGO SF from expired allocation awards.

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Please note, for the table above, square footage for de-minimis applications that are awarded through issuance of a building permit (no public hearing required) will be deducted from the annual NROGO allocation or the NROGO bank.

III. AMOUNT OF FLOOR AREA REQUESTED:

There is one applicant requesting commercial floor area for Year 29 Quarter 3.

NROGO YEAR 29 ANNUAL SQUARE FOOTAGE				NROGO YEAR 29 BANK	
	Lower Keys Subarea	Upper Keys Subarea	Big Pine/No Name Keys Subarea	Lower/Upper Bank	Big Pine /No Name Bank
<b>Quarter 1:</b> Square Feet Allocation Available	21,749	22,944	2,390	668,931	19,991
<b>Quarter 1:</b> Square Feet Allocated	0	0	0	0	0
<b>Quarter 2:</b> Square Feet Allocation Available	21,749	22,944	2,390	668,931	19,991
<b>Quarter 2:</b> Square Feet Allocated	0	0	0	2,099	0
<b>Quarter 3:</b> Square Feet Allocation Available	21,749	22,944	2,390	666,832	19,991
<b>Quarter 3</b> Square Feet Requested	0	0	0	1,875	0

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**IV. EVALUATION AND RANKING:**

For the annual NROGO allocation, there were no applicants in the Upper Keys subarea with a request within the SF available for Quarter 3. There were no applicants in the Lower Keys subarea and no applicants in the Big Pine/No Name Key subarea for Quarter 3. For the NROGO bank, there was one applicant for Quarter 3.

**V. RECOMMENDATION:**

Based on the preceding information, the Sr. Director Planning & Environmental Resources recommends the following NROGO allocations of Year 29 Quarter 3 be awarded:

**NROGO YEAR 29 ANNUAL SQUARE FOOTAGE**

Lower Keys Subarea

- None

Upper Keys Subarea

- None

Big Pine Key and No Name Key Subarea

- None

**NROGO BANK YEAR 29 SQUARE FOOTAGE**

Lower/Upper Keys

- Permit number 20103282 for 5650 Laurel LLC ranked number one (1), requesting a total of 1,875 square feet of floor area

Big Pine Key and No Name Key Subarea

- None

**NON-RESIDENTIAL ALLOCATION RANKING,  
AS PROPOSED BY THE SR. PLANNING AND ENVIRONMENTAL RESOURCES DIRECTOR  
UPPER AND LOWER KEYS BANK - YEAR 29, QUARTER 3 (JANUARY 13, 2021 TO APRIL 12, 2021)**

Rank	Permit #	Name	Date	Time	Key	Subdivision	Lot	Block	RE#	Tier Des.	Tier Pts	Expan. Exist +4	Wetlands Tier 3 adj Tier 1 w>50 -3	Wetlands Tier 3 adj Tier 1 w<50 -5	Land Ded Pts	Flood	Hwy. Access (eliminates) +3	Hwy. Access (no new) +2	200% Native w/tn bufferyards/park ing areas +1	25% of native listed as threat or endanger +1	Water Conserva tion +1	Bldg designed green Bldg code +3	Solar photovoltaic 3KW or equiv. +1	Ductless A/C & High efficiency +0.5	Concrete Cistern +1 (2,000 gal)	Gray water reuse +2	BAT/ AWT	Mkt EMP/AFH project (Max. 4) +2	Paymnt Acq_Fund up to 2	Community Center +5	Pers. Pts Tier 1 or 3-A First 4 Yrs +1, After 4 Yrs .5 per Yr	Pers. Pts Tier 3 First 4 Yrs +2, After 4 Yrs 1 Point per Yr	Total	Requested Sq Ft.		
1	*	20103282	5650 Laurel LLC	9-Apr-21	12:57 PM	Stock Island	Maloney Subd	5	31	00124390-000000	3	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	0	0	0	0	24	1,875

\* Indicates a ranking sufficient to receive an allocation award.  
 @ Indicates a ranking subject to additional reviews and approvals.  
 \*\* Indicates columns giving applicants in the ROGO System prior to the effective date of the 2030 Comprehensive Plan perservance points based on the Tier Designation of the Property.  
 Point evaluation criteria pursuant to Monroe County Code Section 138.55.  
 Applicants who have a ROGO application date of Oct. 29, 2007, or earlier are grandfathered for perseverance points pursuant to vesting provision of Ordinance 009-2007.  
 Pursuant to Ordinance 021-2012 wetland point section applies to new applications entering the permit allocation system after Jan. 13, 2013.

The Board of County Commissioners on August 15, 2012 adopted Ordinance amending Sections 139-19, 138-25, 138-47 and 138-52 of the Monroe County Code to require the submittal of updated building plans meeting the current Florida Building Code and other life safety codes prior to the issuance of a building permit, but after a ROGO or NROGO allocation is awarded.