



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

*"Dedicated to making Florida a better place to call home"*

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

June 16, 2010

The Honorable Sylvia Murphy  
Monroe County Board of County Commissioners  
102050 Overseas Highway  
Key Largo, Florida 33037

Dear Mayor Murphy:

This letter is written to make you aware of the Department of Community Affairs' (Department) concerns regarding a proposed future land use map amendment currently being considered by the County for Wisteria Island that seeks to develop a spoil island near the City of Key West in conjunction with the construction of a mooring field. The Department staff participated in several meetings with Wisteria Island's consultants, county staff, and staff from the Department of Environmental Protection to explore the viability of the proposal. We provide this now so the County can take these concerns into account at this stage of the process. The applicant is proposing to develop 35 single family homes and accessory docking, 35 transient units containing 85 rooms, affordable housing and 39,500 square feet of non-residential uses.

It is my understanding that Wisteria Island is not currently designated on the Monroe County Future Land Use Map and that the County will conduct a transmittal hearing on June 29, 2010 to take public comment regarding designating the island Mixed Use under a sub-area policy. Wisteria Island has also not been designated a tier overlay under the smart growth initiative.

The smart growth initiative directs growth through a point system to lands designated Tier 3 and containing infrastructure including paved roads, water, and electricity. Wisteria Island has no infrastructure, therefore the island does not qualify as a Tier 3 or Tier 3A property. Tier 1 of the smart growth initiative is composed of any geographic area where a significant portion of the land area is environmentally sensitive. Policy 102.7.3 provides that Monroe County shall discourage developments proposed on offshore islands by methods including, but not limited to, designating offshore islands as Tier 1 lands. In addition, Monroe County staff provided testimony in the Tier Challenge lawsuit affirming that offshore islands would be designated Tier 1. The proposed Wisteria Island sub-area policy is in conflict with policies that designate offshore islands as Tier one.

The adopted comprehensive plan contains numerous policies that address offshore islands (attached). When all the policies are considered collectively, it is clear that the intent of the plan since 1992 has been to limit development on offshore islands.

Objective 102.7.1 provides that Monroe County shall regulate land use activities on the islands in the surrounding waters of Florida Bay and Hawk Channel within the legal boundaries of Monroe County.

Policy 102.7.2 directs Monroe County to restrict activities permitted on offshore islands and provides that public facilities and services shall not be extended to offshore islands. This policy limits development to detached residential dwellings and prohibits marinas and motorized vehicles. Policy 217.4.2 provides that no public expenditure shall be made for new or expanded facilities to offshore islands that are not currently accessible by road. The extension of water and sewer to the island by the City of Key West is inconsistent with these policies.

Goal 209 of the comprehensive plan directs the county to discourage private land uses on offshore islands. Data and analysis included within the Monroe County Comprehensive Plan indicates there are approximately 200 offshore islands, mostly in public ownership, which are not connected to Monroe County by roads or bridges. Another 60 islands are privately owned. The data indicates that offshore islands are limited to one dwelling unit per ten acres (Table 2.5). Wisteria Island is included on table 2.5 and is not classified as a Coastal Barrier island, and is not targeted for acquisition. Page 2-96 of the data further describes all offshore islands that are not targeted for acquisition and conservation as being classified as Rural Conservation with a density of 0.1 unit per ten acres, therefore the Department concludes that the maximum allowed density for Wisteria Island is 2 dwelling units. While the proposed sub-area policy provides for the transfer of ROGO- exempt units to the island, the sub- area policy does not indicate the source of the affordable housing units or the commercial square footage. The allocation of units under these categories is also guided by the Tier designation.

Policy 101.13.4 provides that any parcel with a zoning category of "offshore island" shall be designated sender sites for the transfer of development rights. Page 2-108 of the Monroe County Comprehensive Plan's Data and analysis provides additional guidance classifying offshore islands as sender sites. The sub area policy allows an offshore island to become a receiver site.

The sub area policy indicates that a hurricane evacuation plan will be required as a condition of approval for development. The hurricane evacuation model assumes that all vehicles will originate from Key West. No special accommodations that consider additional time for evacuating people leaving offshore islands has been considered in the model.

The sub- area policy contemplates the transfer of ROGO- exempt units to Wisteria Island as a mechanism to resolve the tier designation. Monroe County has thousands of vacant platted lots which cannot be developed and still maintain a 24 hour hurricane evacuation clearance time.

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ROGO exempt units should be redeveloped on platted lots to reduce the County's exposure to takings claims if sufficient allocations are not available in the future. Redevelopment of ROGO exempt units should be directed to areas where considerable public and private funding has been allocated for the construction of wastewater treatment systems. To allow the development of 35 homes and 85 hotel rooms with affordable housing on an offshore island is contrary to smart growth initiatives adopted into the Monroe County comprehensive plan and may have ramifications on permitting for other more appropriately located residential development.

The provision of sewer to the island includes a number of challenges as well. A sewer line will need to be bored through the ocean floor or constructed underneath the water. This will require approval for a submerged land exchange by the Governor and Cabinet. In the past, it has been their policy not to extend infrastructure to un-bridged islands.

I hope that you will consider these concerns as you move forward in the development of the proposed plan amendment. The Department recommends that the county consider the designation of the island as Residential Conservation with a Tier 1 overlay for consistency with the adopted Monroe county Comprehensive Plan. Should you have questions regarding this letter, please call Rebecca Jetton at (850)922-1766.

Sincerely,



Charles Gauthier, AICP, Director  
Division of Community Planning

CG/rj

cc: David Powell, Hopping Green & Sams, P.A  
Christine Hurley, Monroe County

Monroe County Comprehensive Plan

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**Policy 101.13.4**

In conjunction with the evaluation of the existing TDR program pursuant to Policy 101.13.2, parcels within the following habitats and land use districts shall be designated as sender sites for Transferable Development Rights (TDRs):

Any parcel within these zoning categories:

<u>Offshore Island (OS)</u>	Sparsely Settled (SS)
Main land Native (MN)	Parks and Refuge (PR)
Native (NA)	Conservation (C)

Habitat of the following types which lie within any zoning category:

Freshwater wetlands  
Saltmarsh/Butonwood wetlands  
High quality high hammock  
High quality low hammock  
Moderate quality high hammock  
Moderate quality low hammock  
High quality pinelands  
Low quality pinelands  
Beach/berm  
Palm Hammock  
Cactus Hammock  
Disturbed Wetlands

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**Objective 102.7**

Monroe County shall regulate land use activities on the islands in the surrounding waters of Florida Bay and Hawk Channel within the legal boundaries of Monroe County. [9J-5.012(3)(b)1 and 4; 9J-5.006(3)(b)4]

**Policy 102.7.1**

By January 4, 1998, Monroe County shall expand its Geographic Information System to include the following:

1. offshore islands in the Upper, Middle and Lower Keys (in public and private ownership);
2. upland and wetland vegetation data for offshore islands in private ownership;
3. land use data for offshore islands in private ownership; and
4. public facilities and services.

Data shall be obtained using digital information made available to Monroe County through the Florida Advance Identification of Wetlands (ADID) Program and from the Florida Keys National Marine Sanctuary Management Plan program. [9J-5.006(3)(c)6]

**Policy 102.7.2**

By January 4, 1997, Monroe County shall adopt Land Development Regulations which will further restrict the activities permitted on offshore islands. These shall include the following:

1. development shall be prohibited on offshore islands (including spoil islands) which have been documented as an established bird rookery or nesting area (See Conservation and Coastal Management Policy 207.1.3.);
2. campgrounds and marinas shall not be permitted on offshore islands;
3. new mining pits shall be prohibited on offshore islands;
4. permitted uses by-right on islands (which are not bird rookeries) shall include detached residential dwellings, camping (for the personal use of the owner of the property on a temporary basis), beekeeping, accessory uses, and home occupations (subject to a special use permit requiring a public hearing);
5. temporary primitive camping by the owner, in which no land clearing or other alteration of the island occurs, shall be the only use of an offshore island which may occur without necessity of a permit;
6. the use of any motorized vehicles including, but not limited to, trucks, carts, buses, motorcycles, all-terrain vehicles and golf carts shall be prohibited on existing undeveloped offshore islands;
7. planting with native vegetation shall be encouraged whenever possible on spoil islands; and
8. public facilities and services shall not be extended to offshore islands. [9J-5.006(3)(c)6]

**Policy 102.7.3**

Monroe County shall discourage developments proposed on offshore islands by methods including, but not limited to, designated offshore islands as Tier I Lands [9J-5.006(3)(c)6]

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**GOAL 209**

Monroe County shall discourage private land uses on its mainland, offshore islands and undeveloped coastal barriers, and shall protect existing conservation lands from adverse impacts associated with private land uses on adjoining lands. [9J-5.012(3)(a); 9J-5.013(2)(a)]

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**Policy 215.2.3**

No public expenditures shall be made for new or expanded facilities in areas designated as units of the Coastal Barrier Resources System, saltmarsh and buttonwood wetlands, or offshore islands not currently accessible by road, with the exception of expenditures for conservation and parklands consistent with natural resource protection, and expenditures necessary for public health and safety. [9J-5.012(3)(c)1]

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