

ITEM #2 2018-129 NROGO Qtr 2 Yr 27  
Staff Report



**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: February 8, 2019

Subject: Non-Residential Floor Area Evaluation Report (NROGO)  
Quarter 2, Year 27 (October 13, 2018 through January 14, 2019)

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**Meeting Date: February 27, 2019**

**I BACKGROUND:**

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

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

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

The Tier System made changes such as separate districts for allocation distribution, basis of scoring applications, and administrative relief. The districts are: A) Lower/Upper Keys and B) Big Pine/No Name Key for NROGO.

On September 21, 2012, the BOCC adopted Ordinance #021-2012, revising the NROGO allocation scoring system regarding land dedications and Tier III properties containing wetlands adjacent to Tier 1 properties. The ordinance became effective on December 31, 2012.

On April 17, 2013, the BOCC adopted Ordinance #019-2013, and Ordinance #020-2013, revising the NROGO allocation system. The ordinance became effective on July 13, 2013. The amendments adopted in April 2013, simplified the NROGO permit allocation system process by:

- allowing applicants to acquire NROGO awards in less time (up to 4 times a year vs. up to 2 times a year);
- increasing the maximum amount of de minimis expansion from 100 sq. ft. to 1,000 sq. ft. for new and existing nonresidential developments with an allocation awarded by building permit (no competition);
- commencing NROGO Year 22 (July 13, 2013), distributing the annual NROGO allocation proportionately to each of the three ROGO subareas: Upper (239 sq. ft. X 96 DU = 22,944 sq. ft.); Lower (239 sq. ft. X 91 DU = 21,749 sq. ft.); and Big Pine/No Name (239 sq. ft. X 10 DU = 2,390 sq. ft.);
- increasing the maximum amount of a NROGO allocation from 2,500 sq. ft. to 10,000 sq. ft. per allocation period; and
- creating NROGO bank accounts to establish a codified mechanism to allocate nonresidential floor area that went unused or unallocated in previous years or which has been reclaimed.

On April 13, 2016, the BOCC adopted Ordinance #005-2016, Monroe County Year 2030 Comprehensive Plan. The ordinance became effective on June 20, 2016. The updated Comprehensive Plan in part revises NROGO.

On November 22, 2016, the BOCC adopted Ordinance #030-2016, to satisfy a Stipulated Settlement Agreement regarding BOCC Ordinance 006-2016, which amended the Monroe County Land Development Code (LDC) to be consistent with the Monroe County Year 2030 Comprehensive Plan. The ordinance and LDC became effective on February 3, 2017.

**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:

<b>NROGO Year 27 Balances Available for Quarter 2</b>			
	<b>ANNUAL NROGO</b>	<b>NROGO BANK</b>	
<b>NROGO Year 27 Balances Available for Quarter 2</b>	<b>Year 27 Annual Allocation Amount</b>	<b>Subarea Bank Accounts (rollover from Year 26)</b>	<b>Year 27 General (Joint) Bank Total</b>
<b>Big Pine Key and No Name Key subarea</b>	2,390 SF	15,211 SF**	N/A
<b>Upper Keys subarea</b>	22,944 SF	41,418 SF*	591,715 SF*
<b>Lower Keys subarea</b>	21,749 SF		
<b>Totals</b>	47,083 SF	56,629 SF	591,715 SF*

*\*The YR 27 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.*

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 the Year 27 Quarter 2 allocation. One applicant is in the Upper Keys subarea; there are no applicants in the Lower Keys subarea; and there are no applicants in the Big Pine/No Name Key subarea.

<b>NROGO YEAR 27 ANNUAL SQUARE FOOTAGE</b>			
	Lower Keys Subarea	Upper Keys Subarea	Big Pine/No Name Keys Subarea
<b>Quarter 1:</b> Square Feet Allocation Available	21,749	22,944	2,390
<b>Quarter 1:</b> Square Feet Awarded	0	0	0
<b>Quarter 2:</b> Square Feet Allocation Available	21,749	22,944	2,390
<b>Quarter 2:</b> Square Feet Requested	0	10,000	0
<b>Quarter 3:</b> Square Feet Allocation Available	21,749	12,944	2,390
<b>Quarter 3:</b> Square Feet Requested	0	0	0
<b>Quarter 4:</b> Square Feet Allocation Available	21,749	12,944	2,390
<b>Quarter 4:</b> Square Feet Requested	0	0	0

**IV. EVALUATION AND RANKING:**

For the annual NROGO allocation, there was an applicant in the Upper Keys subarea with a request within the SF available for Quarter 2. There was an applicant in the Lower Keys subarea and no applicants in the Big Pine/No Name Key subarea for Quarter 2. For the NROGO bank, there were no applicants for Quarter 2.

**V. RECOMMENDATION:**

Based on the preceding information, the Sr. Director Planning & Environmental Resources recommends the following NROGO allocations of Year 27 Quarter 2 be awarded:

**NROGO YEAR 27 ANNUAL SQUARE FOOTAGE**

Lower Keys Subarea

- None

Upper Keys Subarea

- Permit number 18300924 for Key Largo Baptist Church, Inc, ranked number one (1), requesting a total of 10,000 square feet of floor area

Big Pine Key and No Name Key Subarea

- None

**NROGO BANK YEAR 27 SQUARE FOOTAGE**

Lower/Upper Keys

- None

Big Pine Key and No Name Key Subarea

- None