

PLANNING COMMISSION  
SPECIAL MEETING – LDC UPDATE  
**June 17, 2015**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, June 17, 2015**, beginning at 10:02 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL** by Gail Creech

**PLANNING COMMISSION MEMBERS**

Denise Werling, Chair	Present
Beth Ramsay-Vickrey	Present
Elizabeth Lustberg	Present
Ron Miller	Present
William Wiatt	Present

**STAFF**

Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
Peter Morris, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Rich Jones, Marine Resources, Senior Administrator	Present
Timothy Douma, Biologist	Present
Tiffany Stankiewicz, Development Administrator	Present
Emily Schemper, Comprehensive Planning Manager	Present
Matt Coyle, Senior Planner	Present
Mitzi Crystal, Transportation Planner	Present
Gail Creech, Planning Commission Coordinator	Present

**MEETING**

Ms. Santamaria explained that today the Commission will be going over the entire Land Development Code (LDC). Changes directed by this Commission, as well as any public comments or additional staff comments from prior meetings have been highlighted. Public comment will be asked for at the end of the chapters. Two public copies of the LDC are available in the room for anybody to use.

**Keith & Schnars presentation of draft Land Development Code Update as follows:**

**1.AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING THE MONROE COUNTY LAND DEVELOPMENT

CODE TO BE CONSISTENT WITH THE TRANSMITTED MONROE COUNTY YEAR 2030 COMPREHENSIVE PLAN, THE RESULTS OF THE COMPREHENSIVE PLAN TECHNICAL DOCUMENT UPDATE (DATA AND ANALYSIS), THE ADOPTED 2012 EVALUATION AND APPRAISAL REPORT AND THE 2014 EVALUATION AND APPRAISAL NOTIFICATION LETTER, ATTACHED AS EXHIBIT 1; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

(File 2014-146)

Ms. Love outlined the changes as follows:

### **Chapter 101 – GENERAL PROVISIONS**

**Page 101-4**, The provision of the 99-year deed restriction was added since the Affordable Housing section references the definitions section for the definition of the deed restriction. **Page 101-8**, Clarification is made to the Coastal Barrier Resource System that Federal law does not allow the County to control these types of decisions. **Page 101-13**, A separate definition for “development of utilities” was added as requested. **Page 101-14**, “Securing of vessels” was added as requested. Mr. Roberts noted on Page 101-14 the DBH is actually four-and-a-half feet above ground level, not four feet. Ms. Love will make that correction. **Page 101-19**, The separation of different types of industrial uses were added, which also appear on Page 101-23. **Page 101-25**, Organizational changes were made. **Page 101-27**, The previous definition of “securing” was added to the definition of “marina.” Mr. Jones requested that the definition of “mariculture” be changed to “A specialized branch of aquaculture involving the cultivation of marine organisms for food and other products.” **Page 101-29**, Although “mooring fields” were not defined because they are not in the LDRs, notation as made where the definition is located within the code, which is in Section 26-1. **Page 101-37**, The definition of “public facilities” was changed.

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

Commissioner Miller asked where the KEYWEP evaluation procedure denoted on Page 101-24 can be accessed. Mr. Roberts will get that posted on the County’s website.

### **Chapter 102 – ADMINISTRATION**

**Page 102-3**, The Florida Statute reference is updated. Ms. Love explained those changes will not be pointed out further in today’s proceeding, but those type of changes have been made further in the document. **Page 102-14**, Ms. Santamaria explained the Planning Commission requested that in what zoning districts the vacation rentals are allowed be outlined. That information has been added. Legal staff will double-check to make sure this revision does not affect the County’s current vacation rental ordinance. **Pages 102-25 to 102-26**, The noticing requirements are clarified under Section 102-108. A time frame for final decision by the BOCC was added. It is clarified that adding density is the last resort in granting relief and that any permits issued come from the allocation totals the County has. **Page 102-27**, Other relief

catchall language was added at the top, whatever the BOCC deems appropriate. **Page 102-44**, Further clarification was added regarding the setback waivers.

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

Chair Werling asked the few members of the public in attendance to raise their hand any time they wish to speak at the end of a chapter.

### **Chapter 103 – TEMPORARY HOUSING**

**Page 103-2**, Clarification was added for the submission requirements. **Page 103-5**, As recommended by the Planning Commission, the requirement was added that consideration be given to how many times a particular site has been used.

### **Chapter 106 – AREAS OF CRITICAL COUNTY CONCERN**

There were no changes.

### **Chapter 110 – DEVELOPMENT REVIEW**

**Page 110-2**, At the request of the County Attorney, it is specified that the advertisement has to be in a Monroe County newspaper. **Page 110-4**, The meeting notices for the development agreements were updated so that it actually now matches the requirements of Florida statute. **Page 110-17**, Language was added regarding the appeals of minor conditional uses that were approved or not approved by the Planning Commission. **Page 110-22**, Potable water was added to the items to be included in the community impact statement. **Page 110-23**, A time frame was added to provide any information requested by the Planning Commission so that the application does not sit dormant. **Page 110-27**, A requirement for a time frame was added for the demolition of existing structures. **Page 110-38**, For corner lots a requirement was added to identify both the primary and the secondary front yards. **Page 110-42**, The County Attorney requests, while it is no longer required by Florida statute, that the option be kept open for people if they want to request it. Language was added about if an applicant elects to submit a preliminary plat. **Page 110-48**, A revision was made to acknowledge that the County has no control over the public electric utilities. **Page 110-49**, “If available” was added to (d). **Page 110-50**, The time frame was updated to match the requirements of Florida statute related to development agreements. **Pages 110-51 to 110-52**, All of the development agreement language was placed here so it makes it more convenient for people so they do not have look it up separately.

### **Chapter 114 – DEVELOPMENT STANDARDS**

**Page 114-2**, A change was made to show the County is doing public facility capacity reports biennially. **Page 114-4**, The “biennial” language was added. **Page 114-6**, Language was added regarding the one-year time frame from issuance of the building permit for recreational facilities to actually be in place. **Page 114-8**, Some additional exemptions from concurrency were added. **Page 114-23**, The ADA standards for sidewalks are referenced. **Page 114-27**, A reference was added to the fencing requirements required by the Livable CommuniKeys plan, the HCP and the ITP for Big Pine Key and No Name Key. **Page 114-29**, The permitting requirement for the HCP and ITP is acknowledged. **Page 114-31**, Covered bus shelters were added to the mass transit requirements. **Page 114-39**, Clarification was made that gated communities need to be master-planned communities to get the reduction.

**Pages 114-40 to 114-44**, Additional criteria was added that off-site parking would have to be through a minor conditional use. Buffering and other criteria were added, as well as a limitation of no more than 600 feet. Commissioner Lustberg pointed out the discrepancy between the 600 feet for off-site parking and the 300-foot notification to neighbors. Commissioner Lustberg suggested switching the notification section for all types of applications. The Commissioners agreed with that suggestion. The nonconforming parking and loading language was limited to multi-family units of three or more units, it is not a duplex or nonresidential. In the instance of a change of use or an expansion without enough land to actually put in the additional parking or whatever is needed, the applicant will work with the Planning Director to the best extent practical to bring it into compliance. However, if this site is being reconstructed then it should be brought into compliance completely. (e) was added that all nonconforming parking, whether reconstruction or expansion, should come into compliance within ten years from the date of the LDRs. Commissioner Wiatt recommended that (1) and (3) be considered on a case-by-case basis. Commissioner Miller suggested that the 600 feet be precluded through an area with residential on both sides of the street. Staff will work on that language for the next iteration of the document.

Ms. Love stated on the bottom of **114-43** parking agreements are addressed. (d) deals with off-site parking criteria that must remain associated with that business. Catchall language was added that says all nonresidential uses that have deliveries of goods and materials are going to have to have a loading space. Ms. Love explained that Keith & Schnars has done research and was not able to find one community that requires or deals with outdoor uses and loading spaces. Keith & Schnars came up with a couple of different ideas of how to address this issue. First, the specific use category is now at a hundred feet minimum. For outdoor uses and storage there is no tie-in to floor area, which is what generally drives the loading space requirements. So it is proposed that one space is required for any type of deliveries for outdoor uses. (c) was revised to state the loading spaces are going to be reviewed by the County planner in the ordinance itself. Ms. Love explained for Commissioner Wiatt that even though it was suggested previously the bottom number of 100 feet minimum be increased, it is very difficult to determine what that bottom number should be. Ms. Santamaria added that staff is trying to address this because of the community concerns with the loading and unloading occurring in the right-of-way and not within the property.

**Page 114-46**, The purpose to help conserve water was added for the landscape section. **Page 114-53**, Language was added that the integrity of the landscaping plan must be maintained. **Page 114-64**, Deals with nonconforming landscaping. This was made applicable to multi-family and to nonresidential when a change of use or expansion occurs and the applicant will come into compliance to the best extent practical working with the Planning Director on a case-by-case basis. **Page 114-65**, Language states when a site is completely redone the applicant must come into full compliance. Language was added regarding coming into compliance on the outdoor storage screening. It is dealt with at the change of tenancy. Commissioner Wiatt asked that the same caveat be placed in this section regarding a review be done on a case-by-case basis. Ms. Schemper noted that the County is not notified when a property is bought or sold, so there may be an issue with enforcement. Ms. Schemper will review this with Legal staff to keep it as strict as possible within what the County can do. **Page 114-81**, Additional shielding requirements for

non-cutoff lighting was added at the request of the Commission. A photometric lighting plan is required for illumination of nonresidential or multi-family over three units. **Page 114-83**, Deals with dock lighting. There is an insert for new graphics that are to be added here. Work is still being done on the nonconforming lighting section because there is no one-size-fits-all for this issue. **Page 114-86**, Language was added that the Planning Director needs to approve the qualified traffic engineer.

Commissioner Miller stated Page 114-83 makes waterfront Christmas lights illegal. Mr. Roberts clarified the dock lighting is what prohibits the use of red and green lights, not Christmas lights on a house. Commissioner Miller asked where to draw the line on high intensity lights down near the water. Mr. Roberts pointed out that 114-161 addresses maximum illumination for outdoor lighting in general. Seasonal lighting is not specifically addressed anywhere. Commissioner Ramsay-Vickrey suggested adding “but this excludes temporary holiday lighting” under (b)(4). Mr. Roberts noted that there are no specific dates that holiday lighting is allowed. Commissioner Wiatt suggested backing off the 25 feet number. Ms. Santamaria pointed out that the 25 feet matches the setback for principal structures. Commissioner Miller then stated 114-161 addresses his concern of the high intensity lights and is fine with leaving the (b)(4) language as it is.

Ms. Love stated **Page 114-86** contains a change she previously described. Commissioner Lustberg proposed making a slight edition on **Page 114-88** by including bicycles in the graphics. Commissioner Lustberg submitted a graphic drawn to include bicycles.

Burke Cannon, resident of Tavernier, stated he is happy the line of sight language addresses anything that blocks the ability to see as one is approaching a road. Mr. Cannon believes the 25 feet are necessary because of the intense illumination used on canals. Commissioner Miller reiterated that maximum illumination is addressed under 114-161.

## **Chapter 118 – ENVIRONMENTAL PROTECTIONS**

**Page 118-19**, Deals with the waterfront setbacks on smaller parcels. As a result of the previous Planning Commission discussion, the ten-foot encroachment into the required 20-foot setback is addressed. **Page 118-21**, It is clarified that accessory structures do include pools, spas, pool enclosures, etc. **Page 118-25**, In (a), (b) and (c) additional requirements were added about davits and elevator lifts. (d) addresses the conversation had about the four-post hoists. The navigable portion of the canal is defined in Number 4. **Page 118-28**, The language was made to match that on 118-25 regarding the width of the canals and the shorelines. **Page 118-36**, Ms. Santamaria explained that the standards required for marina pump-outs are included, as well as the notification requirements.

Commissioner Miller stated that on Page 118-19 the same setbacks should apply for all homes regardless of lot size to preserve over-water views. Ms. Santamaria responded that staff will look at this further, but noted that this particular exemption is in the comp plan. Commissioner Lustberg pointed out that the way a neighborhood is set up is one of the things considered in a variance.

Mr. Cannon stated the changes made to floating docks on Page 118-27 are good changes, but reminded the Commissioners that the boats having to rev their engines to get up on a floating dock will cause turbidity in the canals. Mr. Cannon noted that 11(d) on this same page should include “(including the property line as extended into the water perpendicular to the shore)” so there is no mix-up of the minimum ten feet requirement. Ms. Santamaria agreed and added that the language also needs to match the language of 3(c) on Page 118-25 regarding floating boatlifts and vessel platforms being set back ten feet if laterally installed and five feet if it is perpendicular.

## **Chapter 122 – FLOODPLAIN MANAGEMENT**

There were no changes

## **Chapter 126 – IMPACT FEES**

There were no changes.

## **Chapter 130 – LAND USE DISTRICTS**

**Page 130-9**, A slight revision was made to the purpose of offshore islands to acknowledge that they can be served by utilities. Commissioner Ramsay-Vickrey noted that the point of this revision for her was that she could not support the use of generators on offshore islands due to migratory birds. **Pages 130-29 and 130-30**, Certain type of uses were removed from the commercial fishing district, both under the as-of-right and conditional use. **Page 130-62**, IS-M and IS-D were broken out and clarified. **Page 130-153**, Ms. Santamaria noted that this is existing text that was missed in the last version. Commissioner Miller asked where seasonal residential units are recognized in the tables. Ms. Santamaria explained they would be under the transient category, which is a different table from this one. The header on Page 131-75 should also include the seasonal residential units, which will be added. **Pages 131-185 to 131-188**, The floor area ratio numbers recommended by the Planning Commission have been added.

Ms. Moses described a code compliance case in Key Largo where a towing and salvage company had set up a business in a commercial fishing district which happened to be in a residential area. Code Enforcement did their best to clean it up, but in the end the towing and salvage business remained because the language in the code was so vague. Ms. Moses asked that the language be tightened up more in order to save the commercial fishing districts for commercial fishing. Mr. Morris asked Ms. Moses to forward Legal staff the code case number so they could look into this further. Ms. Santamaria explained that the previous existing language and what has been maintained is light industrial uses, including marine repair services, provided that such uses are intended to serve the need of the commercial fishing industry. On Pages 130-19 and 130-20 Commercial Fishing Area has been reorganized to match the other sections’ land use districts. On Page 130-20, Number 9 was struck through and moved down to (b)(3) under a minor conditional use.

Chair Werling asked that commercial fishing districts in a residential area be treated differently than those in a completely commercial area. Ms. Santamaria replied that to switch it from one to the other would have to go through a public process, which might help address some of the issues. Commissioner Wiatt suggested adding the word “only” to tighten up the language for commercial fishing areas. Commissioner Miller suggested requiring more buffering for the light

industrial uses in commercial fishing areas. Commissioner Wiatt pointed out that buffers cannot be put on the waterfront and the owners of the residential properties around commercial fishing areas have chosen to live near these areas. Commissioner Lustberg asked what other zoning areas a marine salvage business could be in. Ms. Santamaria replied it would depend on the intensity of that particular business, but generally light industrial or heavy industrial uses are allowed throughout the code in different districts. Commissioner Lustberg understands the concern of protecting the residential area from a change in the use, but does not want to change the code to make it so that it becomes prohibitively difficult for somebody to locate this type of business requiring them to be on the waterfront. Ms. Love noted that heavy industrial and light industrial have now been split out. Heavy industrial could be for junkyards and salvage. The CFA could only allow light industrial, which is clearly defined. Ms. Santamaria pointed out that this particular zoning category just says light industrial uses, including marine repair services. Salvage is not included here.

Commissioner Wiatt again suggested “only for commercial vessels” be added to the language today and the marine salvage issue be addressed at another time. Ms. Schemper described the three CFA districts in the entire county. Commissioner Wiatt believes the same language applies to CFSD also. Ms. Moses then asked for a definition for “junkyard” be considered. Commissioner Ramsay-Vickrey recommended some language be considered for screening from US-1 and side neighbors. Commissioner Ramsay-Vickrey asked Ms. Santamaria to supply the Commissioners with maps so the neighborhoods surrounding these areas can be noted. Ms. Santamaria agreed to do that. Ms. Santamaria explained for Commissioner Lustberg that the existing provisions for standards for all conditional uses is the conditional use is consistent with the community character of the immediate vicinity of the parcel proposed for development. That is a consideration when looking at conditional uses today and into the future. Ms. Love added that language about outdoor storage requiring conforming landscaping has been included to address some of the visual aspects of these outdoor storage parcels. Mr. Roberts clarified for Commissioner Miller that there are buffer requirements on a canal when a change is made to a district boundary. Mr. Cannon asked whether light industrial includes boat sales. Ms. Santamaria explained the sale of boats is considered retail only. Ms. Love indicated that the light industrial use will be reviewed for that definition because it just includes indoor and outdoor storage presently.

Mr. Cannon thanked staff and the Commissioners for all of their hard work on the LDC update.

### **Chapter 131 – BULK REGULATIONS**

There were no changes. Mr. Coyle pointed out that the table on Page 131-1 have the mixed use zoning district setbacks different for residential versus nonresidential uses. This is the only zoning district left that has different setbacks depending on what the use is. Ms. Santamaria added that staff has debated whether to make it one standard setback within that category. Staff is leaning towards going with the lower number. Staff recommends 15 feet in the front and ten feet in the back for any use in mixed use. Ms. Love noted that is consistent with what Keith & Schnars sees elsewhere. The Commissioners agreed with those numbers.

### **Chapter 134 – MISCELLANEOUS RESTRICTIONS**

**Page 134-10**, The dog dining ordinance has been relocated here. It has been expanded to not only include patrons' dogs, but employees' dogs as well. "Employee" was defined and reference to employees was added throughout the ordinance.

### **Chapter 135 – HISTORIC CULTURAL RESOURCES**

There were no changes. Mr. Morris commented that the BOCC has proposed a recommendation that the definition of "undue economic hardship" be updated to match appropriate current case law. Mr. Morris will provide that language to Ms. Love.

### **Chapter 138 – ROGO/NROGO**

**Page 138-6**, Ms. Santamaria explained as a result of the Planning Commission previously agreeing with the concept of transferring market rates, criteria has been added for affordable housing to be provided through this mechanism as well as standards for that. The market rate can transfer off to another location, but to do that another affordable housing unit has to be provided. **Page 138-38**, A minimum capacity of 1,000 gallons was added as a minimum capacity for residential cisterns. **Page 138-43**, Storage area has been removed here because it has been included in light industrial in the main definition in Section 101-1. **Page 138-52**, Further clarification was added about the expiration of the awards: If it is not picked up within 60 days of the notification, it will expire. **Page 138-56**, It is stated only three attempts will be made to inform property owners of their allocation awards. **Page 138-60**, Revisions were made so NROGO and ROGO match and they both match with the comp plan as well. **Page 138-61**, Some additional criteria was added for the purchase of a Tier I parcel as far as administrative relief is concerned to match with the comp plan. **Page 138-70**, A 2,000 gallon minimum capacity is included for nonresidential cisterns.

### **Chapter 139 – AFFORDABLE HOUSING**

There were no changes.

### **Chapter 142 – SIGNS**

**Page 142-7**, It is acknowledged that A-frames are allowed as consistent with Section 142-4(h). **Page 142-17**, The limitation of being accessed by a side street was deleted.

### **Chapter 146 – WIRELESS COMMUNICATIONS FACILITIES**

**Page 146-8**, It is clarified that the total height is the combined height of both the structure as well as the antenna.

Ms. Santamaria stated NAS-Key West submitted comments yesterday at 4:55 p.m. Staff has not had a chance to review them fully and would like the opportunity to sit down with them to understand where they would like to go with their changes. Commissioner Wiatt commented that they have missed their time limit and then mentioned he would be seriously opposed to removing anything from the code that deals with density because NAS-Key West's density has an effect on the rest of the County as it relates to traffic and hurricane evacuation.



Ms. Love thanked staff and the Commissioners for their time and effort put forward on this update.

**Motion: Commissioner Lustberg made a motion to recommend to the BOCC adoption of the update with the changes discussed and with the additional input staff will be providing before it goes to the BOCC. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 11:52 a.m.