

PLANNING COMMISSION
SPECIAL MEETING – LDC UPDATE
March 19, 2015
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Thursday, March 19, 2015**, beginning at 10:01 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	Absent
Ron Miller	Present
William Wiatt	Present

STAFF

Townsley Schwab, Sr. Director of Planning and Environmental Resources	Present
Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
Pete Morris, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Tiffany Stankiewicz, Development Administrator	Present
Emily Schemper, Comprehensive Planning Manager	Present
Matt Coyle, Senior Planner	Present
Gail Creech, Planning Commission Coordinator	Present

MEETING

Presentation:

Presentation by Keith & Schnars of draft Land Development Code Updates to implement the updated goals, objectives and policies of the proposed 2030 Comprehensive Plan (EAR-based Comprehensive Plan amendments); streamline and simplify processes; address internal inconsistencies; and provide greater clarity for both staff implementation and public utilization. Documents can be reviewed on the project website at www.keyscompplan.com.

Ms. Santamaria welcomed everybody to the first meeting to go over the Land Development Code (LDC). Ms. Santamaria stated there are copies of the LDC available for the public's use at

this meeting. The pages will be scrolled through noting editorial changes until there is a big change to discuss. Public comment will be asked for at the end of each section.

Debbie Love from Keith & Schnars was introduced. Ms. Love explained that the changes being made to the LDC are based upon the changes made to the comprehensive plan as a result of the Evaluation and Appraisal Report (EAR). Some changes deal with issues that have been problematic within the code.

Chapter 102 ADMINISTRATION

Page 2, Contains primarily editorial changes. It was clarified in (a) the location public hearings would be held. **Page 3**, Contains editorial changes. The Planning Commission duties were clarified. **Page 4**, Addresses some changes in the duties of the Planning Commission. **Page 5**, Contains a minor change regarding Commissioner excusals. **Page 6**, Contains editorial and clean-up changes. **Page 7**, The departmental names were updated. Commissioner Miller asked if there is a format for how the Planning Commission, in (a), “shall perform such other functions as may be requested by the BOCC or the Planning Commission.” Ms. Santamaria responded there is not. **Page 8**, Contains clean-up and editorial changes. **Page 9**, The Development Review Committee’s (DRC) powers and duties were updated and clarified. County Attorney duties were clarified. **Page 10**, The Hearing Officer duties were clarified. **Page 11**, Contains some clean-up language.

Ms. Love explained that nonconformities were a big issue during the EAR, which translated into the comp plan protecting nonconforming uses and structures, particularly within the Livable CommuniKeys areas. **Page 12**, Contains editorial changes. **Page 13**, Text has been added to actually determine lawful establishment of these nonconforming uses. **Page 14**, Language was added to clarify that the nonconforming nonresidential uses in these land use categories that were existing can redevelop. Commissioner Miller asked that a reference be added to indicate the districts that prohibit vacation rental uses. Ms. Santamaria replied that this section by State Law cannot be amended, but a new section can be added for that purpose. **Page 15**, Termination was changed from six months to 18 months. Commissioner Miller pointed out that Page 102-17 and Page 102-28 has “one year” instead of “18 months.” Ms. Schemper explained it was changed in the comp plan to be 18 months. Staff will go through again to make sure they are all consistent with 18 months. Ms. Love stated natural and voluntary causes were clarified under (2). Language was added to (3) about the community center overlays being able to reconstruct in those areas.

Page 16, The strike-through areas were revised and incorporated in the section previously reviewed. (5) is a new section that talks about amortization of nonconforming uses. **Page 17**, (c) clarifies the criteria necessary to allow a nonconforming structure to be enlarged or expanded. Again it is clarified to include voluntary or natural types of damage. **Page 18**, (c) adds more flexibility in dealing with the setback issues, particularly for nonconforming structures. Ms. Santamaria clarified for Commissioner Miller that even though the same footprint is allowed to be used, that footprint cannot be less than ten feet from the water. **Page 19**, A provision was added in (b) that clarifies the issue of nonconforming accessory uses having to go away once the primary use has disappeared.

Chair Werling asked for public comment. There was none.

Commissioner Wiatt asked why Section 102-56 limits redevelopment to certain land use districts. Ms. Santamaria explained that those are the residential categories that in 1986 the County made the nonresidential uses within them nonconforming. The comp plan allows redevelopment of the use and footprint that existed prior to 1986. Those properties have to be identified by the County, but not necessarily registered.

Page 20-24, Contains editorial and clean-up changes. **Page 25**, The noticing timeline was clarified under Action of the BOCC. **Page 26**, Contains editorial changes at the beginning. Under Granting of Relief the language comports with the comp plan regarding purchase being the primary preference of the County. **Page 27**, (5) was added as a catchall to recognize that there could be other potential types of relief that the County may want to offer as well. Commissioner Miller asked that density increase not be included under Section 102-110(b) as a form of relief because it goes against the public good. Ms. Santamaria explained how there are circumstances that an increase in density would be appropriate to allow one single-family house. Commissioner Miller amended his request to make an increase in density a last resort. The Commissioners agreed with the amended request. **Pages 28-30**, Contain editorial changes.

Chair Werling asked for public comment.

Julie Dick from Everglades Law Center was present on behalf of Last Stand and Keys Environmental Fund. Ms. Dick stated the language in Form of Relief, Section 102-110(b), is somewhat troubling and too broad in terms of what type of relief can be granted. Ms. Dick recommended eliminating that blanket language allowing the BOCC to go beyond the LDC and the comp plan and then recommended adding some language to include a more official process with a limitation to the minimum use necessary to avoid a violation of the Bert Harris statute. Ms. Santamaria believes the LDC says the same thing as Ms. Dick requested, just in different wording, because the beneficial use process is a special and thorough process which provides relief, the minimum necessary, to avoid the finding of a regulatory take of a property. Mr. Williams explained that these plans are written as open-ended as possible as a last attempt to avoid taking someone's property. Commissioner Miller would prefer to see it not be as open-ended as written in the code. Commissioner Wiatt feels the reason this type of relief has to be granted should be addressed so that this relief does not need to be continually provided. Mr. Williams explained that beneficial use hearings are relatively infrequent and are usually the result of a truly unique circumstance that a code could not possibly be written to address. Commissioner Ramsay-Vickrey supports allowing staff and the attorneys the latitude necessary to keep the County out of takings cases and is fine with the language as it stands. Ms. Santamaria clarified that the comp plan language is actually broader allowing "such other relief as the County may deem appropriate and adequate." Commissioner Miller suggested using that broader language contained in the comp plan. The Commissioners agreed with that suggestion.

Pages 27-31, Contain editorial changes. **Page 32**, Details were added about the new concept meeting, which came out of the EAR and has been put into the comp plan. (b) clarifies who can actually propose a map change. **Page 33**, The fee required for text amendments is clarified. The

map amendment process is also clarified. (3) is the actual concept meeting application requirements. (4) clarifies the types of things that are going to trigger the community participation. **Page 34**, (5)b under the Public Hearings section revises the noticing requirements as far as the location as to how far out it goes. Commissioner Miller asked for clarification of Other Notice, “d.” Ms. Santamaria clarified that that refers to the County’s website. The County is required to advertise in the newspaper. Items are cancelled or postponed when the advertisement does not go through. Ms. Love noted that the website is not a statutory requirement for noticing.

Page 35, Adds community character as a required consideration when looking at amendments, which came from the comp plan. **Page 36**, Contains editorial changes. **Page 37**, Contains the new section on community participation. The meeting details and noticing requirements are outlined. **Page 38**, Splits out what happens when text amendments to the code and to the comp plan have a countywide impact. This all comports with the comp plan. **Page 39**, Adds a request made during the comp plan update that things be posted more through the website and social media. The impact meeting is detailed more thoroughly. The requirements relative to the community meeting are included. **Page 40**, A new section was added regarding the deferral of applications.

Chair Werling asked for public comment. There was none.

Page 41, Contains editorial changes. **Page 42**, A new duty was added for the BOCC. The setback changes were incorporated into the document. **Page 43**, The reduction in the loading and unloading space dimensional requirements were added. **Page 44**, More discussion on setbacks was added to include the criteria. A special accessibility setback was added, as well as some additional definition and clarification. Ms. Schemper explained for Commissioner Miller that (g)(3) deals with a setback waiver, not a setback variance, for development of a vacant lot where all of the neighboring lots are vacant as well. **Page 45**, Contains editorial changes at the top of the page. The bottom of the page contains clarification that the approval is based upon the submitted plan and it cannot be changed. **Page 46**, Some additional variance standards were added in (d). **Page 47**, Again the caveat was added that once a site plan is approved and a variance granted, that site plan cannot be changed. **Pages 48-51**, Contain editorial changes.

Ms. Werling asked for public comment. There was none.

Chapter 103 – TEMPORARY HOUSING

Ms. Love stated this entire chapter was in another section of the code and is now a stand-alone chapter. **Page 1**, The purpose was clarified. **Page 2**, Talks about the time frame for approvals. The requirement for a no-fee building permit is discussed. **Page 3**, Talks about the placement of temporary emergency housing units on nonresidential parcels, the number of days the unit can stay and that a building permit is needed. Commissioner Wiatt voiced concern that the process of getting a no-fee building permit mentioned in (b)(1) that includes the requirement of a site plan would be unduly burdensome in an emergency situation. Commissioner Wiatt wants to make sure there is no language that would handicap expeditious management of this process. Ms. Love noted that this is for parking on nonresidential parcels of land. Ms. Santamaria

explained that this is a procedure, especially for people placing RVs on single-family lots to repair their homes, that is quick and stamped through. People can come in and actually bring in their paperwork afterwards. After a storm there is a skeleton crew of staff up and down the Keys to get the permits expedited. A site plan has always been a requirement in this process. Ms. Schemper added that the BOCC adopted a resolution regarding an interim permitting policy that could be referenced here. **Page 4**, Deals with emergency housing for emergency relief workers. **Page 5**, Talks about the contractors on County-owned airport properties and placing temporary non-emergency units there. A no-fee building permit is required and they have to be connected to the wastewater system. **Page 6**, Addresses non-emergency housing for capital improvement projects. **Page 7**, Contains struck language that has been incorporated and rewritten into what was previously reviewed. **Page 8**, Clarifies the compatibility requirements and the submission process for temporary uses. **Page 9**, Addresses the duration of events requiring public assembly permits.

Ms. Santamaria noted that the BOCC adopted these sections of code in January. The next iteration will look like existing text unless there are further changes. Commission Wiatt asked to explore language to address prohibition of temporary housing for security that is sited on the same property repeatedly. Ms. Santamaria suggested adding language to (5) on Page 103-6, “The BOCC shall consider the number of times a parcel has been requested for use.” Commissioner Wiatt prefers a 180-day limitation within a year’s time. Ms. Santamaria pointed out that the language in (5) allows the BOCC to extend the time by resolution. Commissioner Wiatt agreed with that suggestion because the public would then be able to participate in that process.

Chair Werling asked for public comment. There was none.

Chapter 110 – DEVELOPMENT REVIEW

Page 1, Contains editorial changes. The pre-application process and the community participation meetings were added. **Page 2**, The community participation meetings were outlined. Some protections were added regarding deficient documents and how long people have to provide the information. **Pages 3-4**, Some additional information regarding noticing was added. **Page 5**, The timeline for mailing notices was clarified. **Page 6**, The applicant’s responsibility for the cost of the meetings was clarified. **Pages 7-9**, Contain editorial changes. Chair Werling asked if a posted notice could be placed at the entrance of a neighborhood to reach more neighbors. Ms. Santamaria replied that the community meetings and concept meetings have to be posted in the paper for proposed conditional use amendments, text amendments and map amendments, which should encourage more public participation. It is difficult to specify each situation where posting should be placed other than on the specific property or in the newspaper.

Chair Werling asked for public comment.

Ms. Dick commented that it would be appropriate to add “local” in front of “newspaper” in Section 110-3(b)(2) on Page 2. Ms. Dick believes the best way to learn of Monroe County meetings is by the e-mail notification list. Ms. Dick then suggested removing the language

“Failure to post notice on the Monroe County official website shall not constitute grounds for the cancellation of any public meeting” from Section 110-5(b)(7). Mr. Williams agreed with the recommendation to insert “local” in Section 110-3, but did not agree with removing language from 110-5(b)(7). Commissioner Wiatt suggested adding a disclaimer notice on the website that certain items will not be on the website that will, in fact, be disclosed during a meeting. Ms. Santamaria will inquire of the IT Department and the County Administrator about that suggestion. Commissioner Miller agrees that notice should be put on the County’s website. Mr. Williams pointed out that that could create Sunshine Law issues and that some servers consider e-mail blasts of that size as spam. The internet and e-mail are still not considered legally secure enough under the statute.

Pages 10-11, Certified IS districts were removed and clean-up changes were made. **Pages 12-13**, Contain editorial changes. Commissioner Miller pointed out that “Public Facilities” is not in the definitions. Staff will add that definition to correct that oversight. **Page 14**, Minor conditional uses are discussed in detail and more detail as to the application requirements for the minor conditional use approval was added. **Page 15**, A timeline was added that addresses how soon a response is needed for a request for additional information. **Page 16**, An appeal process to the Planning Commission for minor conditional uses was added. Some language was added to explain what happens if the appeal has been granted by the Planning Director. The major conditional use application requirements are provided. Commissioner Miller asked where the appeal process of the Planning Commission decisions is located. Ms. Love explained that is included in the section that is specific to appeals, Section 110-22. Commissioner Miller recommended referring to Section 110-22 in this section. Ms. Love explained that cross-referencing was limited intentionally to keep things consistent throughout the document.

Pages 17-18, Contain the criteria for the major conditional use applications. **Page 19**, Contains editorial changes to the existing application process. **Page 20**, Contains editorial changes. **Page 21**, Some changes were made to the impact assessment on public facilities. **Page 22**, A catchall phrase was added to cover things that are not covered in the code. **Pages 23-24**, Section 110-71 is a reserved section because this has been moved over into the conditional use section where minor and major are split out. **Pages 25-26**, Contain editorial and clean-up changes. Commissioner Miller pointed out that Section (4) on Page 26 has no time frame included in the language. Ms. Schemper suggested adding the language that the lawful uses must be removed before any certificates of occupancy are issued for the redevelopment. Mr. Roberts thinks the opportunity to occupy the new space should be given before requiring abandonment of the old space, such as 30, 60 or 90 days following the CO. Mr. Coyle feels this would be very site and project specific. Ms. Schemper proposed the language “The time frame shall be included as a condition to the approval of the conditional use permit.” **Page 27**, Contains a rewrite to make it simpler to read. **Page 28**, It was clarified under b2 “transient dwelling units, including hotel/motel, recreation vehicle and/or institutional residential dwelling units.” Clarification is made that any changes have to be through the conditional use process.

Pages 29-30, Contain clean-up language. Commissioner Miller asked if clarification is needed in (3)b to indicate an increase in the amount of dwelling units from 6 to 10 percent is within the discretion of the Planning Director. Ms. Santamaria explained that is not beyond what the zoning or future land use would allow, so it can be approved. Ms. Love pointed out that the

numbers are rounded up in this section. **Page 31**, Contains editorial changes and again the numbers are rounded up. **Pages 32-33**, Contain clean-up language. **Page 34**, The DRI language has been removed. The development agreement language remains. **Page 35**, A lot of the material related to subdivision and plats that were scattered in other sections have been consolidated in this section. All the requirements of Florida statute are included. An important caveat was clarified that no plat is going to be approved which creates an unbuildable lot and/or it exceeds the maximum density of the land use district. Some additional land use categories were added to Section 110-97(f). **Pages 36-37**, Material was relocated here from other places to have them in the same location. **Page 38**, Starts dealing with easements and monuments, which this language has been relocated. **Page 39**, Preliminary plat approval was deleted since statute does not require this particular step in the process. **Page 40-41**, Contains clean-up language. Mr. Wolfe commented since the concept of preliminary plat approval is being removed, Section 110-99 should just be titled "Plat Approval." Mr. Williams explained in the statute both preliminary and final plats are referenced, so the preliminary plat language should be included pursuant to Florida statute. Chair Werling noted that 110-36 refers to two front yards. Commissioner Miller suggested specifying a primary and secondary front yard to be consistent with the recent setback change. **Page 42**, Contains editorial changes for clarification. Commissioner Miller asked that (n) on Page 39 indicate it is on all of the properties in the county. Ms. Santamaria explained that most of the plats are from the '30s-'50s and the County cannot go back and require that. **Pages 45-45**, Contain editorial changes. **Pages 46-47**, Contain new sections regarding lot line adjustment criteria and the lot line adjustment process. Commissioner Ramsay-Vickrey commented that "electrical utilities" should not be included on Page 46. Commissioner Ramsay-Vickrey then stated (d) on Page 47 excludes off-grid solar homes. Mr. Williams suggested using the phrase "utility availability" or "utilities, if available." Staff will go back and discuss the appropriate language to be used.

Chair Werling asked for public comment. There was none.

Page 48, Contains editorial changes. **Page 49**, A change was made, pursuant to a Florida statute change, that permits cannot be held up while waiting for permits from other entities. **Page 50**, Contains a reserved section relating to ROGO and NROGO because this is duplicated in the ROGO and other chapters. **Page 51**, Contains editorial changes.

Chair Werling asked for public comment.

Alicia Putney also asked that the language in Section 110-110(d) be reworded so as not to be exclusive of off-grid properties. Ms. Putney then discussed that there are platted lots that did not go through the formal county process of platting and she is concerned that that will make for a lot of language changes throughout the code.

A luncheon recess was held from 11:51 a.m. to 1:01 p.m.

Chapter 130- LAND USE DISTRICTS

Page 1, The land use districts have been reordered alphabetically. **Page 2**, The Preservation District was added. **Pages 3-6**, Temporary Emergency Housing was moved from these pages to

its own chapter. **Page 7**, Contains some relocated text because the material was reordered. **Page 8**, Under CFSD it was recognized that the different sub-districts have different characteristics. **Page 9**, Contains editorial changes. Commissioner Ramsay-Vickrey stated she cannot support the use of generators as mentioned in Section 130-40 anywhere in the county because of the emissions they produce and how disruptive they are to migratory birds. Commissioner Ramsay-Vickrey asked that that be changed to off-grid solar. Mr. Williams suggested putting a period after the word “areas” and striking the rest of the sentence. The Commissioners agreed with the suggestion. **Page 10**, A purpose was added for the new Preservation District. **Page 11**, The language at the end of the page was struck because they have been relocated. Commissioner Miller asked why in Section 130-46 “without use of US-1” was changed to “reduced trips on US-1.” Ms. Santamaria explained that it is impossible to travel in the County without getting on US-1.

Chair Werling asked for public comment. There was none.

Pages 12-13, The district’s purpose was moved to where the obvious purpose location is. What is permitted as of right, what is a minor and what is a major conditional use, along with the supporting criteria, are covered. **Page 14**, Covers the additional uses as of right. The wireless communication facilities were added. **Page 15**, Clarifies the major conditional uses at public and private airports. Restrictions for public airport height have been added. **Page 16**, Contains a set of restrictions for private airports. **Page 17**, This material has been relocated. **Pages 18-22**, The CFA District was relocated here to make it alphabetical and the language was cleaned up. What is permitted as of right in CFA is noted. The minor and major conditional uses in that district were added. Monuments were put in another section of the code. The next section talks more about the Commercial Fishing District minor conditional uses, what is required, special considerations. This has all been relocated. **Pages 23-25**, Some editorial changes were made to this section to clarify what is major, what is minor and what is permitted as of right. **Page 26**, CFSD 3 has been deleted because Coco Plum is in the City of Marathon. **Page 27**, Light industrial and accessory uses were added to the as-of-right. **Page 28**, Some major conditional uses were added. **Page 29**, Lists commercial fishing as an as-of-right in Key Largo. The commercial retail, limited to fish houses, was added. Commercial retail and restaurant uses at a certain size point were added. Institutional uses and public buildings were added. The light industrial type of work allowed was clarified. **Page 30**, The same changes were made for the minor conditional uses. Commercial apartments, commercial retail and office uses were added. **Page 31**, It was specified that this was related to marinas. The language was clarified. Some verbiage was relocated. Protection of commercial fishing is included. 6, 7 and 8 have been moved into the LDRs because of an ordinance previously adopted.

Pages 32-52, Ms. Santamaria explained that the commercial fishing seems to have a lot of changes because it was spread throughout and a lot of other districts said if the uses were allowed in those districts, then it is allowed in commercial fishing as well. When the new text was put in Commercial Fishing it became obvious it is actually in conflict with another section that was general to all the commercial fishing, on Page 130-32. Ms. Santamaria asked for direction from the Commissioners whether to leave it as an as-of-right or a major because it is already in the code, but was never clear that it was in two different places and in conflict. The possible impacts were discussed by the Commissioners. Commissioner Wiatt and Chair Werling

prefer to have it be a major conditional use. Commissioner Ramsay-Vickrey asked that consideration be given to the small fishing communities that will be affected by this. Commissioner Ramsay-Vickrey recommended 2500 square feet and above require a major conditional use. Further discussion was had regarding the impacts of the different size limitations. Commissioner Miller asked to reserve this section for the next meeting so the Commissioners can review this further. Staff will provide maps to the Commissioners for further consideration.

Pages 54-54, Antenna supporting structures were changed from a minor conditional use to an as-of-right in the Commercial Fishing Village District. Editorial changes were made to the Destination Resort District. **Pages 55-56**, The minor conditional uses were clarified. Observation area was moved to passive recreational facilities. **Page 57**, Attached and detached dwellings were added. Employee housing was included. **Page 58-59**, Contains editorial changes. The required maintenance of planting beds was stricken to match the comp plan. **Page 60**, The housing units were added. **Page 61**, The change to the planting beds language was made to match the comp plan. **Page 62**, A change was made pursuant to a statutory change that it cannot be mandated that construction be masonry, but it can be mandated it has to have the appearance of masonry. It is clarified that the institutional use as a minor conditional use is limited to schools. Commissioner Miller commented that the IS District language is not clear as to what is allowed in IS-V, IS-M and IS-D. Ms. Schemper explained IS-M and IS-D are not established as separate land use districts, but are sub-districts. Commissioner Miller asked to have the sub-districts culled out with their allowable uses to make the section easier to read. Mr. Williams cautioned the Commissioners to be extremely careful when making any changes that may affect vacation rentals because of a law regarding vacation rentals that was passed a few years ago. Mr. Coyle informed Commissioner Miller that the application for a vacation rental on the County's website outlines all the districts where vacation rentals are allowed.

Page 63, Contains editorial changes. **Pages 64-65**, Contain the language recognizing the nonconforming nonresidential uses in the various zoning districts. Commissioner Miller asked if 1 on Page 65 should reference the 2030 comp plan as opposed to 2010. Mr. Williams again cautioned against making any adjustments relative to the vacation rental ordinance. Commissioner Wiatt asked why marinas were added to the IS District. Ms. Santamaria explained that was an allowed use in the 1996 code, so it is allowed as a nonconformity. **Page 66**, It is clarified that light industrial uses means boat building and repair and storage. The restaurant use was added under 5,000 square feet. Commissioner Miller noted that on Page 66 "BOCC" was a change in language relative to vacation rentals. Ms. Schemper explained it is a change to use of the acronym throughout the entire code.

Chair Werling asked for public comment.

Ms. Putney agreed that Big Pine Key would be in conflict with the HCP and the Big Pine Key Master Plan if changes were not made to correct the inconsistencies in the language related to commercial fishing areas in the special districts. Ms. Putney proposed the language, "All land use districts on Big Pine Key and No Name Key are subject to the provisions of the Big Pine Key/No Name Key Master Plan and HCP's incidental take permit." Ms. Putney asked for

clarification whether marinas are allowed in all IS districts or just specific IS districts. Ms. Santamaria explained that the BOCC added Policy 101.5.5 that says Monroe County shall maintain LDRs which allow nonconforming nonresidential and transient uses within the RC, RL, RM and RH future land use districts. The IS District allowed marinas as a nonresidential use. This is strictly grandfathering in nonconforming marinas in IS districts.

Ms. Dick asked if it is limited to specific improved subdivisions. Ms. Santamaria explained to Ms. Dick it is for anything that is zoned IS, but it had to be a lawfully existing use before 1996.

Commissioner Miller asked if the County is allowing any vacation rental districts to be created. Ms. Santamaria stated if somebody met the provisions of IS-V and submitted an application for a map amendment to that zoning district, it would be evaluated based on this code. To date nobody has resubmitted an application to change their zoning to IS-V. Mr. Williams explained the language regarding a staff-generated map amendment is allowed so something can be accomplished for public good. Ms. Schemper pointed out that that is true for any zoning amendment to any zoning category and that it can come from the County or it can come from a property owner. The extra provision of agreement of every single owner is required in IS-V because neighbors typically do not like vacation rentals in their neighborhood. Ms. Schemper noted that it is very unlikely that the County would initiate a zoning change to IS-V. Mr. Wolfe added that it is only to initiate the process; it does not mean it will be successful.

Pages 67-68, In Maritime Industries it is clarified it is limited to heavy industrial uses and the employee dwelling units under six units was added. If the housing units are in excess of six units it becomes a minor conditional use. The language regarding a restaurant adjacent to the property was deemed unnecessary and was removed. The language in the section was cleaned up to be clearer. **Page 69**, Contains editorial changes. **Page 70**, Restaurant uses was added as-of-right in the Military Facilities District. Ms. Santamaria clarified that restaurants have always been allowed under commercial retail. They have different parking standards, so staff wanted each one clearly identified. **Page 71**, Contains editorial changes. **Page 72**, Contains clarification of office, restaurant, listing the uses separately. Manufacturing was deleted from mixed use. The different types of parks were encompassed in the term “parks.” **Page 73**, The language regarding an amusement park, like a drive-in theater or sea-life park, was clarified. **Page 74**, The restaurant and the office listing was broken out. **Page 75**, “Marina” under hotels was changed to “docking facilities.” RV parks were added under (8). Editorial changes were also made.

Page 77, The term “heliport” was used. **Page 78**, The hours of operation for nonemergency aircraft versus emergency aircraft were broken out. The commercial recreational uses are listed with their requirements. **Pages 79-80**, Contain editorial changes. Marinas were removed from major conditional uses in the Native Area District. Protection of the existing nonconforming uses is included and clarified. Commissioner Miller asked that control over pesticide use be included under (3)a. Mr. Roberts will look into that. Ms. Santamaria clarified that there are preemptions in Florida Statutes related to agricultural uses on what can and cannot be regulated. **Pages 81-82**, Marinas were deleted as a use. The nonconforming marinas are recognized. In (2)f the location and size of the buffer yard is clarified. **Page 83**, Marinas are no longer listed under Park and Rec. Antennas were added as-of-right. It was clarified that both campgrounds and RV parks are minor conditional uses. **Pages 84-86**, Marinas are allowed under a major

conditional use. The language was cleaned up. “Marinas” was changed to “docking facilities” for hotels. **Pages 87-88**, Contain the issue of 2500 or 10,000 square feet for commercial retail. Commissioner Miller asked how on Page 84 satellite earth stations are allowed on offshore islands if using power tools is prohibited. Ms. Santamaria explained the permissive language was taken out of the purpose of offshore island. That does not mean it is prohibited.

Page 89, Under Suburban commercial the language was cleaned up for clarification. **Pages 90-91**, Storage areas were deleted. Again the restaurant and the office uses are broken out. **Page 92**, Contains editorial changes. Amusement park is excluded from commercial recreational uses. Outdoor lighting cannot hit any of the residential uses. **Pages 93-94**, Contains editorial changes. **Page 95**, It is clarified that tennis courts and swimming pools are not included in parks under Suburban Residential. **Pages 96-97**, Contains editorial changes. **Pages 98-99**, Marinas were deleted, but the nonconforming marinas were recognized. Campgrounds were clarified. **Pages 100-103**, This text has been rewritten and relocated. Nonconforming uses are being looked at, as well as the requirements for reconstructing any of the nonconforming marinas. The hotel information was relocated, except the requirement of a clubhouse or meeting facility was deleted. Suburban Residential-Limited and Sparsely Settled Districts contain editorial changes. **Page 104**, Includes minor changes to make sure there are no swimming pools or tennis courts constructed in the parks. **Page 105**, Deal with the nonconforming nonresidential uses. **Page 106**, It is clarified that solid waste facility requires 40 acres of upland. **Page 107-108**, Contains the same edits made before. **Pages 109-110**, Contain editorial changes. **Page 111**, The residential districts that require a Class C buffer yard are spelled out. **Page 112**, Contains editorial changes.

Page 113, Institutional and institutional residential were separated out. **Pages 114-115**, Timeshare estates were completely deleted. The nonconforming use protections were included. Recreational vehicles are allowed in URM as-of-right. Commissioner Miller asked where in the code Section 139-99(5)b, regulating or managing vacation rental uses, would be accomplished. Ms. Santamaria explained it would be specific to the condo docs or homeowners associations as to how they regulate it themselves. Mr. Wolfe pointed out that this refers to gated communities only. Discussion was had regarding how a gated community could be created. **Pages 116-117**, Marinas are no longer allowed in this section, but the protections for those that are existing and nonconforming exist. **Pages 118-123**, Clarification was added regarding an RV or whether it is a park model trailer. Marinas were again deleted with the protections still given. Ms. Santamaria clarified these particular zoning districts do not have any nonresidential floor areas and that is why the marinas were removed. Ms. Love stated the Preservation District allows no activity, but fencing is allowed with very conditional fencing requirements.

Chair Werling asked for public comment. There was none.

Pages 124-125, Bowling alleys were specified. **Pages 126-127**, Clarification was made as to what commercial recreational uses are included. **Pages 128-129**, The same changes were made as previously made. It is clarified amusement parks and sea-life parks and drive-ins are allowed. **Page 130**, Clarification of the time for nonemergency aircraft was made. **Page 131**, Begins Overlay Districts. There were editorial changes to the purpose for some of the overlay districts. It is clarified in the table that this is upland. **Page 132**, It is noted that the prohibition of

extension or expansion was to the undeveloped CBRS units. It is noted the discouragement is not going to apply to anything related to sanitary sewer or waste treatment, which matches with the comp plan. **Pages 133-135**, The purpose for the educational overlay was added. Correctional facility was added as a new overlay district. The home occupation language was moved to 134-2. **Page 136**, The purpose of the institutional use overlay was added. The upland was added and, instead of using the range, a number was established. **Page 137**, The same editorial changes were made to Public Facilities and Tavernier Creek, 130-128. **Pages 138-139**, Contain editorial changes, but no change has been made to Section 130-130. **Pages 140-141**, Contain a few editorial changes. Renumbering changes were made to the Rockland Key Overlay. **Page 142**, Contains editorial changes. **Pages 143-145**, Contain no changes. **Page 146**, Contains editorial changes. **Page 147**, Overlays for Key Largo Tradewinds, Key Largo Downtown, Key Largo Welcome Center were added. All of the requirements came out of the Livable CommuniKeys Plan. **Page 148**, Contains the Big Pine overlay and there are specific reserved sections for future ones. **Pages 149-150**, The new text has been relocated here. It is clarified that this section was permanent residential density and that this is the minimum requirement for open space. The entire table on Page 149 and 150 and the top of 151 has been replaced by the table on 151. **Pages 151-153**, The listing has been reordered alphabetically. The allocated density, maximum net density and the open space ratios now match internally as well as with the comp plan. Footnotes were added for clarification.

Page 154, The clarifying language regarding max net density and how it relates to TDRs was added. The sender and receiver site criteria now matches the comp plan. **Page 155**, Other than the receiver site criteria at the top, everything else has remained the same. **Pages 156-171**, This particular section used to be broken up into affordable and employee housing, so all of that inclusionary zoning was consolidated and is now a chapter on its own in Chapter 139. **Pages 172-175**, Contain the old tables for densities. Those were reordered and made to comport with the comp plan and is internally consistent now. **Pages 176-183**, The fact that this particular proviso is related to both existing residential dwelling units and transient units, and protection of those that are lawfully established, is added. **Pages 184-188**, Begins the new table to replace the maximum nonresidential intensities and densities. This was all reordered and reorganized in compliance with the comp plan.

Ms. Santamaria stated staff is asking the Planning Commission if they want to recommend a higher FAR for Airport uses and other highlighted uses. Ms. Schemper further stated there are a few cells under CFSD where there is no FAR in the table, but because those uses are allowed in that district a standard needs to be set. Some of the highlighted numbers are placeholders and some of them staff had questions on. The number can only be increased, not decreased. Mr. Coyle pointed out that Marathon Airport is about 8 million square feet, so at .10 they could do 800,000 square feet. Ms. Schemper commented that there was no FAR for Conservation. The reasons .05 was proposed by staff is because there are permitted uses in Conservation, such as passive recreation area, which may necessitate some sort of small building at the entrance or restrooms. Commissioner Miller feels .20 seems high for agriculture. Mr. Roberts pointed out that a greenhouse is considered as floor area. Commissioner Wiatt feels the numbers in CFSD 7 for heavy industrial seems low. Commissioner Wiatt suggested .5 for heavy industrial and .4 on everything else to be consistent with the other fishing areas. Ms. Schemper pointed out that the

comp plan limits it to .4 for their FLUM. Commissioner Wiatt then recommended .4 for heavy industrial and .3 for institutional and public buildings.

Ms. Putney stated each of the 12 specific commercial fishing districts have different allowable uses. Ms. Putney suggested postponing this discussion to specify those allowable uses. Ms. Schemper clarified that all of the special districts are combined in the table, but the permitted uses are outlined on the table.

Ms. Schemper explained everything that is highlighted is a new FAR, so the number can go up or down on those. Commissioner Wiatt suggested the following numbers: .5 for Destination Resort; .3 for institutional; and .4 for Maritime Industries heavy industrial and .3 for Maritime Industries institutional. The Commissioners agreed with staff's recommendation of .45 for Mariculture and Agriculture. Ms. Santamaria noted that staff recommends .5 for airport uses under Military Facilities to be consistent with the code and comp plan, but the military can do as they wish. Ms. Love asked about marinas in the RV District at .25. Ms. Schemper pointed out marinas are permitted in the RV District as a major conditional use. The Commissioners agreed with that recommendation. Ms. Schemper then explained to the Commissioners that "less than 2500 square feet" is used in the Suburban Residential District because in the permitted uses all that is allowed is the commercial retail up to 2500 square feet and it is not subject to the FAR requirement. Staff has gotten requests from property owners in the RV District for more than 2500 square feet of retail. That is added into the permitted uses as a minor conditional use, so an FAR needs to be determined for that or, if the Commissioners disagree with adding that, strike it from the permitted uses. Ms. Santamaria noted that an FAR is needed because on Page 130-87 commercial retail of greater than 2500 square feet, but less than 10,000 square feet, is a minor conditional use. Commissioner Wiatt suggested .4 for that. Chair Werling would prefer .25. Commissioner Miller feels that establishes something beyond the scope of the RV park. Ms. Schemper then pointed out in the comp plan update less than 2500 square feet was specifically put in the table for RV zoning. So unless that will be changed, it has to be kept at 2500 square feet. The Commissioners agreed to keep it at 2500 square feet. The Commissioners then agreed to keep commercial recreation under Suburban Residential at .25, and .25 for agriculture under Suburban Residential, 0 in Suburban Residential-Low and .2 for agriculture under Sparsely Settled.

Page 189, Is a continuation of the footnotes in the table. A provision was added under aggregation of development that the development has to be located on contiguous parcels of land.

Chapter 131 – BULK REGULATIONS

Pages 1-2, Ms. Love stated this text has actually been moved to Chapter 131 as its own chapter. Ms. Santamaria added that this chapter matches the setback ordinance the BOCC just adopted. **Page 3,** Section 131-20 reiterates that nothing can go above 35 feet except for spires and steeples on institutional and public uses. In the Airport Districts there are no exceptions. This matches the comp plan as it is today. **Pages 4-5,** The required yards are broken out and clarified. Mr. Roberts explained for Commissioner Miller that the five-foot setback included in the shoreline setback clarifies existing code. Revisions to 118-12 will be looked at in April, but right now this

reflects clarification of current code. Ms. Love commented that it has been a challenge dealing with double frontage parcels and calculating front yard setbacks and determining what is the primary and what is the secondary. This sections allows driveways to be within setbacks, because the code was silent on that previously. Off-street parking is permitted on residential parcels and signs are permitted in the front yard setback. A section on side yard setbacks is included. Clarification is given related to four-sided corner lots. It is clarified in (3) that things in the setback are limited to 80 percent of the required setback area. **Page 6**, It is clarified that accessory structures can exceed 12 feet in height as long as it is at least ten feet away from the rear property line and it cannot exceed more than 60 percent of the required setback. The Monuments section was relocated.

Chair Werling asked for public comment. There was none.

Chapter 138 – RATE OF GROWTH RESTRICTIONS (ROGO/NROGO)

Page 1, The appeals language has been relocated. **Pages 2-3**, Contain editorial changes. **Page 4**, Clarification was made on the types of development that are affected and the types that are exempt. These now match the comp plan. **Pages 5-6**, This language comes from the comp plan and is clarification of how and where TRE units can be moved. The transfer of unit types and the process dealing with market rate units and deed restrictions is included. The sender site and receiver site criteria is included, which comes from the comp plan. Ms. Santamaria explained that previously the transfer of market rates was not allowed unless market rate was converted to affordable. Ms. Santamaria asked for feedback from the Commissioners in that regard. Commissioner Wiatt feels that it seems a bit unfair not to allow folks to transfer market rate permanent since transients are allowed to be transferred. Commissioner Miller is concerned it would go to a more environmentally sensitive site. Ms. Santamaria clarified right now the receiver site must be Tier III and within the same sub-area, except where Big Pine can go to the Lower Keys. Chair Werling likes the restrictions in place. **Page 7**, Continues with the existing transfer process, which has not really changed. **Page 8**, Contains minor editorial changes. **Pages 9-10**, Temporary emergency housing being exempt from the residential ROGO system was added. The table seen on Page 138-9 has been replaced by the table on the next page.

Page 11, Clarifies that the ROGO allocation ratio is very particular on Big Pine Key and No Name Key and subject to the ITP and HCP. It is stated that all of the affordable housing now is going to be available instead of divvied up, which came out of the comp plan. Commissioner Miller asked where it states a transfer of a market rate unit has to go to the same sub-area. Ms. Santamaria explained that the transfer of allocations on Page 5 applies to all scenarios. Commissioner Wiatt asked how the moratorium for new transient rentals affects the development agreements entered into by the County. Ms. Santamaria explained the development agreement locks the regulations in the development agreement at that time. If the applicant gets out of the development agreement, they are subject to the code and comp plan in effect at that time. Mr. Wolfe added that the development agreement has a life of X number of years set forth in the development, which is usually ten years. **Page 12**, Contains very specific proportions for affordable housing on Big Pine and No Name Key and how many allocation awards will go into Tier I and includes the Tier I limits. **Page 13**, Contains editorial changes. (3) was deleted because it is redundant with the minor change made in (2) above. **Page 14**, Contains clarifying

language regarding the deadline for submission of a building permit application into the allocation system. This is existing text moved from another section of the code. It is clarified that all the notices will be sent via certified mail. **Page 15**, Contains no changes. **Page 16**, Contains editorial changes. **Pages 17-19**, Contain a provision that all affordable allocations are going to be aggregated countywide. **Pages 20-22**, Contain editorial changes.

Page 23, Contains an important change that after three attempts via certified mail with no response, the allocation award will expire. Ms. Stankiewicz clarified that is only if no service was gotten the first time and no more than three attempts were made. That is also specified and corrected in the NROGO chapter. Ms. Santamaria noted that Administrative Relief on Page 138-23 now matches the comp plan language and the NROGO section will have to be amended to be consistent with this section. **Page 24**, Parcels in Florida Forever have been included. Ms. Santamaria explained for Commissioner Miller how Key West got 900 allocations. **Page 25**, The points are addressed. The July 13 date is highlighted because it is subject to change depending on how quickly these get adopted. **Pages 26-27**, The tier designations and additional criteria added are included. The new table is on Page 138-26, which matches the comp plan. The table was reorganized. Big Pine and No Name Key are broken out.

Pages 28-34, Contain the wetlands point assignments. The language about having 2,000 square feet of uplands is brought in here. All of the point criteria is included. It is clarified the purpose of lot aggregation was the voluntary reduction of density and for the purpose of retirement of development rights. Again, the July date may change. Commissioner Miller asked why on Page 33 there is only .5 point assignment for dedication to Monroe County of one vacant legally platted lot within a Tier I area when the County is trying to protect environmentally sensitive land. Ms. Santamaria explained less points are given for those parcels that have less density and less development potential. **Page 35**, Contains introductory language on market rate housing in employee or affordable housing. The point assignment has been changed to match the comp plan. **Page 36**, Payment to the land acquisition fund is detailed. Ms. Stankiewicz explained one point equals just below \$8,000. **Page 37**, Commissioner Ramsay-Vickrey thanked staff for adding “permanent” to the installation of a concrete cistern, but believes a minimum size requirement should be included and suggested 5,000 gallons as a minimum starting point. Commissioner Wiatt thinks it should be at least 1,000 gallons. Ms. Putney stated it is better left without a minimum because that might discourage the use of smaller cisterns for just gray water. Staff has information that the average size septic tank for a single-family residence is 750 to 1,000 gallons. The Commissioners agreed to require a starting minimum size of 1,000 gallons. Commissioner Miller asked about the logic in giving the same half-point for dedication of a Tier I parcel as for a ductless air conditioning system. Ms. Santamaria explained the land dedication is not only to preserve habitat, but to retire development rights. The point value is recognized in relation to the development potential. **Page 38**, The content on this page has been reordered. **Page 39**, The appeals text has been relocated here.

Chair Werling asked for public comment. There was none.

Pages 40-41, Contain minor changes. **Page 42**, Contains no changes. **Page 43**, Contains more detail on the process of how to prove your existence of your primary structure. **Pages 44-47**, Contain editorial changes. **Page 48**, Clarification was added regarding the deadlines for

submittals. **Page 49**, Contains editorial changes. **Page 50**, Acknowledgement of the current referral process was added. **Pages 51-54**, Contain editorial changes. **Page 55**, Ms. Santamaria stated this page has a lot of text changes because staff proposes to change from having four NROGO banks to just having a general account and the Big Pine account to alleviate tracking and accounting of the square footage. The Commissioners agreed with that proposal. **Pages 56-58**, Contain minor editorial changes. Ms. Santamaria noted that the administrative relief on NROGO on 138-57 will be made to be consistent with the language in the ROGO section. **Pages 59-67**, Talks about the points for NROGO. The same points exist. **Page 68**, Contains new language regarding commercial development. The minimum cistern size needs to be duplicated on this page. Mr. Roberts stated that landscaping may be xeriscaping or contain purely native plants that do not need any irrigation at all. Commissioner Miller suggested a minimum size of 2,000 gallons. The Commissioners agreed. **Page 69**, Community centers is new language on this page. **Pages 70-71**, Contain tables that have been stricken. **Page 72**, The entire section has been relocated.

Chapter 101- GENERAL PROVISIONS

Commissioner Miller reminded Ms. Love that “Public Facilities” needs to be added.

Ms. Putney stated how few comments the public has had is an indication of how well done and in line with the comp plan this rewrite is. Ms. Putney asked that the definition having to do with “Offshore Islands” include the language “islands not connected to US-1.” Commissioner Ramsay-Vickrey suggested “All islands not connected directly or indirectly to US-1.” Ms. Santamaria explained that exact same definition has been removed from the comp plan to be processed separately. Mr. Williams cautioned that the definitions should match. Chair Werling suggested whichever one gets processed first should be deemed to be the definition. Ms. Putney then asked if the state statute should be referenced in the definition of “Level of service.” Mr. Williams pointed out that the statutes can change over time. Ms. Santamaria pointed out that “Level of service” is not defined in state statute. The current definition here matches the comp plan. Ms. Putney then submitted a proposed definition for “Community character” to read as follows: “Community character means the image and perception of the community as defined by the recognizable natural and built elements, landmarks, boundaries and features that provide a sense of place and orientation for those who reside there and others, socioeconomic factors and the interrelationship of these characteristics.” Commissioner Ramsay-Vickrey noted that the definition currently existing matches exactly the comp plan and is exactly what the BOCC wanted to see in the comp plan. Ms. Putney commented that there is no definition for “community impact statement.”

Commissioner Ramsay-Vickrey stated the definition of the “Coastal Barrier Resource System” neglects to mention that there are no restrictions on state, local or private funding within the system unit and would like to see that language added for clarification. Commissioner Ramsay-Vickrey then asked that the discouragement in the comp plan of new private development in undeveloped areas of units of the Coastal Barrier Resource System be added to the LDC. Commissioner Ramsay-Vickrey then proposed, because the definition of “Development” cannot be changed because of the vacation rental ordinance, adding “utility work” which would match exactly with the language in the comp plan and Florida Statutes 163 and 380.

Commissioner Witt asked to clarify that there is no maintenance dredging unless it is a publicly-maintained navigable water. Ms. Santamaria clarified it is only a publicly-maintained navigation channel or it has no resources. Mr. Roberts explained the maintenance dredging is permissible in the county in residential canals, which the County does not want to prohibit.

Commissioner Miller wanted clarification on the definition of “Level of service” because the way level of service is calculated for Monroe County has changed. Ms. Santamaria explained that the definition of “Level of service” in the LDC is just a general definition.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 3:52 p.m.