

PLANNING COMMISSION  
SPECIAL MEETING – LDC UPDATE  
**April 23, 2015**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Thursday, April 23, 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	Present
Ron Miller	Present
William Wiatt	Absent

**STAFF**

Mayte Santamaria, Sr. Director of Planning and Environmental Resources	Present
Steve Williams, Assistant County Attorney	Present
Peter Morris, Assistant County Attorney	Present
John Wolfe, Planning Commission Counsel	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Rey Ortiz, Planning & Biological Plans Examiner Supervisor	Present
Tiffany Stankiewicz, Development Administrator	Present
Emily Schemper, Comprehensive Planning Manager	Present
Matt Coyle, Senior Planner	Present
Barbara Bauman, 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](http://www.keyscompplan.com).

Ms. Santamaria stated this meeting is the third meeting to review certain chapters of the LDC with proposed changes and directive changes. A fourth meeting will be held June 17, 2015, as a

final review over all chapters. There are two copies of the LDC available for the public's use. Today Chapter 126 will be reviewed, which is Impact Fees. No changes to this chapter will be proposed because an impact fee study is to be conducted in the future. The Historic and Cultural Resources chapter will be reviewed with minor clean-up changes. The Affordable and Employee Housing chapter has no changes because staff is awaiting the BOCC's direction, as well as input from the Affordable Housing Committee. The Signs chapter has very little changes because of the changes made in 2012 to this chapter. The Wireless Communications Facilities chapter has minor changes needed to be consistent with the Federal Telecommunications Act and some clean-up to be consistent with permitted uses. Any question anybody has on Definitions will be addressed today. Any input from the Commissioners and the public is welcome even on those chapters with no proposed changes. Ms. Santamaria introduced Debbie Love, project manager and Planning Director of Keith & Schnars, to make the presentations.

### **Chapter 126, IMPACT FEES**

Ms. Love stated there have been no changes made until **Page 57**, where a new section, 126-14, was relocated, but no changes have been made within that section.

Commissioner Miller voiced concern that this community is going from mobile homes to much larger homes that are exempt from any of these impact fees. There is no recognition being given to increased floors. Commissioner Miller feels careful consideration should be given to the amount of the increased habitable space being allowed in this county.

Commissioner Lustberg asked, on **Page 17**, if the specific impact fee resolution addresses when the impact is beyond mitigation. Mr. Wolfe explained those are two different issues. One is just impact fees and the other is a generic land use issue, whether something is allowed or not. The impact fee covers what has been done, but is neither taking away from, nor adding to, any rights a property owner has. Commissioner Lustberg asked for verification on **Page 28** that talks about if in the time between the date of the building permit application and the date of the request for certificate of occupancy the applicable fair share transportation fee amount is altered, it shall be the lower of the two amounts. Ms. Santamaria confirmed that is State statute. Ms. Santamaria confirmed the 2005 dates on **Page 39** will be changed. Commissioner Lustberg then suggested a section for water impact fees be added to help provide for capital improvements for the Aqueduct Authority. Ms. Santamaria does not believe an impact fee can be charged for that, but will look into it. Ms. Santamaria explained that Growth Management has started the process of impact fees and it is based on the functional population and projects that add capacity based on the demand for new growth. Ms. Love added that a lot of work is involved in this process.

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

### **Chapter 135, HISTORIC AND CULTURAL RESOURCES**

Ms. Love stated this section is a relocation with some minor editorial changes and clarification throughout the document. On **Page 2** noncontributing structures were clarified. On **Page 4** the Historic Preservation Commission's duties were clarified. On **Page 7** it is stated it is the applicant's responsibility to provide whatever information is necessary. On **Page 9** additional clarification on when the certificate of appropriateness is required is included. This is applicable to not just new construction, but any work that would need a special certificate of

appropriateness. **Page 14** contains a new section on appeals that was rewritten to comport with the comp plan.

Commissioner Lustberg asked for verification on **Page 9** that the certificate of appropriateness requirement would not overburden a property owner of a non-historic structure. Mr. Williams reminded the Commissioners this would only apply to Tavernier and Pigeon Key. Mr. Williams feels any member of the HPC would believe any structure within Tavernier is important enough to require this consideration. Mr. Morris recommended folding “contributing structure” within the definitions designated. The Commissioners agreed.

Chair Werling asked for public comment.

Diane Silvia, Preservation Planner for Monroe County, agreed with Mr. Morris’ recommendation. Ms. Silvia then pointed out that the certificate of appropriateness language on the first page needs to be consistent with Page 135-9 about what it is required for. Clarification is needed as to whether this is for designated historic structures in all of unincorporated Monroe County or just the Tavernier Historic District. Ms. Schemper stated staff will review and refine this language further.

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

### **Chapter 139, AFFORDABLE AND EMPLOYEE HOUSING**

Ms. Love stated there have been no changes to Chapter 139.

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

### **Chapter 142, SIGNS**

Ms. Love stated there have been very little changes to this chapter. On **Page 10** Number 19 has been relocated. The rest of the changes through **Page 18** are minor editorial changes. On **Page 18** the clearance from the power lines for signage was added, as well as voltage limitations. It is clarified that an applicant would have to coordinate with the local utility company on the placement of any signs. Continuing up to **Page 21** contains editorial changes. Beyond that there have been no changes to the rest of the document.

Commissioner Lustberg pointed out that the language on different pages is inconsistent regarding A-frame signs. Commissioner Lustberg believes the whole section on the A-frame signs should be removed. A-frame signs were allowed temporarily during a period of economic recession and then permanent A-frame signs were allowed due to the large FDOT setback issues, which the County is unable to resolve. Ms. Santamaria noted that US-1 was subsequently designated a scenic highway and new State statutes and rules were put in place. Commissioner Lustberg believes the vehicle advertising should be allowed. Commissioner Lustberg then proposed on **Page 4** removing the last part under Portable Signs that says “vehicles whose primary purpose is advertising” and allow them in designated parking spaces only. Commissioner Lustberg also suggested removing the language “or on private property.” Chair Werling feels the language should remain as is. Commissioner Lustberg asked for an explanation of “County public

assembly permit” on **Page 4**. Mr. Coyle replied that a permit is required when more than 250 people are attending an event or it is over multiple days.

Chair Werling asked for public comment.

Elizabeth Schultz, owner of Seapalms Nursery on Summerland Key, read a letter into the record. The letter stated the overly restrictive signage codes in Monroe County is causing a loss of business to her gift shop. Her ground-mounted sign is not of sufficient size and a larger one is unaffordable and advertising in the local papers is also unaffordable. Commissioner Miller pointed out that ordinance being cited in the letter is from Islamorada. Ms. Schultz replied Islamorada changed the law in January of this year allowing A-frame signs. Ms. Schultz again commented Monroe County’s restrictive signage codes and laws are hurting small businesses and the County itself through the loss of taxes being collected. Two-thirds of Ms. Schultz’ business has been lost since being denied an A-frame sign. Two e-mails from other business owners in the Lower Keys were submitted by Ms. Schultz. Commissioner Lustberg recommended that Ms. Schultz remove her ground-mounted sign if the A-frame works to bring customers in. Chair Werling noted there are more businesses of the same nature as Ms. Schultz’ in the general area than there have been over the prior years. Ms. Schultz stated some businesses have A-frame signs that were grandfathered in. Mr. Coyle does not know of any A-frame signs that have been grandfathered in and believes it is an enforcement issue.

Ms. Schemper explained for Commissioner Miller the size of a ground-mounted sign depends on the amount of frontage a property has. Commissioner Lustberg brought up another proposal for **Page 17** having to do with off-premise signs. Commissioner Lustberg proposed striking the language “that is accessed from a primary side street off US-1 or secondary side street located on the primary side street.” The other Commissioners agreed with that proposal.

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

#### **Chapter 146, WIRELESS COMMUNICATIONS FACILITIES**

Ms. Love stated there have been very little changes to this chapter. On **Page 3** a new definition of “eligible facilities request” was added. On **Page 6**, to comport with FCC regulations, the replacement of existing structures are now as-of-right. In the Preservation district wireless facilities are not allowed. On **Page 11** there was a minor editorial change to the title of the document.

Commissioner Miller asked how many meter dishes are allowed on a URM or URM-L property. Ms. Schemper explained the definition of “satellite earth station” means a single or group of satellite parabolic antennas. Ms. Santamaria added there is not a limit, but only restricts it from being in the front yard setback or side yard setback and adjacent to a public right-of-way. It is allowed as an accessory use. Commissioner Miller recommended limiting it to one. Ms. Santamaria will check with the Federal laws on this.

Ms. Love stated on **Page 12** the eligible facilities request is referenced. This clarifies the process for the replacement of an existing antenna and the noticing time frames are clarified. There are

no changes from **Pages 17-20**. At the very bottom of **Page 21** a new section was added that talks about the time frame for Monroe County action and the appeals to comport with Federal law.

Chair Werling asked for public comment.

Bill Hunter from Sugarloaf asked about the changes from a minor conditional use to as-of-right in certain land use districts. Ms. Santamaria explained that is not in effect yet, but will be for future applications. The as-of-right changes were due to changes to the Telecommunications Act as well as a recent lawsuit. Mr. Hunter then asked that the language of Number 2 on Page 146-8 be tightened up so that the overall height of the antenna and antenna-supporting structure cannot be more than 199 feet. Ms. Schemper proposed the language “The overall combined height of any antenna supporting structure and any antennas attached thereto shall not be greater than 199 feet.” Mr. Hunter then asked that on Page 146-12 a stealth tower not be allowed to be changed to an industrial-style tower. Commissioner Lustberg feels that is addressed in the language “does not substantially change the physical dimensions and visibility of such a tower base station.” Mr. Williams commented the County’s ability to deny a modification after the Tax Relief Act is virtually nonexistent. Mr. Williams then described a cell tower case from Roswell, Georgia, that went all the way to the United States Supreme Court that brought back a lot of the notice provisions. Any alteration to a stealth tower would require appearing before the Planning Commission. Commissioner Lustberg believes this section is fairly clear and feels the limitations on substantially changing the physical dimensions is a good protection.

#### **Chapter 101, GENERAL PROVISIONS (definitions)**

Alicia Putney, resident of No Name Key, thanked staff and consultants for doing such a wonderful job on this rewrite. Ms. Putney is troubled by the definitions of “moor; mooring; mooring facility.” In sailing terms a mooring is not securing a vessel to a dock, davits or an anchor, but is a permanent anchor with a weight at the bottom connected by chain to a buoy having a pennant. Ms. Putney asked for a distinction between “dock” and “docking facility” and “moor” and “mooring.” Ms. Putney recommended adding a definition that has to do with “mooring field.” The upland facilities associated with a mooring field need to be addressed in the code. Ms. Putney is concerned a mooring field can become a marina if the moorings are rented out to independently-owned vessels. Ms. Santamaria will look at these definitions and suggested using the word “securing” instead of “mooring” to clarify the definitions. Ms. Santamaria explained that “mooring field” is not defined in this particular section because it is not used in any part of the Land Development Code.

Mr. Hunter addressed Subsection (e)(2) on Page 114-39, the shared parking calculation option. Mr. Hunter believes the cumulative reduction of parking in developments on Stock Island is going to be problematic. Mr. Hunter then raised the issue of increasing the 300 feet for off-site parking to 600 feet quadruples the impact on the surrounding residential areas. Ms. Santamaria explained this came about at the direction from the BOCC. Commissioner Lustberg suggested changing it back to 300 feet. Commissioner Ramsay-Vickrey asked to receive more information on this from staff at the next meeting.

Commissioner Miller asked to add “or an increase in the number of floors” to the definition of “development.” Ms. Santamaria explained there were issues with amending this particular

definition because it included vacation rentals. Ms. Santamaria pointed out that “reconstruction or alteration of size” in (1)(a) may take into account the additional floors Commissioner Miller is talking about. Mr. Williams cautioned against changing anything that relates to the vacation rental ordinance.

Commissioner Lustberg pointed out on Page 13 the language that a replacement antenna supporting structure shall not impede the height requirement set forth in Subsection (1)(a)(2) of this section or the height of the antenna supporting structure it is replacing, whichever is greater. Commissioner Lustberg also pointed out while they are regularly permitted to 199 feet, for variances they can go up to 330 feet in height, noting that notices only go out 300 feet. Commissioner Miller suggested citing to Section 146-7 so that a variance could be obtained.

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

Ms. Santamaria thanked the members of the public that have participated in this process. Mitzi Crystal, the new Transportation Planner, was introduced.

#### **ADJOURNMENT**

The Monroe County Planning Commission special meeting was adjourned at 11:37 a.m.