

PLANNING COMMISSION  
**July 27, 2011**  
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, July 27, 2011**, beginning at 10:05 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, Chairman	Present
Randy Wall, Vice Chairman	Present
Jeb Hale	Present
Elizabeth Lustberg	Present
William Wiatt	Present

**STAFF**

Townsley Schwab, Sr. Director-Planning and Environmental Resources	Present
Susan Grimsley, Assistant County Attorney	Present
Thomas Wright, Planning Commission Counsel	Present
Joe Haberman, Planning and Development Review Manager	Present
Mitch Harvey, Comp Plan Manager	Present
Rich Jones, Senior Administrator, Marine Resources	Present
Barbara Bauman, Planner	Present
Rey Ortiz, Planner	Present
Barbara Mitchell, Senior Planner	Present
Gail Creech, Planning Commission Coordinator	Present

**COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL**

County Resolution 131-92 was read into the record by Thomas Wright.

**SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS**

Gail Creech confirmed receipt of all necessary paperwork.

**SWEARING OF COUNTY STAFF**

All staff members intending to speak were sworn in by Thomas Wright.

**CHANGES TO THE AGENDA**

Ms. Creech announced that Item No. 6 would be heard as Item No. 2. The Commissioners agreed.

**APPROVAL OF MINUTES**

**Motion:** Vice Chair Wall made a motion to approve the minutes of the June 22, 2011 meeting. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

**MEETING**

**Continued Items:**

**1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** TO AMEND THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM UNDESIGNATED TO RESIDENTIAL CONSERVATION (RC) FOR PROPERTY KNOWN AS WISTERIA ISLAND, HAVING REAL ESTATE PARCEL NUMBER 00123950.000000; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR THE TRANSMITTAL TO THE SECRETARY OF STATE AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

(10:08 a.m.) Mr. Wright informed the Commissioners that the property owner would like this matter to be continued and would like to be heard in that regard. The County has an objection to that. This matter is, therefore, something the commission will have to consider.

Ed Scales, Esq. was present on behalf of FEB Corporation, the owner of Wisteria Island. A letter was submitted from land planner, Owen Trepanier, requesting that this matter be continued to allow staff to have an opportunity to review and to allow the proposed FLUM amendment that the owner filed to work its way through the process, specifically a marine harbor designation. This matter was continued at the May 25, 2011 Planning Commission meeting to allow staff the opportunity to review whether any of the existing FLUM designations of the County were appropriate for Wisteria Island. In the property owner's review, the determination was made that there was no existing FLUM that was appropriate for Wisteria Island. The owner has prepared and filed with the County a marine harbor designation for Wisteria Island that would apply only to Wisteria Island. Mr. Scales again suggested that the Commission may want to table this matter to allow for public hearings in Key West, public hearings in the County, and to allow that particular application to progress. The owner believes this would be a more appropriate FLUM category and allow for consistency between the comp plan and the FLUM map. As this property has remained undesignated for decades, the owner does not believe that any party would be prejudiced by allowing the marine harbor application to move through the process, and believes this would result in the least resistance as possible to collaboratively zone or designate the island.

Ms. Grimsley reported that the County is prepared to go forward with the public hearing today. It has been noticed to the public. This application is a County-sponsored amendment because Wisteria Island has no future land use map designation, and the Board of County Commissioners has instructed staff to proceed with such a designation. Mr. Schwab added that at the last Board of County Commission meeting the Commissioners directed staff to go back to the Planning Commission with the proposal the County is bringing today, and were aware of the added

information requested for this issue. It was agreed by the Planning Commission to entertain the staff report today.

Mr. Scales noted a correction of the staff report. “This request went to a public referendum, which was defeated by the voters of Key West,” should read: “This request went to a charter amendment,” which required public referendum for the City’s acquisition of real property by any means.

Ron Miller asked to be heard on a point of clarification of what was said by staff. Mr. Miller was sworn in by Mr. Wright. Mr. Miller clarified the fact that the BOCC gave direction to staff to come back with an appropriate FLUM designation for Wisteria. They did not direct them to come back with an RC designation. Mr. Schwab concurred.

Mr. Harvey explained that today the Commission is to review staff’s analysis of Wisteria Island. The May 25<sup>th</sup>, 2011 public hearing on this matter was continued to today in order to allow staff to do a more thorough evaluation of different land use categories that are presently available in the comprehensive plan. Mr. Harvey then reviewed the location and characteristics of Wisteria Island. Staff has been asked to do two things: Identify consistencies and inconsistencies with the Monroe County 2010 comprehensive plan goals, objectives and policies; and review six FLUM designations for Wisteria Island – residential conservation, residential low, residential medium, residential high, mixed use commercial and recreation. The definition of offshore island was also reviewed. Mr. Harvey then went through the permitted uses on offshore islands according to the land development code. The six land use categories considered were described. The densities and intensities allowed within these different categories were outlined.

Objective 1301.1 requires Monroe County to coordinate with the City of Key West to ensure that the impacts of development allowed by the proposed FLUM amendment are considered by the County and the City. A public hearing at the City of Key West was held where a resolution was passed, which in no uncertain terms said they would not support any change in any FLUM category by the County that would have an impact on the City’s resources or the citizens of the City of Key West. Mr. Harvey concluded that based on the lack of existing facilities and services, the RC designation provides a reasonable use of the property without creating a need for additional infrastructure, and that public expenditure for facilities and services to Wisteria would conflict with policies in the Monroe County comprehensive plan. Staff recommended that the County move forward with a FLUM designation of residential conservation.

Chair Werling opened public comment.

Ed Scales, Esq. again addressed the Commission. Mr. Scales pointed out that County policy states that residential conservation is for areas characterized by a predominance of undisturbed native vegetation, and that the staff report in May conceded that Wisteria Island is dominated by exotic Australian pines and disturbed mangrove and disturbed salt marsh. The existing habitat on Wisteria Island is dominated by disturbed upland communities. Therefore, by definition, Wisteria Island is not appropriate for residential conservation as a matter of law. The June 23, 2010 staff memo characterized the mixed use FLUM designation with the sub-area policy as being consistent with the Monroe County comprehensive plan. Mr. Scales asserted that the

physical characteristics of Wisteria Island have not changed in the past year and, therefore, as a matter of law, as a matter of policy, as a matter of consistency with the comprehensive plan, RC is not an appropriate designation. Mr. Scales feels that the only thing that has changed since the 2010 staff memo is the political climate.

Mr. Scales pointed out that the existence of utilities is not a determination at this stage for designation of a FLUM. Today the Commission is here to determine only whether RC is appropriate for Wisteria Island. Mr. Scales again reviewed the policy consideration for the designation of mixed use commercial, and again asserted that is a more appropriate FLUM. Mr. Scales stressed that there is no down side to allowing a more appropriate application to move through the process. Mr. Scales then asked the Commission to give the property owner a chance to see if they can get support for the maritime harbor designation so this island is not zoned inconsistently with the comp plan and the staff report from last year.

Commissioner Wiatt asked for the property owner's take on the recreation FLUM designation. Mr. Scales answered that the recreation designation is for publicly owned property and that RC is the private property owner equivalent to recreation. Owen Trepanier generally agreed with Mr. Scales' understanding. Mr. Trepanier then reviewed the three criteria under Chapter 163 of the Florida Statutes to determine consistency for comp plan amendments. Mr. Trepanier concluded that a recreation FLUM could be appropriate and is certainly more appropriate than RC. Mr. Harvey responded that the principal purpose of recreation land use is to provide for public and private activity-based and resource-based recreational facilities. Mr. Scales also pointed out that the only zoning that is appropriate for recreation is PR zoning, and this property is not PR-zoned, making for another inconsistency with the comp plan. Mr. Harvey agreed that if the property was designated recreation, then there would be an inconsistency in the zoning and the property would have to be rezoned, but that would be true with any other FLUM category being considered today, except for residential conservation.

Mike Mongo, Key West resident, spoke of Key West's opposition to this project. Mr. Mongo reminded the Commissioners that staff was asked to specifically explain why Wisteria Island would not fit in any other category, which they have done. Mr. Mongo asked the Planning Commission to accept staff's recommendation.

Naja Girard was present on behalf of Last Stand. Ms. Girard encouraged the Commissioners not to be fooled by what Last Stand considers a misleading presentation by the property owners. Ms. Girard stated that land use planning is not based solely on vegetation type and disagreed with the owner's portrayal of what is growing on the island. The things to be taken into account at the future land use planning level is the availability of water supplies, public facilities and services, as well as the impact on neighboring jurisdictions. Ms. Girard pointed out the negative effects the proposed development would have on Key West. Ms. Girard reminded the Commissioners that another requirement of Florida Statutes and the comp plan is to steer development away from areas subject to hazardous conditions, and stated that Wisteria Island, being a spoil island, is extremely erosion-prone. Regulations enacted by other governments in terms of spoil islands were very low to no density, with categories such as conservation, preservation and recreation. Ms. Girard encouraged the Commission to listen to staff's recommendation.

Deb Curlee, resident of Cudjoe Key, stated that the environmental component of the RC designation is only one component of several to be considered. Ms. Curlee referred to a letter from Roger Hammer, a specialist in Florida Keys native plants, which stated that “Many of these native species have begun to form habitats that typify undisturbed native plant communities of the Florida Keys.” Ms. Curlee then spoke regarding Wisteria Island’s importance to endangered habitat. Ms. Curlee feels that Wisteria Island could be transformed into a showcase project as a commitment by Monroe County to protect Florida Keys native plants and provide critical habitat for resident and migratory birds, as well as become an outdoor classroom for public awareness and commitment to benefit the environment and Florida native wildlife. The Commissioners were urged to accept staff’s recommendation of an RC designation for Wisteria Island.

Gail Kenson was present on behalf of Key West Naval Air Station. The Naval Air Station supports the RC designation. The Navy is concerned if there were a designation other than RC and a mooring field was to be installed, that boats would be displaced into the Navy’s operational area, and is also concerned that additional boat traffic would impact the navigational channels which support military activities. Ms. Kenson asked that, should Wisteria Island develop, a traffic study be done for Trumbo Road to ensure there are no impacts to the military installations. Commissioner Lustberg asked if the Navy could comment on ownership. Ms. Kenson answered that an investigation by the Federal Government is still ongoing.

Arnaud Girard, Key West resident, pointed out the differences between Sunset Key and Wisteria Island in an effort to explain why Sunset Key was developed. Pictures of Wisteria Island were presented to illustrate the erosion that has taken place on Wisteria Island. Mr. Girard stated that it is very unsafe to build on a spoil island, which is basically a sandbar. It was compared to selling a sandcastle before the tide comes up. Mr. Scales objected to the presentation of the documents, as they do not meet the requirement of the rule, and that any motion made to accept them should be made before publishing the documents to the tribunal. Commissioner Lustberg responded that what is in the written materials was adequately summarized in what Mr. Girard said. **Motion: Commissioner Lustberg made a motion to accept the documents. Commissioner Wiatt seconded the motion.** Commissioner Lustberg commented that the first and last pictures were given to the Commission at the last meeting, and the middle two were not given, but a different picture was given expressing the same point. **There was no opposition. The motion passed unanimously.** Mr. Scales clarified that there were not ten copies provided prior to the beginning of the meeting. Ms. Grimsley responded they were not provided prior to the meeting, but a copy was now available for Mr. Scales.

Bob Cardenas, small business owner and resident of Key West, stated that the concerns that the Navy has presented are inappropriate because the Commission is not considering a development today. Mr. Cardenas pointed out that the County biologist has concluded that the exotic species have crowded out the native species on Wisteria Island. Mr. Cardenas does not see the harm in waiting and considering other more appropriate options and feels that some of the arguments that are being presented in opposition to the proposed designation are misleading.

Patrick Ortega, lifelong resident of the Keys, stated that Wisteria Island has been in the same derelict condition as far as he remembers, and it has withstood numerous hurricanes. Mr. Ortega spoke in support of doing some type of development, whether limited or otherwise, to improve

the area with regards to the species of plants. Mr. Ortega concurs with Mr. Scales' opinion that a little bit more time in regards to the designation of the zoning should be given.

Sue Ann Kitcher, Key West resident, was present to read into the record a letter from Sheila Mullins, who was unable to attend. Ms. Mullins feels that the constant reemergence of this matter is an abuse of our system and process, and is costing taxpayers and gives unfair advantage to entities with endless amounts of money on their side. Ms. Mullins wrote that it is unwise and possibly illegal to grant spot-zoning, which is beneficial for the developer, but leaves the County vulnerable to lawsuits from owners of the County's many other offshore islands that want their own favorable spot-zoning designations. Ms. Mullins wrote further that the vast majority of the speakers at the Key West public hearing, including all of the Key West City Commissioners, were against this development for many different and very valid reasons. Ms. Mullins thinks that the push for the mooring field is presented as an altruistic project, and feels that the water quality issue and need for aid in the removal of derelict vessels can be achieved using currently existing processes. Ms. Mullins asked the Commissioners to stand up for the integrity of the comprehensive plan and designate Christmas Tree Island as a residential conservation zone.

William Barry, Key West resident, stated he believes that all persons involved are looking for the same goal, which is a quality environment. Mr. Barry would like the Commission to sustain the present environment or allow a low intensity/low density development. Mr. Barry spoke about the criminal activity and pollutants as a result of what is on and around Wisteria Island. Mr. Barry also believes that the Key West Commission vote is typical double-speak politics, as most Commissioners quietly think developing Wisteria Island is a good idea. The same Commission that says Key West does not have the infrastructure is now entertaining a 96-room hotel and looking at dredging the channel. Mr. Barry stated that 40 percent of Old Town Key West is empty during hurricane season. Mr. Barry asked the Commissioners to consider this matter only to the extent of not approving any development today, and tabling the matter per the recommendation of Attorney Scales.

Ron Miller stated that he believes Wisteria Island needs to be managed in an environmentally sensitive way and does not believe the density that the owners are looking for is appropriate.

Christine Russell, Key West resident, is extremely concerned about the adverse impact this excessively dense development could have, and believes a FLUM should be given once and for all. Ms. Russell mentioned that the recreational designation states "provided all required public services and facilities are accommodated on site," which would not include utilities, police and fire from Key West. Ms. Russell does not believe the developer should be able to write his own development rules, that this parcel should fit into the categories presently available. Ms. Russell stressed three important points: Economics are not a reason to give this island a higher density; Key West residents said no unanimously in 2010 to development of Wisteria Island; and that this development's effects on hurricane evacuation would put Monroe County residents' lives on the line. Ms. Russell strongly encouraged the Commissioners to give Wisteria Island an RC designation and move on.

Mr. Scales informed the Commission that in the maritime harbor application the suggested density is 35 transient units, 35 residential units and five affordable housing units. Mr. Scales

reminded the Commission that the issue before them today is whether RC is an appropriate designation to be recommended to the County Commission. It was clarified that the application for maritime harbor is a two-prong application for both a zoning change and a FLUM change. Mr. Scales concluded by asking the Commission to table this application and give the owner the opportunity to work in a collaborative effort to come up with a FLUM designation that, if not agreed upon, may be less objectionable.

Public comment was closed.

A recess was held from 11:43 a.m. to 11:50 a.m.

Vice Chair Wall asked Mr. Harvey why staff does not find the wording in Policy 101.4.1 “characterized by a predominance of undisturbed native vegetation” a stumbling block to offering the RC designation for consideration. Mr. Harvey answered that the existing characteristics of the property, as well as the compatibility with surrounding area and availability of facilities and services, are all combined into determining whether or not a particular land use category is appropriate. The more critical concern is whether or not there are facilities and services available to serve the densities and intensities that are allowed. Therefore, RC is the best fit based on the densities and intensities that would be allowed at this point in time. Commissioner Hale asked what has changed in regards to the staff recommendation of mixed use from 2010 to today, to which Mr. Harvey answered that the City of Key West passing a resolution basically saying that any impact of a FLUM change that would affect the health, safety and welfare of the facilities and services of the City they would oppose.

Commissioner Lustberg clarified the history of what happened in Key West in 2007, where the petition to annex Wisteria Island was unpopular enough that it was withdrawn from being decided before the City Commission. Then in 2009 the application came to the County and the Planning Board passed the mixed use commercial designation with the sub-area policy. Before it went to the County Commission the Key West City Commission said no to an increase in density and intensity on Wisteria Island, and so the application was pulled from going before the County Commission. Then it came back as a staff recommendation, as requested by the County Commission, of RC, which the Planning Board agreed with, and now it is back again. Commissioner Lustberg thinks it would be an inconsistent and bad idea for the Planning Board to reverse their decision when there is no factual basis for reversing it. Commissioner Lustberg believes residential conservation is appropriate at this time, even though Wisteria Island is not pristine, because the infrastructure necessary for the island will not be provided by the City of Key West. Commissioner Lustberg is comfortable in this because the option for a future land use map change is still open to the property owner provided that the City of Key West becomes willing to provide the infrastructure needed.

Vice Chair Wall questioned the relevance of the availability or the existence of utilities in determining a FLUM designation. Mr. Harvey quoted from House Bill 7207 to confirm the importance of the availability or existence of utilities.

**Motion: Vice Chair Wall made a motion to accept Planning staff’s recommendation for a FLUM designation of residential conservation based on Key West’s decision to disallow**

utilities to the property. Commissioner Lustberg seconded the motion. Roll was called with the following results: Commissioner Hale, No; Vice Chair Wall, Yes; Commissioner Lustberg, Yes; Commissioner Wiatt, No; and Chair Werling, Yes.

**New Items:**

**2.Immanuel Investments, Inc. dba Mrs. Mac’s Kitchen II, 99020 Overseas Highway, Key Largo, Mile Marker 99:** A request for approval of a 5COP (beer, wine and liquor, on premise and package) alcoholic beverage special use permit. The subject property is legally described as Tracts D, E, and F Cape Subdivision (PB6-92), Key Largo, Monroe County, Florida, having real estate number 00522411.000400.

(12:08 p.m.) Barbara Bauman presented the staff report. Ms. Bauman recited the five factors the Commission is to consider in their decision to grant or deny the request. Staff recommends approval of this special use permit with conditions: The standard conditions as special use permits have been issued by the Planning Commission, along with the condition that alcohol consumption shall occur only within the seating area approved by Monroe County Planning Department, and, in the event the applicant is unable to secure a 5COP alcohol beverage license from the State of Florida, then this approval will allow the applicant to apply for a more restrictive alcohol beverage license.

Angela Wittke, president of Immanuel Investments, was present. Ms. Wittke informed the Commission that she has been an alcohol license holder for over 23 years, has operated responsibly during the whole 23 years, and has never had any violations or incidences.

Chair Werling asked for public comment. There was none.

Mr. Haberman explained for Vice Chair Wall that the 5COP license was not listed in the attachment because only licenses in place at the time the ordinance was passed were listed. Mr. Haberman also clarified that the requirement that a restaurant have 150 seats to qualify for the license is not part of the criteria looked at by the County in granting a license. Vice Chair Wall then brought up the fact that next door to this tract is the new Habitat for Humanity housing. Mr. Haberman responded that that is a consideration under the community character element, but Habitat developed in more of a commercial zoning district than residential. There has always been a restaurant located here, and it was prior a Pizza Hut that had a license to sell beer.

**Motion: Commissioner Wiatt made a motion to approve staff’s recommendation for licensure. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.**

**Continued Items: (Cont.)**

**3.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTION 114-67(C), REQUIRED OFF-STREET PARKING, REQUIRED NUMBER OF OFF-STREET PARKING

SPACES, TO REVISE THE MINIMUM PARKING STANDARD FOR MULTIFAMILY DWELLING UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(12:19 p.m.) Rey Ortiz presented the staff report. Mr. Ortiz explained that staff is sometimes challenged by the fact that there really is not enough parking for multifamily dwelling units. Currently there is not a mechanism in place for staff to actually conduct an analysis for parking. The most viable option for staff to conduct a thorough analysis of a residential property is by the number of bedrooms. If it is one bedroom, it would stay at the 1.5 number, and go up from there. Staff feels this is the cleanest approach.

Chair Werling asked for public comment. There was none.

Commissioner Wiatt asked if double-loaded parking spaces, two spaces underneath a unit with cars parking bumper to bumper, would count as individual parking spaces. Mr. Ortiz answered they are individual spaces. Mr. Ortiz commented to Vice Chair Wall that staff thinks this is the most effective evolution of requiring more parking spaces. Mr. Schwab clarified that the double-loaded parking spaces underneath a unit are designed for the tenants of that housing unit only.

**Motion: Vice Chair Wall made a motion to approve staff's recommendation. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTION 110-73, DEVELOPMENT UNDER AN APPROVED CONDITIONAL USE PERMIT, TO FURTHER EXPLAIN WHEN A MINOR DEVIATION APPLICATION, A MAJOR DEVIATION APPLICATION OR AN AMENDMENT APPLICATION IS REQUIRED TO MODIFY THE DEVELOPMENT APPROVED BY A CONDITIONAL USE PERMIT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(12:25 p.m.) Barbara Mitchell presented the staff report. Ms. Mitchell explained that this text amendment is brought by staff to clarify and put into the record what is a minor deviation, what is a major deviation, what is an amendment and how they are required, and to remove any ambiguity that currently exists. This provides for permitting as-of-right changes to approved conditional uses, which is somewhat within the current practices in development review, but this cleans it up. This provides for expanded criteria to allow for the processing of minor and major deviations to approve conditional uses. This also specifies that the approval of a minor or major deviation does not negate the requirement for a variance or a waiver if the proposed change requires a variance or a waiver. This further specifies the approval authority for minor and major deviations to approved conditional uses. In other words, the Planning Commission or the

Planning Director has the authority to make these changes. Ms. Mitchell described deviations that do not result in an additional impact. For approved commercial retail uses, this proposes to allow a change of use if the intensity of the proposed use is lower than that of the current use. A chart was presented to illustrate approved conditional uses.

One difference was described in the deviations when talking about commercial retail will relate to the approved trip generation of a particular use. An additional component included in this text amendment would allow for the Planning Director to approve a minor deviation to an approved phasing or schedule plan as long as the overall end date is not changed, which provides for more flexibility. The development approved as part of this minor, major or deviation or as-of-right has to be consistent with the comprehensive plan and the land development regulations. If a request substantially changes the overall impact or intent of the original approval, regardless of the fact that they may fit that initial criteria, does not provide for blanket approval. Furthermore, the approving authority can impose new conditions as part of the deviation process to further the intent of the original approval or to protect or enhance the community character that would be a result of this deviation. Ms. Mitchell explained to Chair Werling that if somebody has an approved conditional use and they have completed construction, they can come back in to modify that conditional use through this deviation process.

Chair Werling asked for public comment. There was none.

Commissioner Lustberg asked Ms. Mitchell to further explain Section 5, Amendment to a Conditional Use Permit. Ms. Mitchell used the example of a commercial retail shoe shop being turned into a fast food restaurant. Even though they may not be expanding their square footage, they have increased their intensity of uses evidenced by the trip generation. That would require them to amend their conditional use or come in with a new request for a conditional use, depending upon the status of the property. Vice Chair Wall pointed out that the last word in Line 20 on Page 8 of the staff report should be “major.” Ms. Mitchell stated that would be corrected for consistency.

**Motion: Vice Chair Wall made a motion to approve. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING MONROE COUNTY CODE SECTION 114-21, RECYCLING, TO IMPLEMENT A RECYCLABLE MATERIALS RECYCLING PROGRAM FOR MULTIFAMILY AND NONRESIDENTIAL DEVELOPMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

(12:39 p.m.) Ms. Mitchell explained that this item was continued after input from the Commission at the last June Planning Commission meeting. Staff has corrected and responded to the Commission’s concerns. Even though this state law is suited to populations over 80,000 individuals, of which Monroe County is not, Monroe County would like to implement what is a

reasonable process. State law requires this for developments that receive a certificate of occupancy. Certificates of occupancy in the county are only issued for new construction and are not applicable to someone that comes in for site improvements or alterations to existing developed sites. That language has been added. A second request by the Commission that was implemented was the removal of the column which required sizing for multifamily residential developments to be consistent with the nonresidential areas. Ms. Mitchell confirmed for Commissioner Wiatt that the solid waste dumpsters would fit within the same square footage area of the solid waste/recycling collection area. Ms. Mitchell explained to Vice Chair Wall that the term “recommended” is used when talking about square footage per additional solid waste container as opposed to “necessary” or required” to provide flexibility. Vice Chair Wall suggested adding language for when a smaller space is provided. Mr. Schwab stated that would be looked into.

**Motion: Commissioner Hale made a motion to approve. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.**

**6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS** AMENDING MONROE COUNTY CODE SECTIONS 101-1, DEFINITIONS, AND 118-12(M)(4), SHORELINE SETBACK, DOCKING FACILITIES, ADJACENT PARCEL, TO CLARIFY WHAT ELEMENTS OF DOCKING FACILITIES MAY BE PERMITTED ON ADJACENT PARCELS OF LAND, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(12:47 p.m.) Ms. Mitchell presented the staff report. Ms. Mitchell stated that although this does have a long history, the scope has been narrowed to a small fulcrum to address specific issues. Staff is proposing to modify and clarify certain definitions that are associated with adjacent parcel and docking facilities, and proposing to provide for limited utilities for accessory docks or docking facilities on adjacent parcels that are strictly for single-family or two-family residential uses. The changes to definitions were then outlined.

Ms. Mitchell explained that the utilities that may be permitted for a dock or docking facilities are limited to 100 amps, a maximum of four circuits, provided a sub-meter is obtained from the outer parcel on which the single-family residence or two-family residence is located. Electric service may be permitted for dock or docking facility use only. Water service shall be limited to a single hose bib and metered from the lot or parcel on which the single-family residence or two-family residence is located. The use of this accessory dock or docking facility is limited to the occupants of the principal use structure. The parking of motorized vehicles or trailers is prohibited, the storing of boats on a dry portion of the lot or parcel that is not considered part of the dock or docking facility is prohibited, and outdoor storage is prohibited.

Ms. Mitchell clarified for Vice Chair Wall that in order to provide water service from a principal use, it would require a right-of-way permit to bring that water line under the road. When asked if Public Works’ stand on this issued should be sought, Mr. Haberman explained that if it does not

work under a Public Works permit, they will deny it regardless of what the building permit section of the code allows, but that staff can look into it. Commissioner Lustberg suggested approving it with the condition that it is okay with Public Works. Mr. Schwab felt it would be cleaner to continue it to a date certain and check with Public Works and come back. Ms. Grimsley added that it could be conditioned upon looking into it with Public Works.

Mr. Wright pointed out that Line 98 of Page 3 should read “water craft.” On Page 4, Lines 119 through 121, Mr. Wright recommended there be an exception for owners to bring an accessory dock into conformity by building a principal use. Mr. Haberman noted that the accessory use definition of the code states the accessory use cannot continue once the principal use would be terminated. Mr. Haberman feels that allowing that outright is more involved than what is before the Commission presently. The scenario of another owner of a principal use in the neighborhood purchasing the lot with the docking facilities was discussed.

Commissioner Lustberg wished to verify that the 100 amps would be enough for davits to function. Commissioner Wiatt stated that it is more than enough, which brings about the concern of liveboards taking advantage of this. Commission Wiatt would like to see some language that addresses the issue of liveboards, that accessory uses would not allow anything to do with liveboards. Mr. Schwab stated that could be added. Ms. Mitchell clarified for Vice Chair Wall that the reason 100 amps appears in the language is because 100 amps is the minimum that the building code allows. Vice Chair Wall feels that the Planning Commission could craft a motion that tasks Planning staff, before this goes to the County Commission and after revisiting this with the electrical inspector, to allow the Planning Commission to permit a much smaller service.

**Motion: Vice Chair Wall made a motion to approve staff’s recommendations with language clearly making any liveboard activity associated with the docking facilities illegal, and that before this goes to the County Commission staff investigate two things: One, a lighter service than what is in the language, and two, check with Public Works about the appropriateness of allowing a street cut to accomplish either water or electrical. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.**

### **BOARD DISCUSSION**

There was no board discussion.

### **GROWTH MANAGEMENT COMMENT**

#### **1.Discussion Item on Entry Features for Key Haven Subdivision**

(1:18 p.m.) Mr. Schwab informed the Commissioners that staff wanted to get some input from the Commissioners relative to Key Haven and entry features. Rey Ortiz explained that staff felt that there was the possibility of exploring the option for the Key Haven community to be allowed entry features. Staff is exploring to add it to the fencing part of the code, and staff is asking for the Commission’s guidance and input as to how to proceed. It could be based on the square footage or the frontage, as examples. The allowances in Key Haven and Stock Island were described. Mr. Schwab noted that the idea is to have this defined enough so that the entryways

would be an enhancement and not a detriment to the community, clarifying what would be appropriate and what would not. Commissioner Wiatt voiced his concern that this could encroach on parking. Mr. Schwab stated that these are residential units and they would still have parking requirements.

Vice Chair Wall gave direction to staff to implement a design element for Key Haven for pedestrian gates within the 25-foot front yard setback that is a maximum of six feet in width, a maximum of eight feet in height, and a maximum of four feet in depth, that would include a roof element of a maximum of four-by-six feet and a maximum number of eight feet in height. Therefore, by definition this would be a pedestrian gate only. Vice Chair Wall does not want to say this would be as of right, but would be comfortable with the Planning Director's review of it for community character. Commissioner Lustberg supports this, but questioned why this would not include Stock Island, if Stock Island also has the same type of fencing allowed. Mr. Ortiz explained that one component of the CommuniKeys plan is to work out architectural features that labelize a single-family platted lot division, which is what Key Haven is. Stock Island has industrial and Stock Island's residential is a higher density. Mr. Schwab verified that this matter will go through the normal process of being advertised to the public.

Mr. Harvey presented an update on the comp plan. This past legislative session, one of the major changes made was giving a date of July 31, 2014 to submit a letter identifying changes to state statutes that would require comp plan amendments, as opposed to transmitting an evaluation appraisal report to the Department of Community Affairs by August 1, 2011. Monroe County is still moving forward with an evaluation appraisal report in order to update their comprehensive plan based on the recently completed technical document. Keith & Schnars is going to appear before the Planning Commission with an evaluation and appraisal report presentation in October and November of this year.

## **ADJOURNMENT**

The Monroe County Planning Commission meeting was adjourned at 1:39 p.m.