

PLANNING COMMISSION
October 18, 2011
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Tuesday, October 18, 2011**, beginning at 10:11 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

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| Denise Werling, Chairman | Present |
| Randy Wall, Vice Chairman | Absent |
| Jeb Hale | Absent/Present |
| Elizabeth Lustberg | Present |
| William Wiatt | Present |

STAFF

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| Townsley Schwab, Sr. Director-Planning and Environmental Resources | Present |
| Susan Grimsley, Assistant County Attorney | Present |
| John Wolfe, Planning Commission Counsel | Present |
| Mayte Santamaria, Assistant Director of Planning | Present |
| Joe Haberman, Planning and Development Review Manager | Present |
| Mitch Harvey, Comp Plan Manager | Present |
| Tiffany Stankiewicz, Development Administrator | Present |
| Kathy Grasser, Planner | Present |
| Steven Biel, Senior Planner | Present |
| Tim Finn, Planner | Present |
| Gail Creech, Planning Commission Coordinator | Present |
| Kim Kirali, Assistant Planning Commission Coordinator | Present |

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by John Wolfe.

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 John Wolfe.

CHANGES TO THE AGENDA

Mr. Wolfe announced that the applicant of Item 6 has requested a continuance until the November 9, 2011 meeting because there is not a full board present.

Motion: Commissioner Lustberg made a motion to continue Item 6 to the November 9, 2011 meeting. Commissioner Wiatt seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

1.Non-Residential Floor Area Allocation: The Planning Director is requesting recommendations from the Planning Commission, to the Board of County Commissioners, for the revised amount of commercial floor area to be available for the annual NROGO allocation for Year 20, beginning July 13, 2011 and ending July 12, 2012.

(10:17 a.m.) Ms. Stankiewicz made two corrections to the staff report: Page 1, Line 5 should read Resolution 28-11, and Page 4, Line 32 should read Resolution 28-11. Ms. Stankiewicz then presented the staff report. Ms. Stankiewicz reported that this is a revision to the staff report submitted back in September. New information with regard to a prospective applicant that may be proposing a development in a community center, which allows for large allocations, was received. Therefore, staff is bringing this before the Planning Commission to make an amended recommendation. The Planning Department is recommending rescinding Planning Commission Resolution 28-11 and is recommending 47,200 square feet for Year 20. Ms. Stankiewicz outlined how the available nonresidential floor area would be distributed. Staff recommended approval.

Commissioner Lustberg had it verified that the increase in floor allocation can go in the Upper Keys or Lower Keys and is not limited to a community development center. Commission Lustberg wanted to make sure that if there is an issue with having the bigger floor allocations in the future, the rules could be changed. Mr. Schwab explained that this proposal is reflecting what the code says and if a change was desired in the future, it would take a code change, but it could be done. Mr. Wolfe added that the percentage of small allocations versus large allocations can be changed. Ms. Stankiewicz reminded the Commission that this is a recommendation that goes to the Board of County Commissioners.

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

2.CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO AMEND POLICIES 101.4.22, 101.4.24, 101.4.25 AND 205.2.7 OF THE MONROE COUNTY 2010 COMPREHENSIVE PLAN AND TO CREATE POLICY 101.4.23 TO ADDRESS THE CLEARING OF UPLAND NATIVE VEGETATION, AS REQUIRED TO ADDRESS THE TASKS IDENTIFIED IN THE 30-DAY REPORTS

FROM THE ADMINISTRATION COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

(10:23 a.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this is a County-recommended comprehensive plan text amendment to address the clearing limits for upland native habitat. This amendment is to provide a cap or a maximum clearing allowance for Tier I, II, III, as well as establishing a clearing limit for Tier III-A. It provides for an exception for large parcels over 30,000 square feet to have a driveway allowance up to 18 feet in width. It creates Policy 101.4.23 to establish that these clearing limits control any other clearing limits established by any Livable CommuniKeys plans which are in conflict between the two. The other revisions are simply to provide numbering changes for consistency.

Chair Werling asked for public comment. There was none.

Motion: Commissioner Wiatt made a motion to approve the request for amendment. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

3. CONSIDERATION OF A RESOLUTION TRANSMITTING TO THE STATE LAND PLANNING AGENCY AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO CREATE POLICY 101.4.20 TO DISCOURAGE PRIVATE APPLICATIONS FOR FUTURE LAND USE CHANGES WHICH INCREASE ALLOWABLE DENSITY AND INTENSITY, AS REQUIRED BY ADMINISTRATION COMMISSION RULE 28-20.140, FLORIDA ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

(10:26 a.m.) Ms. Santamaria presented the staff report. Ms. Santamaria reported that this is a staff request to amend the comprehensive plan to create Policy 101.4.20. This is also in response to 30-day reports issued by the Administration Commission, as well as the newly adopted Rule 28-20.140 for the Florida Keys that requires the County to adopt a policy to discourage increases in density and intensity. The County's proposed amendment is to create Policy 101.4.20 to not only discourage, but also provide an avenue for applicants to request increases in intensity and density by providing either the donation of land at a two-to-one ratio, or the purchase of IS lots for each unit of density that they are requesting to increase for their site. This is only for private applicants at this point in time. The land that will be donated needs to be Tier I, II or III and has to be within the same sub-area or within Big Pine Key and No Name Key. It has to be reviewed by the County biologist to assure that it includes undisturbed native habitat or undisturbed wetlands, as well as the County's considering issuing a restrictive covenant on the site to then distinguish the development rights and potentially changing the future land use designation to conservation. Some comments from the Land Authority for consideration in terms of an amendment to this proposal are, instead of the land being donated to the Land Authority, it

would simply be donated to Monroe County, as listed on Page 3, Line 36 of the staff report. Also, on Page 4, Line 5 of the staff report, striking “Land Authority” there as well. Then the bullets that say, “The land shall be designated pursuant to a conservation easement pursuant to Policy 1.2.4.6 for the Land Authority” would also be struck since it would no longer be relevant if the Commission agrees with this proposed revision.

Commissioner Lustberg had it verified that the County is in agreement to be the one to receive the land. Mr. Wolfe noted that the comment by Ron Demes, the ex officio Navy member, is included for consideration on this item.

Chair Werling asked for public comment. There was none.

Ms. Santamaria clarified for Commissioner Lustberg that the criteria for future land use map amendments is the same, that this proposal is just to mitigate an increase in density and intensity an applicant may be requesting.

Motion: Commissioner Wiatt made a motion to approve the request for amendment, striking “Monroe County Land Authority” and replacing it with “Monroe County.” Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

4.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE REGULATIONS PERTAINING TO SIGNAGE IN MONROE COUNTY CODE CHAPTER 142, SIGNS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(10:32 a.m.) Mr. Haberman presented the staff report. Mr. Haberman reported that this is the first of two Planning Commission meetings on the sign issue before the Commission has to make any final decisions. Staff currently has a draft text amendment, but it is changing as public meetings are continuing. This ordinance addresses three things. The first is A-frame signage. That is set to sunset. The Commission can recommend allowing it to continue indefinitely, recommend that it has to stop, or recommend prolonging the sunset date. The second part of it is multi-tenant signs. The current sign ordinance is more for single businesses in terms of the amount of square footage it allows to a sign. This would make it so that a variance would be easily granted in order to allow tenants to have signs. Some standards on size of lettering and font have been inserted into the ordinance. The third part of this is, having been designated as a scenic highway, it has been discovered that FDOT has some rules regarding how they define off-premise signs that are not consistent with how the County defines off-premise signs. The County defines them as billboards. Staff is determining what can be done to make FDOT’s definition consistent with County code, but right now language is being included that requires FDOT approvals prior to the County’s approval because FDOT has more restrictive rules. A more polished version of this amendment will be provided at the next meeting on this issue after more community input is gotten.

Chair Werling asked for public comment.

Reverend Marney Brown, Key West business owner, stated that these signs provide exposure to lower middle class entrepreneurs and are imperative to the success of their businesses. Reverend Brown understands that the scenic highway has a lot of money invested in it, but the businesses along the highway are also important to the scenic highway. Reverend Brown urged the Commissioners to provide exposure for the business owners, and stated that 52 percent of her business is from tourists.

Derek Norman had it clarified that today's meeting will not include a vote on the matter, but is just for the purpose of looking at information. Mr. Schwab explained that this was broken into two meetings to a great extent to have two opportunities for public input. The next meeting is scheduled for November 9, 2011. Mr. Norman then spoke about the difficulty with people seeing his business and knowing where it is located. Mr. Norman plans to obtain a permit for an A-frame sign in hopes of being grandfathered in after the BOCC vote. Mr. Norman stressed how important the sign allowances are to business people in the Lower Keys and urged the Commissioners to give this matter serious consideration. Mr. Schwab clarified that the grandfathering-in possibility for the signs that are out there is a possibility, but a decision has not been made.

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

Chair Werling asked how accessible the information was to get from DOT since they have more restrictive rules. Mr. Haberman explained that DOT does not allow signs to be put on DOT right-of-ways unless the business owner leases or purchases the parcel. Mr. Schwab agreed that the dilemma is the amount of setback from the right-of-ways, and that adjacent vegetation can exacerbate the problem of lack of visibility.

Reverend Brown was permitted to speak again. Reverend Brown stated that FDOT has been good about communicating with business owners exactly where they can put signs, but the real problem is in lack of communication between the Planning Commission and the business owners. Mr. Schwab responded that all public meetings went through the County's standard notice process. Public hearings were held in the Upper, Middle and Lower Keys, Chambers of Commerce were notified and articles were put in the paper.

Commissioner Wiatt questioned the rationale behind the idea of requiring a permit for an A-frame sign. Mr. Haberman answered that it was to control what was going to be on the signs so they were not advertising something not associated with that property and to limit the numbers and the size. Mr. Schwab added that it also addressed the locations for the signs. Commissioner Wiatt believes the language could be included within the ordinance of what is allowed and what is not allowed to alleviate the public from having to go through the whole permitting process so as not to add a layer of legislation that may not be needed. Mr. Haberman explained that another reason why the permit issue came up was to not burden code enforcement with determining what was legitimate and what was not, and a lot of the reason why people did not get permits is because of the cost of the permit. Code enforcement stayed prosecution of illegal sandwich boards while this issue is being determined. Mr. Norman attested to the accuracy of Mr.

Haberman's explanation. Mr. Norman suggested that the County compromise by allowing more square footage for signage, such as along fencing.

Commissioner Hale joined the proceedings.

Commissioner Lustberg stated that she likes the proposal for the multi-business signs and then asked for an explanation of the language on Page 3 of the staff report that states Monroe County does not qualify for the way-finding program. Mr. Schwab explained that the TODs are controlled by the population of the county and Monroe County has too many residents and does not meet that threshold, but is very close and staff will be monitoring and looking further into that. Commissioner Lustberg pointed out confusing language contained on Page 7 pertaining to billboards on a highway as opposed to a commercial corridor. Mr. Haberman agreed that the language needs to be clarified and explained that part of the problem is that billboards are defined differently between the County and FDOT. The County is trying to make County code as compatible with FDOT's as possible and will continue to work through that process. Mr. Schwab further explained since U.S.1 is designated as a scenic highway, any off-premise sign falls under a limitation. Although Monroe County runs a length of a hundred plus miles, some areas are very pristine, but there are small rural centers interspersed along the highway, which creates a conflict.

Commissioner Lustberg asked if the parts of U.S.1 zoned as industrial or commercial are held to the same restriction for FDOT permitting, to which Mr. Haberman responded that is not FDOT's position. Staff confirmed for Commissioner Lustberg that store business signs along U.S.1 are exempt from the permit requirements provided they are not in FDOT's right-of-way. Chair Werling then asked about the possibility of having exemptions from the scenic highway criteria for specific mile markers, such as Big Pine's commercial area or the center of the Key Largo area. Mr. Schwab informed the Commission that FDOT's response is to de-designate portions of the highway, which would need to be thought through since portions not designated would not be eligible for certain funding. The BOCC would be the one to make that decision. The value of way-finding signs was discussed.

Reverend Brown spoke about the lines painted on the highway in Big Pine and commented on how confusing they are. Reverend Brown pointed out that the merchants have to pay for the signage for the heritage trail.

Commissioner Lustberg suggested allowing an off-premise sign in front of what could be an existing business, but is vacant at that time. Commissioner Lustberg asked if ground-mounted permanent signs are allowed to go right on the property line without FDOT's setback, to which Mr. Haberman answered that the five-foot setback is required for all new signage unless it is wall-mounted to a nonconforming building. Commissioner Lustberg suggested that consideration be given to language being added to explain how one would proceed with a variance if there is a problem with the FDOT right-of-way. Mr. Schwab agreed that was a valid point. Commissioner Lustberg would like to see more special identification signs. The legitimate ways to purchase or lease FDOT's right-of-ways for parking and/or signage was explained.

Commissioner Wiatt had it confirmed that the permitting process is all the same except for the language on the A-frame signs, and then again questioned why that permit language is not put in the ordinance itself and have people follow that without requiring them to get a permit. Mr. Schwab agreed that staff can look into that. Commissioner Lustberg pointed out that Number 15 listed in the scenic highway rules, which allows signs for rural areas, could be a way around the prohibition of off-premise signs on a scenic highway. Mr. Schwab answered that the County has to continue to pursue the TODs.

Mr. Norman explained how businesses pay to have exposure on the Turnpike service plaza signs. Mr. Norman then described how a small community in North Carolina worked with their local government to allow adequate signage when a new highway in the area threatened the business owners' livelihoods. Mr. Schwab clarified that the signs on the Turnpike are not possible for Monroe County. Mr. Schwab then confirmed for Commissioner Lustberg that way-finding signs can give direction to sites off the corridors on an official Florida transportation map.

Motion: Commissioner Wiatt made a motion to continue this item to the November 9, 2011 meeting. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO AMEND THE CAPITAL IMPROVEMENT ELEMENT TO UPDATE TABLE 4.1, THE 5-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS WITHIN THE YEAR 2010 MONROE COUNTY COMPREHENSIVE PLAN, PURSUANT TO FLORIDA STATUTE 163.3177(3)(A) AND FLORIDA STATUTE 163.3177(3)(B), FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

(11:42 a.m.) Ms. Grasser presented the staff report. Ms. Grasser reported that Florida Statute, Chapter 163, requires the County to have a capital improvement element in the comprehensive plan. The data and analysis for all public facilities included in the 2011 Public Facilities Capacity Assessment Report was described. Ms. Grasser reported that based on data and analysis obtained, there is sufficient capacity for the County's public facilities to serve anticipated growth. Staff recommended approval.

Motion: Commissioner Wiatt made a motion to approve the request for amendment of the Monroe County comprehensive plan five-year schedule of capital improvements. Commissioner Hale seconded the motion. There was no opposition. The motion passed unanimously.

6. Guardian Angel Management, 11 Snapper Avenue, Key Largo, Mile Marker 103.4: A request for approval of a variance of 6.45 feet from the required ten (10) foot side yard setback along the western property line in order to convert a carport into enclosed living area. The subject parcel is legally described as Block 12, Lot 8, Largo Sound Park (PB3-111), Key Largo, Monroe County, Florida, having real estate number 00472710.000000.

(Motion was made to continue during Changes to the Agenda)

BOARD DISCUSSION

Commissioner Lustberg asked about rules on signage located on bike paths geared towards people not in cars. Mr. Schwab answered that in the overall program for improvements for the trail system staff would like to pursue information panels displayed at kiosks that would give information on the area, and stated that this is allowed and encouraged by the scenic highway rules.

Chair Werling requested that a time frame be decided on for delivery of information to the Planning Commission members before a meeting instead of receiving information piecemeal before a meeting. Mr. Schwab stated that staff is cognizant of that issue and believes this will improve next year because there will be one meeting per month as opposed to two. Mr. Schwab then introduced the County's new planner, Tim Finn. Mr. Schwab added that depending on the size of a project and how involved it is, it may cause items to be submitted to the Planning Commission members inside of the ten-day timeline.

GROWTH MANAGEMENT COMMENTS

Ms. Santamaria reported that on November 2, 2011 there will be a special meeting to review the Evaluation and Appraisal Report (EAR) of the current comprehensive plan presented by Keith & Schnars. This same report will be presented to the BOCC on November 16, 2011. The second half of the EAR will be presented in January both to the Planning Commission and the BOCC, for adoption hopefully in January 2012. Hard copies of the EAR were distributed to the Commissioners.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 11:58 a.m.