

AGENDA

PLANNING COMMISSION SPECIAL MEETING-LDC UPDATE
MONROE COUNTY
April 9, 2015
10:00 A.M.

MARATHON GOV'T CENTER
2798 OVERSEAS HIGHWAY
MARATHON, FL 33050

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMISSION:

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

STAFF:

Mayte Santamaria, Sr. Director of Planning and Environmental Resources
Steve Williams, Assistant County Attorney
John Wolfe, Planning Commission Counsel
Mike Roberts, Sr. Administrator, Environmental Resources
Rey Ortiz, Planning & Biological Plans Examiner Supervisor
Tiffany Stankiewicz, Development Administrator
Emily Schemper, Comprehensive Planning Manager
Matt Coyle, Sr. Planner
Barbara Bauman, Planner
Gail Creech, Sr. Planning Commission Coordinator

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.

Keith & Schnars presentation of the following:

- Chapter 106 AREAS OF CRITICAL COUNTY CONCERN
- Chapter 114 DEVELOPMENT STANDARDS
- Chapter 118 ENVIRONMENTAL PROTECTION
- Chapter 122 FLOODPLAIN MANAGEMENT
- Chapter 134 MISCELLANEOUS RESTRICTIONS
- Chapter 101 GENERAL PROVISIONS (definitions)

EXHIBIT FROM PUBLIC:

- [PC 04.09.15 Exhibit 1 Last Stand.pdf](#)
- [PC 04.09.15 Exhibit 2 Alicia Putney.PDF](#)

Pursuant to Section 286.0105 Florida Statutes and Monroe County Resolution 131-1992, if a person decides to appeal any decision of the Planning Commission, he or she shall provide a transcript of the hearing before the Planning Commission, prepared by a certified court reporter at the appellant's expense. For such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".

-
BOARD DISCUSSION

-
GROWTH MANAGEMENT COMMENTS

-
RESOLUTIONS FOR SIGNATURE

ADJOURNMENT

Monroe County Comprehensive Plan Update



Monroe County Comprehensive Plan 2010 – 2030

Welcome to the Monroe County Comprehensive Plan Update Website. The purpose of this website is to provide Monroe County residents and stakeholders a comprehensive source of information about the many components of the Plan update.

The updated Comprehensive Plan will provide the roadway for how the County will address growth issues for the next twenty years. The 2010 – 2030 Comprehensive Plan Update is an undertaking that will rely heavily upon public participation throughout the nearly four-year process. This website is just one way of obtaining input from you, the ultimate recipient of the Plan. Your input will help determine how the County will grow.

Please take an opportunity to review the site and provide us with your feedback! You will notice that we have made it easy for each visitor to stay in touch with us by providing an area where you may make comments on the Plan Update, as well as sign up for future updates as they occur. Please visit again and should you have any questions, our project team will be happy to contact you.

Facts, Information, & Resources

- [Land Development Code Documents](#)
- [Learn more about the project team](#)
- [Comprehensive Plan Documents](#)
- [Planning Framework](#)

Meetings & Updates



Upcoming Event

The Planning Commission (PC) will be reviewing chapters of the Land Development Code (LDC)
 Meeting 1: Date: Thursday, March 19, 2015 Time: 10:00 a.m. Location: Marathon Government Center (2nd floor Commission Chambers) 2798 Overseas Highway Marathon, FL
 Meeting 2: Date: Thursday, April 9, 2015 Time: 10:00 a.m. Location: Marathon Government Center (2nd floor Commission Chambers) 2798 Overseas Highway Marathon, FL
 Meeting 3: Date: Thursday, April 23, 2015 Time: 10:00 a.m. Location: Marathon Government Center (2nd floor Commission Chambers) 2798 Overseas Highway Marathon, FL
 The chapters and review order can be found here: <http://keyscompplan.com/facts-information-resources/land-development-code-documents/>



Pe 4.09.15
Last Stand
Julie Dick
Exhibit #1

April 8, 2015

**Everglades
Law Center, Inc.**
*Defending Florida's Ecosystems
and Communities*

www.evergladeslaw.org

**Southern Everglades and
Florida Keys Office**

660 Crandon Blvd., Suite 223
Key Biscayne, FL 33149
Phone: 305-867-9338

Board of Directors

Richard Hamann, Esq.

Robert Hartsell, Esq.

Joel A. Mintz, Esq.

Karen Marcus

David White, Esq.

Executive Director

Jason Totoiu., Esq.

Senior Staff Counsel

Lisa Interlandi, Esq.

Staff Attorney

Julie Dick, Esq.

Monroe County Planning Commission
2798 Overseas Highway, Suite 410
Marathon, FL 33050
Sent via email and distributed at the meeting

Re: Land Development Code, Planning Commission Meeting, April 9, 2015
– Marathon: 10:00 AM

Dear Planning Commission,

Please accept the attached comments on the Land Development Code Update on behalf of Last Stand and the Florida Keys Environmental Fund. We are appreciative of the work and attention to detail that has gone into this update of the Land Development Code. Thank you for the opportunity to comment.

H. Chapter 106: AREAS OF CRITICAL COUNTY CONCERNS (TAB H)

Comments/Questions:

We have no comments/questions regarding this Chapter.

I. Chapter 114: DEVELOPMENT STANDARDS (TAB I)

Sec. 114-2. Adequate Facilities and Review Procedures.

Page 114-1, Section 114-2(a)(1)b.

~~All County roads Road 905 within three miles of a parcel proposed for development shall have sufficient available capacity to operate at minimum peak hour level of service D as measured on an annual average daily traffic (AADT) basis at all intersections and/or roadway segments by the methodology identified in the most recent edition of the Highway Capacity Manual. U.S. 1 shall have sufficient available capacity to operate at level of service C on an overall basis as measured by the U.S. 1 Level of Service Task~~

~~Methodology. In addition, the segments of U.S. 1, as identified in the U.S. 1 Level of Service Task Force Methodology, which would be directly impacted by a proposed development's access to U.S. 1, shall have sufficient available capacity to operate at level of service C as measured by the U.S. 1 Level of Service Task Force Methodology.~~

Comments/Questions:

What is the Data and Analysis to justify abandoning the U.S. 1 Level of Service Task Force Methodology?

Is the methodology used in the Highway Capacity Manual specific to the Florida Keys as was the U.S. 1 Level of Service Task Force Methodology?

How will this proposed change affect the current link between roadway LOS and current development restrictions, such as the implementation of building a building moratorium when the LOS is degraded?

Page 114-2, Section 114-2(a)(2)

(2) Solid waste.

~~Sufficient capacity shall be available at a solid waste disposal site to accommodate all existing and approved development for a period of at least three years from the projected date of completion of the proposed development or use. at a level of service of 11.41 pounds per capita per day. The county solid waste and resource recovery authority may enter into agreements, including agreements under F.S. section§ 163.01, to dispose of solid waste outside of the county.~~

Comments/Questions:

How is per capita defined here? Does it mean residents only? Or, does it include tourists or the functional population? If per capita is not defined here as the functional population, why not?

Has recycling and waste diversion been accounted for in this number?

Page 114-2, Section 114-2(a)(3)

(3) Potable water.

~~The County will coordinate with FKAA in its efforts to assure sSufficient potable water from an approved and permitted source shall be available to satisfy the projected water needs of the proposed development or use at the levels of service listed below. Approved and permitted sources shall include cisterns, wells, FKAA~~

distribution systems, individual water condensation systems, and any other system that complies with state standards for potable water.

Comments/Questions:

How is “sufficient potable water” defined here? Is it measured per capita? Does it mean residents only? Or, does it include tourists or the functional population? If “sufficient potable water” is not defined here with respect to the functional population, why not?

Page 114-3, Section 114-2(a)(4)a.

(4) Sanitary Sewer.

Sufficient wastewater treatment and disposal shall be available to satisfy the projected needs of the development or use according to the following level of service standards:

- a. The capacity level of service standard: 167 gallons per day per equivalent dwelling unit (EDU).
- b. The wastewater treatment level of service standards

	<u>Mg/L</u>			
	<u>BOD</u>	<u>TSS</u>	<u>TN</u>	<u>TP</u>
<u>On-site Sewage Treatment and Disposal Systems</u>	<u>10</u>	<u>10</u>	<u>20</u>	<u>1</u>
<u>Design flows less than 100,000 gpd (BAT)</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>1</u>
<u>Design flows greater than or equal to 100,000 gpd (AWT)</u>	<u>5</u>	<u>5</u>	<u>3</u>	<u>1</u>

BOD: Biochemical Oxygen Demand
TSS: Total Suspended Solids
TN: Total Nitrogen

TP: Total Phosphorus
BAT: Best Available Technology
AWT: Advanced Wastewater Technology

Comments/Questions:

It would seem that at 167 GPD per EDU, a development outside of a centralized wastewater collection system could have 599 EDUs and only have to meet BAT. Is this correct?

Would the Planning Commission consider calculating flows using peak flow? Peak flow more accurately captures the amount of wastewater flowing through sanitary sewer systems during periods with higher seasonal population.

Page 114-3, Section 114-2(a)(7)a.

(7) Recreation and Open Space.

Sufficient available recreation and open space facility capacity shall be available at the levels of service listed below:

- a. 1.5 acres per 1000 functional population of passive, resource-based neighborhood and community parks; and
- b. 1.5 acres per 1000 functional population of activity-based neighborhood and community parks within each of the Upper Keys, Middle Keys, and Lower Keys subareas.

Comments/Questions:

Why is passive recreation LOS calculated county-wide, rather than by sub-area?

We recommend adding language to subsection “a.” so that it reads as follows:

“a. 1.5 acres per 1000 functional population of passive, resource-based neighborhood and community parks **within each of the Upper Keys, Middle Keys, and Lower Keys subareas.**”

Page 114-4, Section 114-3(a)(5)

The following is eliminated from this section

~~(5) Reports required. The county shall provide monthly reports to the administration commission on the status of implementing the provisions of this section and the provisions of new public facilities required by this section until the submittal of its comprehensive plan to the department of community affairs for review under F.A.C. 9J-5.~~

Comments/Questions:

Why is this monthly report being eliminated?

Page 114-4, Section 114-2(b)(3)

(3) ~~Annual~~ Assessment of public facilities capacity. ~~On or before June 15 of each year,~~ †The Planning Ddirector of planning shall submit to the ~~board of county commissioners~~BOCC a report of the capacity of the available public facilities in each of the service areas established in subsection (b)(2) of this section.

Comments/Questions:

Here and through out this section the word “annual” is stricken from the “county’s annual public facilities capacity report.” Why is this the case? How often will a facilities capacity report, which has always been done annually, be presented to the BOCC?

Page 114-5, Section 114-2(b)(5)b.

Application for development. As a condition of approval of a development order, all applicants for development shall file an application with the county in the form prescribed by the Planning Director, accompanied by a fee to be set by resolution of the BOCC. The application shall include a written evaluation (facilities impact report and traffic report) of the impact of the anticipated development on the levels of service for public facilities and services and demonstrate that public facilities and services are available prior to or concurrent with the impacts of development.

Comments/Questions:

Applications for development should also be posted on the web site in a timely manner for access by the general public.

We recommend adding a sentence to the end of this paragraph stating the following:

The County shall post all applications for development and corresponding reports to the County website within 15 days of submission for access by the general public.

Page 114-6, Section 114-2 (b)(5)c. (3)(iv)

3. For roads one or more of the following conditions are met:

iv. The proportionate share contribution or construction is sufficient to accomplish one or more mobility improvement(s) that will benefit a regionally significant transportation facility.

Comments/Questions:

Would you please explain the meaning of “mobility improvement(s) that will benefit a regionally significant transportation facility”?

Page 114-29, Section 114-~~21~~14. Recycling and Solid Waste Collection Areas.

Sec. 114-~~21~~14. Recycling and Solid Waste Collection Areas.

Any nonresidential, mixed use or multi-family residential development ~~requiring a certificate of occupancy or certificate of compliance on or after July 1, 2012~~ shall make adequate provision for a recycling collection area in accordance with the following standards:

(a) ~~(1)~~-Nonresidential and mixed use buildings:

The following are minimum space configurations per solid waste/recycling collection area:

Floor Area (square feet)	Minimum Collection Area (square feet)
0 to 5,000	82
5,001 to 15,000	125
15,001 to 50,000	175
50,001 to 100,000	225
100,001 or greater	275

(b) ~~(2)~~-Multi-family residential developments:

The following are minimum space configurations per solid waste/recycling collection area:

Residential Dwelling Units	Minimum Collection Area (square feet)
---------------------------------------	---------------------------------------

3 to 10	144
11 to 15	216
16 to 30	240
31 to 35	264

For multi-family residential developments consisting of 36 to 50 dwelling units, there shall be at least two collection areas, with each area consisting of at least 240 square feet~~that, combined, meet minimum space configurations.~~

For multi-family residential developments consisting of more than 50 dwelling units, there shall at least one collection area per 25 ~~residential~~ dwelling units, with each area consisting of at least 240 square feet~~that meets the minimum space configurations.~~

Combinations of collection areas that, in total, meet the standards are ~~also acceptable if~~ approved by the planning director.

(c) ~~(3)~~ Additional solid waste containers. Generally, the minimum collection areas shown above provide enough area for a typical solid waste container (i.e. dumpster) and recycling containers.

If the collection area requires more than one ~~multiple~~ solid waste containers, then an additional a minimum area of six feet by ten feet (60 square feet) is required per each additional solid waste container ~~is recommended.~~

Comments/Questions:

There is additional language proposed in 114.2414(c)(3) that states the amount of space required is sufficient for waste and recycling containers. “Recycling containers” is added on to the subsection in proposed new language, which we think is appropriate. We want to be sure that the additional space that may be needed for recycling containers was included in the numbers in the table above. The space numbers listed in the above tables remain unchanged even though recycling containers was added to the consideration of the amount of space needed.

Do the numbers in the table need to be recalculated to account for additional space needed for recycling containers? Was additional space needed for recycling calculated in the numbers listed?

Page 114-27, Section 114-20 (3)Fences.

(3) Additional requirements for Big Pine Key and No Name Key. The purpose of this subsection is to recognize and provide for the

particular habitat needs of the Florida Key Deer (*Odocoileus virginianus clavium*) on Big Pine Key and No Name Key so that deer movement throughout Big Pine Key and No Name Key is not hindered while allowing for reasonable use of minimal fencing for the purposes of safety and protection of property. In addition to all other standards set forth in this section, all fences located on Big Pine Key and No Name Key shall meet the standards of this subsection as listed below:

(7) Required permit. All fences shall be constructed pursuant to a building permit issued by the county building department.”

Comments/Questions:

Perhaps there should be mention of the fencing restrictions in the Habitat Conservation Plan’s Incidental Take Permit No.# TE083411-0, which are listed below.

“ITP: Block 11:

G:17. No new fences will be allowed in Tier 1 lands, unless they are authorized by the U.S. Fish and Wildlife Service (Service). The Service will review applications for fences in Tier 1 for impacts on covered species.

G:18. No additional fences will be allowed in the US-1 commercial corridor.

G:19. Fences will be subject to restrictions and guidelines established in agreement with the Service. All fencing will follow the guidelines in the HCP.”

Page 114-84, Section 114-200. Traffic Study.

In addition to all application requirements, traffic studies by a qualified traffic engineer who is a licensed engineer in the state shall be required for the following developments:

(a) ~~(1)~~ Traffic report, by a traffic engineer, shall be submitted with all applications, other than applications for a single family residence or for developments that would not result in additional vehicular traffic, providing:

(1) ~~a)~~ providing the daily trips associated with the existing development and

(2) ~~b)~~ the anticipated daily trips associated with the proposed development (which includes existing uses that would remain).

(b) ~~(2)~~ Any development generating from two hundred fifty (250) to five hundred (500) trips per day shall submit a report from a traffic engineer indicating that the configuration of the access to U.S. 1 or County Road

905 will maintain a safe traffic flow, or provide a design for a new configuration to be constructed by the developer.

(a) (32) In addition to the requirements of subsection two (21) of this section, any development generating more than five hundred (500) trips per day shall conduct a study of traffic flows within one (1) mile of their access to U.S. 1 or County Road 905. The study shall make recommendations regarding improvements required to maintain an annual average of level of service D within that distance and on all bridges within six (6) miles.

Comments/Questions:

(Typos – the second “providing” in (a)(1) should be cut and the second “a” should be a “c”.

Why does this allow the applicant to hire the traffic engineer? Would it not be a better policy better for the county to hire the traffic engineer at a cost to the applicant? Why are the thresholds so high given our current degraded roadway level of service?

J. Chapter 118: ENVIRONMENTAL PROTECTION (TAB J)

Page 118-26, Section 118-12(m)(6)d.

d. Docking facilities ~~may be permitted~~ which terminate over seagrass beds or hardbottom communities may only be permitted when the water depth at the terminal platform is at least four feet above the top of all seagrasses, corals, macro algae, sponges, or other sessile organisms at MLW and continuous access to open water is available. All such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to commencement of construction or issuance of a county ‘Notice to Proceed’ permit.

Comments/Questions:

What does it mean for a docking facility to terminate over seagrass beds or hardbottom communities?

Page 118-34, Section 118-15. Marina Siting Criteria

(a) The development of new marina facilities shall be located in areas where maximum physical advantages exist and where no unreasonable or excessive impacts are foreseen on marine resources. Proposed new marina facilities shall meet the following requirements:

(1) Benthic Vegetation and Hardbottom Communities. Siting of marinas in areas of seagrass or hardbottom (including hard and soft corals) should be avoided. Boat mooring sites (slips or docks) shall not be located over a seagrass bed community or hardbottom community regardless of water depth. No impacts to seagrass beds or hardbottom communities should result from the construction or use of new marina development.

Comments/Questions:

Marinas can have a significant impact on seagrass and hardbottom communities. As such, the language in subsection 118-15(a)(1) should be adjusted to reflect that siting marinas in areas with those resources are shall be avoided and that impacts to seagrass beds or hardbottom communities shall be avoided. It should read as follows:

(1) Benthic Vegetation and Hardbottom Communities. Siting of marinas in areas of seagrass or hardbottom (including hard and soft corals) ~~should~~shall be avoided. Boat mooring sites (slips or docks) shall not be located over a seagrass bed community or hardbottom community regardless of water depth. No impacts to seagrass beds or hardbottom communities ~~should~~shall result from the construction or use of new marina development.

Could the County include NOAA and FDEP Clean Marina certification a requirement for new marinas and set a certain date for accreditation for existing marinas? See <http://www.dep.state.fl.us/cleanmarina/>.

Page 118-38 (f), Section 118-41(f). Resource Extraction Standards

(f) Authorization to operate a permitted resource extraction site shall remain valid and in force in accordance with the permit(s). Should resource extraction activities cease for a period of three (3) years, regardless of permit status, resource extraction permission shall expire unless extended. Extension of authorization from the Planning and Environmental Resources Department shall be requested in writing by the applicant or operator and, subject to Board of County Commissioners' approval, may be extended for a period of up to three (3) years.

Comments/Questions:

Given that the operator of every approved or registered resource extraction site shall file a written annual report with the County Biologist within forty-five (45) days after the end of each fiscal year (September 30th), why are we allowing a three year lapse rather than a one year lapse?

Didn't the rule used to be a loss of approval would occur if the pit was inactive for one year?

K. Chapter 122: FLOODPLAIN MANAGEMENT (TAB K)

Comments/Questions:

We have no comments/questions regarding this Chapter.

L. Chapter 134: MISCELLANEOUS RESTRICTIONS (TAB L)

Page 134-15 and 134-16, Section 134-4(d)(3).

(3) Notice of the application and of the public hearing thereon shall be mailed by the director of Planning Director to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5. For the purposes of this section, the term "shopping center" means a contiguous group of individual units, in any combination, devoted to commercial retail low-intensity uses, commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.

Comments/Questions:

We recommend adding the words "local" or "Monroe County" before newspaper in the second to the last sentence on the page.

G. Chapter 101: GENERAL PROVISIONS (DEFINITIONS) (TAB G)

Comments/Questions:

We do not see a definition for "*Mooring Field*" and recommend adding one.

We would like to understand whether a mooring field becomes a marina when individual vessels are charged to tie up there?

We do not believe a mooring field should become a marina, unless it would include pump out services and other amenities of a certified Clean Marina.

Is there a provision in place that requires pump out service to boats in mooring fields?

Page 101-27, definition of Marina

3. *Marina* means a facility for the storage (~~wet and dry~~), launching and **mooring** of vessels and/or live-aboard vessels, ~~boats~~ together with accessory retail and/or service uses, including but not limited to commercial retail, restaurants and live-aboards, vessel rentals, charter vesselsboat, vessel repair, and sport diving operations and the provision of fuel. uses, ~~except where prohibited, but~~ The term marina does not including docks accessory to a land-based dwelling unit limited to the use of owners or occupants of the dwelling unit.

Comments/Questions:

The definition of marinas lists several services and uses at marinas but fails to list pump out station or other items like fish line recycling and waste and recycling collection that would be included in any Clean Marina. We believe these additional services and resources should be included in the definition of marina.

We would like to understand whether a mooring field becomes a marina when individual vessels are charged to tie up there? We do not believe mooring fields should become marinas unless they include all the upland facilities, including pump out services. We recommend making the following changes highlighted in yellow below:

3. *Marina* means a facility for the storage (~~wet and dry~~), launching and **mooring** of vessels and/or live-aboard vessels, ~~boats~~ together with accessory retail and/or service uses, including but not limited to commercial retail, restaurants and live-aboards, pump-out facilities, waste and recycling services, vessel rentals, charter vesselsboat, vessel repair, and sport diving operations and the provision of fuel. uses, ~~except where prohibited, but~~ The term marina does not including docks accessory to a land-based dwelling unit limited to the non-transient use of owners or occupants of the dwelling unit.

TYPOS

Page 114-26 – First Paragraph

SS and NA Land Use (Zoning) Districts, fences may be constructed to a height of up to six (6) feet in height may **eb** permitted, provided that no other residentially developed property is located within 200 feet of the subject property, and

provided they fences are not located within clear sight triangles as defined in section 114-201;

Page 114-40 (h)(1) – Second Paragraph

Sec. 114-67. Required off-Street Parking

The “o” in “off” should be capitalized.

Page 114-84 – Fifth Paragraph

(a) (1) Traffic report, by a traffic engineer, shall be submitted with all applications, other than applications for a single family residence or for developments that would not result in additional vehicular traffic, **providing:**

- (1) a) **providing** the daily trips associated with the existing development and
- (2) b) the anticipated daily trips associated with the proposed development (which includes existing uses that would remain).

Page 114-84 – Last Paragraph

This should be labeled “c” not “a”.

Page 101-27 – Fifth Paragraph

Marina means a facility for the storage, launching and mooring of vessels and/or live-aboard vessels, together with accessory retail and/or service uses, including but not limited to commercial retail, restaurants, vessel rentals, charter vessels, vessel repair, and sport diving operations and the provision of **fuel**. The term marina does not including docks accessory to a land-based dwelling unit limited to the use of owners or occupants of the dwelling unit.

Conclusion

Thank you for your time and consideration of our comments. Please feel free to contact me with any questions or concerns.

Best regards,



Julie Dick

Counsel for Last Stand and the Florida Keys Environmental Fun

Alicia Putney's Remarks Regarding the
Land Development Code
Monroe County Planning Commission - Special Meeting
April 9, 2015 – Marathon: 10:00 AM

H. Chapter 106: AREAS OF CRITICAL COUNTY CONCERNS (TAB H)

No Comments/Questions.

I. Chapter 114: DEVELOPEMNT STANDARDS (TAB I)

Sec. 114-2. Adequate Facilities and Review Procedures.

Page 114-1 – See (b)

~~All County roads Road 905 within three miles of a parcel proposed for development shall have sufficient available capacity to operate at minimum peak hour level of service D as measured on an annual average daily traffic (AADT) basis at all intersections and/or roadway segments by the methodology identified in the most recent edition of the Highway Capacity Manual. U.S. 1 shall have sufficient available capacity to operate at level of service C on an overall basis as measured by the U.S. 1 Level of Service Task Force Methodology. In addition, the segments of U.S. 1, as identified in the U.S. 1 Level of Service Task Force Methodology, which would be directly impacted by a proposed development's access to U.S. 1, shall have sufficient available capacity to operate at level of service C as measured by the U.S. 1 Level of Service Task Force Methodology.~~

Comments/Questions:

We have been using the U.S. 1 Level of Service Task Force Methodology for as long as I can remember. I recall it being “tweaked” in 1996. Why are modifying this methodology for measuring the roadway LOS?

Will the proposed modification in any way weaken the nexus between the roadway LOS in each of the highway segments and the implementation of a concurrency moratorium?

Page 114-4 – See (3)

~~“(3) *Annual Assessment of public facilities capacity.* On or before June 15 of each year, †The Planning Ddirector of planning shall submit to the board of county commissionersBOCC a report of the capacity of the available public facilities in each of the service areas established in subsection (b)(2) of this section.~~

Comments/Questions:

Again, we have been publishing an “Annual Public Facilities Report” annually for as long as I can remember. Why is this change being suggested? If not annually, how often will a facilities capacity report be presented to the BOCC?

Page 114-5 – See (b)

Application for development. As a condition of approval of a development order, all applicants for development shall file an application with the county in the form prescribed by the Planning Director, accompanied by a fee to be set by resolution of theBOCC. The application shall include a written evaluation (facilities impact report and traffic report) of the impact of the anticipated development on the levels of service for public facilities and services and demonstrate that public facilities and services are available prior to or concurrent with the impacts of development.

Comments/Questions:

This section should add that applications for development will be posted on the Internet.

Page 114-6 – See (3)(iv)

3. For roads one or more of the following conditions are met:

iv. The proportionate share contribution or construction is sufficient to accomplish one or more mobility improvement(s) that will benefit a regionally significant transportation facility.

Comments/Questions:

What does this sentence mean?

Page 114-8 – See (k)

(6) *Exemptions.* In addition to the exemptions from development described in subsection (3) of the definition of "development" in section 101-1, the following construction activities shall not be considered development for the purposes of this section only:

k. Development that will not reduce the capacity of the affected facilities.

Comments/Questions:

This does not make sense given that on page 1 of this section, Sec. 114-2, it states:

“d. The development of a single family residence shall be considered *de minimis* and shall not be considered to impact road capacity established in this subsection.”

Perhaps I am confused by the word “*de minimis*”, which means too trivial or minor to merit consideration; but, it seems to me you are saying: 1.) the development of a single family residence is too minor to merit consideration when it comes to road capacity; and, 2.) if a development does not reduce roadway capacity, it is not considered to be “development.” In other words, that the construction of a single-family residence is not considered “development,” which as we all know is not the case. Perhaps the legal meaning of *de minimis* is different than common usage.

Sec. 114-20. Fences.

Page 114-27 – See (3) (7)

“(3) Additional requirements for Big Pine Key and No Name Key. The purpose of this subsection is to recognize and provide for the particular habitat needs of the Florida Key Deer (*Odocoileus virginianus clavium*) on Big Pine Key and No Name Key so that deer movement throughout Big Pine Key and No Name Key is not hindered while allowing for reasonable use of minimal fencing for the purposes of safety and protection of property. In addition to all other standards set forth in this section, all fences located on Big Pine Key and No Name Key shall meet the standards of this subsection as listed below:

(7) Required permit. All fences shall be constructed pursuant to a building permit issued by the county building department.”

Comments/Questions:

The Habitat Conservation Plan for Big Pine Key and No Name Key, and the concomitant Plan’s Incidental Take Permit No.# TE083411-0 has three separate provision regarding fencing. I would ask that you add these three provisions to the code, or, at a minimum a sentence that refers to the Habitat Conservation Plan’s Incidental Take Permit No.# TE083411-0 and the fact that. The three provisions are:

“TTP: Block 11:

G:17. No new fences will be allowed in Tier 1 lands, unless they are authorized by the U.S. Fish and Wildlife Service (Service). The Service will review applications for fences in Tier 1 for impacts on covered species.

G:18. No additional fences will be allowed in the US-1 commercial corridor.

G:19. Fences will be subject to restrictions and guidelines established in agreement with the Service. All fencing will follow the guidelines in the HCP.”

J. Chapter 118: ENVIRONMENTAL PROTECTION (TAB J)

Sec. 118-41. Resource Extraction Standards.

Page 118-38 – See (f)

(f) Authorization to operate a permitted resource extraction site shall remain valid and in force in accordance with the permit(s). Should resource extraction activities cease for a period of three (3) years, regardless of permit status, resource extraction permission shall expire unless extended. Extension of authorization from the Planning and Environmental Resources Department shall be requested in writing by the applicant or operator and, subject to Board of County Commissioners’ approval, may be extended for a period of up to three (3) years.

Comments/Questions:

Why allow the pit to be inactive for three years as oppose to one year? I believe it used to be one year until the permit became non-renewable.

K. Chapter 122: FLOODPLAIN MANAGEMENT (TAB K)

No Comments/Questions

L. Chapter 134: MISCELLANEOUS RESTRICTIONS (TAB L)

Section 134-4 Alcoholic Beverage Regulations

Page 134-15 – See (d)(3)

(3) Notice of the application and of the public hearing thereon shall be mailed by the director of Planning Director to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5. For the purposes of this

Comments/Questions:

Add the “local” before newspaper in the second to the last sentence of the page.

G. Chapter 101: GENERAL PROVISIONS (DEFINITIONS) (TAB G)

Comments/Questions:

There are two definitions to the words: “Moor,” “Mooring” and “Mooring Facility.” One is the definition that one might find in a Webster Dictionary. The other is the more traditional, and which I believe to be a technically more correct definition, which is commonly used by sailors.

In sailing terms, a “mooring” is not the same as a securing a vessel to a dock, or davits, or an anchor.

In sailing terms, a “mooring” is a permanent anchor or weight on the bottom, connected by chain to a buoy having a pennant. (In practice a boat simply picks up the pennant and makes it fast to a cleat at the bow. A “mooring” is usually much more secure than an anchor and is safe with a shorter scope making it possible to secure boats closer to each other. It is also less destructive to the bottom.)

There needs to be a distinction between “dock” and “docking facility” which reflects being secure to something rigid or something floating which is attached to something rigid; and, “mooring” or “mooring field”, which reflects being secured to a pennant which is attached to a buoy which is connected by chain to an anchor or weight on the bottom.

We recommend adding one additional definition, “Mooring Field” to the definition section of the code. And, would also ask staff to re-examine the following four definitions to make sure they say what is intended.

Currently proposed definitions:

1. ~~*Dock or docking facility*~~ means a fixed or floating structure built and used for the landing, berthing, and/or mooring of vessels or watercraft either temporarily or indefinitely. ~~Docking facilities include, but are not limited to, wharves, piers, quays, slips, basins, ramps, posts, cleats, davits, piles or any other appurtenances or attachment thereto.~~ For the purposes of this land development code, docks shall not include "water access walkways" ~~as defined in this section.~~

2. *Docking facilities* include, but are not limited to, docks, wharves, piers, quays, slips, basins, ramps, posts, cleats, davits, piles or any other appurtenances or attachment thereto.

3. *Marina* means a facility for the storage (~~wet and dry~~), launching and mooring of vessels and/or live-aboard vessels, ~~boats~~ together with accessory retail and/or service uses, including but not limited to commercial retail, restaurants and live-aboards, vessel rentals, charter vesselsboat, vessel repair, and sport diving operations and the provision of fuel. ~~uses, except where prohibited, but~~ The term marina does not including docks accessory to a land-based dwelling unit limited to the use of owners or occupants of the dwelling unit.

4. *Mooring Facilities* means a structure built and used for the mooring of vessels or watercraft.

Comments/Questions:

Can a “mooring field” become a “marina” if the moorings are rented out to independently owned vessels, whether they are transient or permanent? Is a marina without fuel pumps a marina?

Comments/Questions:

“Mooring Slips” is used in the code and is not defined. In point of fact, the term is and oxymoron.

Comments/Questions:

“Pier Dock” is used in the code and is not defined. In point of fact, the term makes no sense because a pier is a dock.