



**MEMORANDUM**  
**MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT**

**To:** Monroe County Board of County Commissioners

**From:** Mayté Santamaria, Senior Director of Planning & Environmental Resources  
Emily Schemper, Comprehensive Planning Manager

**Date:** August 28, 2017

**Subject:** AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY COMPREHENSIVE PLAN POLICY 101.5.30 TO INCLUDE THE DEFINITION OF HEIGHT; CREATING POLICY 101.5.31 TO ADDRESS HEIGHT EXCEPTIONS FOR NON-HABITABLE ARCHITECTURAL DECORATIVE FEATURES WITHIN THE OCEAN REEF MASTER PLANNED COMMUNITY; AND CREATING POLICIES 101.5.32 AND 101.5.33 TO PROVIDE CERTAIN EXCEPTIONS TO THE HEIGHT LIMIT IN ORDER TO PROTECT PROPERTY FROM FLOODING AND REDUCE FLOOD INSURANCE COSTS BY ESTABLISHING STANDARDS WHEN A STRUCTURE CAN ELEVATE ABOVE FEMA BASE FLOOD ELEVATION AND INCLUDING A MAXIMUM HEIGHT LIMIT; 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 INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (File # 2015-006)

---

**Meeting:** September 20, 2017

---

## **I. REQUEST**

The Monroe County Planning & Environmental Resources is proposing amendments to Policy 101.5.30 to include the definition of height; to create Policy 101.5.31 to address non-habitable architectural decorative features within the Ocean Reef community; and create Policies 101.5.32 and 101.5.33 to provide certain exceptions to the height limit in order to protect property from flooding and reduce flood insurance costs by establishing standards when a structure can elevate above FEMA base flood elevation and including a maximum height limit.

## **II. BACKGROUND INFORMATION**

The County completed working on the Comprehensive Plan update and has held numerous public hearings on the proposed amendments. The Monroe County Board of County Commissioners (BOCC) held special public meetings on March 21, 2014, April 23, 2014 and May 22, 2014, to

review proposed amendments to the Comprehensive Plan. A special BOCC public hearing was held on July 23, 2014, to consider the transmittal of the proposed amendments (the Monroe County 2030 Comprehensive Plan) to the Florida Department of Economic Opportunity (DEO) and this hearing was continued to October 7, 2014.

The Monroe County Board of County Commissioners held a special meeting on October 7, 2014, to consider the transmittal of the proposed amendments (the Monroe County 2030 Comprehensive Plan) to the Florida Department of Economic Opportunity (DEO) and the hearing was continued to December 10, 2014, to discuss the following:

- *Policies 101.5.31 and 101.5.32: BOCC directed staff to work on height policies for addressing the replacement of existing buildings which exceed the 35ft height limit, architectural features, flood protection purposes and affordable housing. Staff to present drafts during the regular December BOCC meeting.*
- *BOCC directed staff to work on an inventory/data of privately-owned offshore islands. Staff to present draft during the regular December BOCC meeting.*

A transcription of the BOCC height discussion, from the October 7, 2014 public hearing, is attached as Exhibit 1.

During the regular December 10, 2014 BOCC meeting, a public hearing was held to discuss proposed height and offshore island policies and to consider the transmittal of the proposed amendments (the Monroe County 2030 Comprehensive Plan) to the DEO. The BOCC directed staff to maintain the existing adopted height and offshore island policies and to extract the proposed changes to the height limit policy and process it as a separate amendment.

DRC: At its regularly scheduled meeting on March 24, 2015, the Monroe County Development Review Committee reviewed the proposed text amendment and held a workshop format meeting to allow for extensive public review and comment. The information provided in the staff report and comments from the public were discussed at the meeting. The text amendment was continued to a future DRC meeting to allow for additional public review, input and discussion early in the process. The staff report from the March 24, 2015 DRC is attached as Exhibit 2. Minutes from the March 24, 2015 DRC are attached as Exhibit 3.

DRC: At its regularly scheduled meeting on May 26, 2015, the Monroe County Development Review Committee reviewed the proposed text amendment and held a workshop format meeting to allow for extensive public review and comment. The information provided in the staff report and comments from the public were discussed at the meeting. The text amendment was continued to a future DRC meeting to allow for additional public review, input and discussion early in the process. The staff report from the May 26, 2015 DRC is attached as Exhibit 4. Minutes from the May 26, 2015 DRC are attached as Exhibit 5.

DRC: At its regularly scheduled meeting on August 25, 2015, the Monroe County Development Review Committee reviewed the proposed text amendment and held a workshop format meeting to allow for extensive public review and comment. The information provided in the staff report and comments from the public were discussed at the meeting. The text amendment was continued to a future DRC meeting to allow for additional public review, input and discussion early in the process. The staff report from the August 25, 2015 DRC is attached as Exhibit 6. Minutes from the August 25, 2015 DRC are attached as Exhibit 7.

DRC: At its regularly scheduled meeting on October 27, 2015, the Monroe County Development Review Committee reviewed the proposed text amendment and held a workshop format meeting to allow for extensive public review and comment. The information provided in the staff report and comments from the public were discussed at the meeting. The text amendment was continued to a future DRC meeting to allow for additional public review, input and discussion early in the process. The staff report from the October 27, 2015 DRC is attached as Exhibit 8. Minutes from the October 27, 2015 DRC are attached as Exhibit 9.

DRC: At its regularly scheduled meeting on January 26, 2016, the Monroe County Development Review Committee reviewed the proposed text amendment and held a workshop format meeting to allow for extensive public review and comment. The information provided in the staff report and comments from the public were discussed at the meeting. The staff report from the January 26, 2016 DRC is attached as Exhibit 10. Minutes from the January 26, 2016 DRC are attached as Exhibit 11.

Planning Commission: At its regularly scheduled meeting on February 24, 2016, the Monroe County Planning Commission held a public hearing to consider the proposed text amendment and provided for public comment. The Planning Commission recommended changes to the proposed amendments to the Comprehensive Plan and Land Development Code. The staff report from the February 24, 2016 PC is attached as Exhibit 12. Minutes from the February 24, 2016 PC are attached as Exhibit 13.

BOCC: At its regularly scheduled meeting February 15, 2017, the BOCC held a public hearing to consider the transmittal of the proposed text amendment, considered the staff report and provided for public comment and public participation. The BOCC continued the public hearing to their regular meeting on March 15, 2017.

At its regularly scheduled meeting on March 15, 2017, the BOCC held a public hearing to consider the transmittal of the proposed text amendment, considered the staff report and provided for public comment and public participation. The BOCC continued the public hearing to their regular meeting on April 12, 2017 and requested a discussion item on the proposed height amendments for the Land Development Code.

At its regularly scheduled meeting on April 12, 2017, the Monroe County Board of County Commissioners held a public hearing to consider the transmittal of the proposed text amendment, considered the staff report and provided for public comment and public participation in accordance with the requirements of state law and the procedures adopted for public participation in the planning process. At the April 12, 2017, public hearing, the BOCC adopted Resolution 115-2017, transmitting the proposed text amendment to the State Land Planning Agency (DEO).

DEO reviewed the amendment and issued an Objections, Recommendations and Comments (ORC) report, received by the County on July 21, 2017. The ORC report did not identify any objections to the proposed amendment. The County has 180 days from the date of receipt of the ORC to adopt the proposed amendment, adopt the amendment with changes or not adopt the amendment.

### III. ANALYSIS OF PROPOSED AMENDMENT

#### **HEIGHT:**

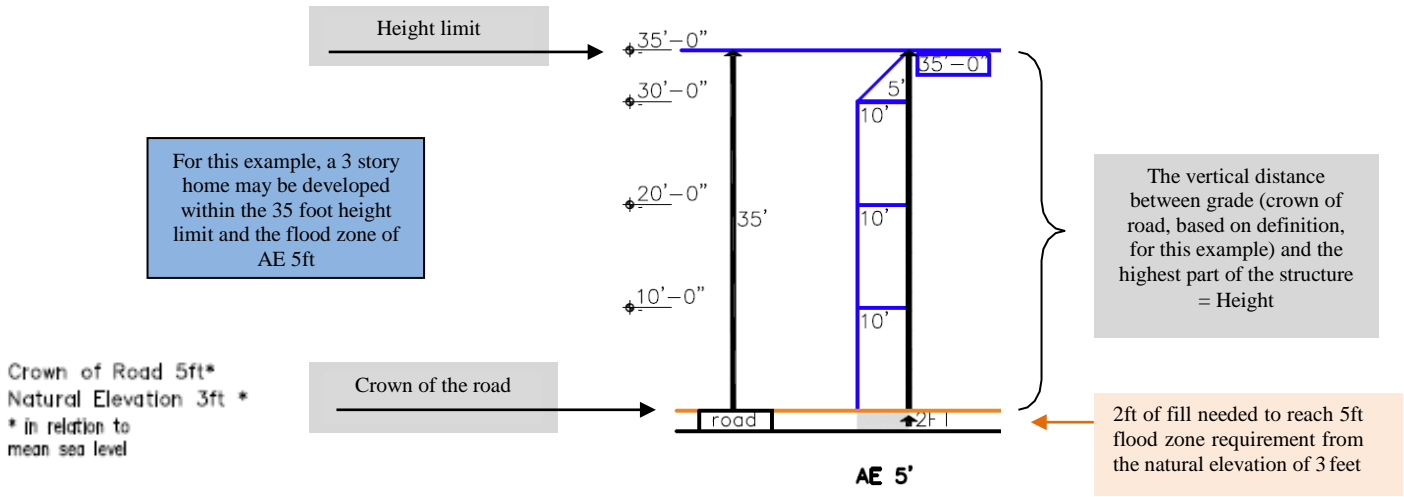
In unincorporated Monroe County, height and grade are defined as follows:

**HEIGHT** means *the vertical distance between grade and the highest part of any structure, including mechanical equipment, but excluding the following: spires and/or steeples on structures used for institutional and/or public uses only; chimneys; radio and/or television antenna; flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures with attached antenna and/or collocations as permitted in the Land Development Code. However, in no event shall any of the exclusions enumerated in this definition be construed to permit any habitable or usable space to exceed the maximum height limitation. In the case of airport districts, the height limitations therein shall be absolute and the exclusions enumerated in this definition shall not apply.* (current, effective Comprehensive Plan Glossary; and updated LDC Section 101-1, expected to be effective February 2, 2017)

**GRADE** means *the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure, or the crown or curb of the nearest road directly adjacent to the structure, whichever is higher.* (current, effective Comprehensive Plan Glossary)

**GRADE** means *the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure, or the crown or curb of the nearest road directly adjacent to the structure, whichever is higher. To confirm the natural elevation of the ground surface, prior to construction, the county shall utilize the Light Detection and Ranging (LiDAR) dataset for Monroe County prepared in 2007 and other best available data, including, but not limited to, pre-construction boundary surveys with elevations, pre-construction topographic surveys, elevation certificates and/or other optical remote sensing data.* (updated LDC Section 101-1, expected to be effective February 2, 2017)

Based on the adopted definitions the following is a basic depiction of: *height = the vertical distance between grade and the highest part of any structure.* In this depiction, the crown of the nearest road directly adjacent to the structure is *higher* than natural elevation of the ground surface (prior to construction, next to the proposed walls of a structure). As such, the crown of the road is the starting point, for this example, in measuring the vertical distance of the structure.



During the Comprehensive Plan update process, recommendations to amend the height policy were made to address new issues, such as: anticipating new FEMA flood maps and creating a mechanism to assist property owners to protect their property from flooding and reduce flood insurance costs as well as issues in permitting relative to architectural decorative features.

### **National Flood Insurance Program & Biggert-Waters Flood Insurance Reform Act**

In 1968, Congress created the National Flood Insurance Program (NFIP) to provide a means for property owners to protect themselves financially from flood events. The NFIP offers flood insurance to homeowners, renters and business owners if their community participates in the NFIP. Participating communities agree to adopt and enforce floodplain management ordinances that meet or exceed FEMA requirements.

Flood maps inform communities about the local flood risk and help set minimum floodplain standards for communities to build with safety and resiliency in mind. Flood maps determine the cost of flood insurance, which helps property owners to financially protect themselves against flooding. The lower the risk, the lower flood insurance premiums will be. Flood maps are also the basis for flood insurance rates through the NFIP.

As risks change, insurance premiums also change to reflect those risks. [Note, FEMA is in the process of re- mapping the Florida Keys] Flood insurance premium may be going up; however, property owners may be able to reduce premiums if they build their home or business to be safer, higher, and stronger.

The Biggert-Waters Flood Insurance Reform Act of 2012 provides long-term changes to the National Flood Insurance Program. This additional legislation has been enacted with the intent to strengthen the program, ensure its fiscal soundness and inform its mapping and insurance rate-setting through expert consultation, reports and studies.

Today the program is focused on implementing recent legislation by adjusting premium increases, issuing new rates and map updates, supporting mitigation and ensuring special advocacy to connect policyholders with the information they need to better understand the program.

Recent legislation phases out subsidies for some older buildings in high-risk flood areas. As a result, rates for these buildings will rise until they reach full-risk rates. In addition, all policyholders will be subject to new assessments and surcharges. [<https://www.floodsmart.gov/floodsmart/pages/hfiaa-2014.jsp>].

See FEMA data sheets on Rebuilding in Flood zones and ‘Reduce Your Risk, Reduce Your Premium,’ which are attached as Exhibit 15.


### **Monroe County Green Keys Project**

Excerpt below from a recent GreenKeys! Project, including vulnerability assessment of homes and commercial building structures and to model adaptation scenarios within Monroe County in Key Largo and a cost benefit ratios of elevating and floodproofing buildings:

**ANALYSIS OF DAMAGES FROM STORM SURGE AND SEA LEVEL RISE FOR THE GEOGRAPHIC REGIONS OF KEY LARGO AND STOCK ISLAND, MONROE COUNTY, FL USING THE COASTAL ADAPTATION TO SEA LEVEL RISE TOOL (COAST)**

Jonathan T. Lockman, AICP  
Samuel B. Merrill, PhD  
Alexander Gray, MS

CATALYSIS ADAPTATION PARTNERS, LLC | 242 Sawyer Street, South Portland, ME 04106  
18 November 2015



The image contains three logos. On the left is the GreenKeys! logo, which is circular and features a palm tree, a sun, and water, with the text 'GREENKEYS!' at the top and 'KEY LARGO STOCK ISLAND MONROE COUNTY FLORIDA' around the bottom. In the center is the logo for Erin L. Deady, P.A., which consists of the name in a serif font followed by a stylized green wave graphic. On the right is the Catalysis logo, which features a blue circular emblem with a white wave and the word 'Catalysis' below it, with 'Adaptation Partners, LLC' in smaller text underneath.

Entire report can be accessed here: <http://fl-monroecountyclimate.civicplus.com/DocumentCenter/View/103>

# 1 EXECUTIVE SUMMARY

---

Catalysis Adaptation Partners, LLC (Catalysis) specializes in analyzing impacts from storm surges and long-term sea level rise using its COastal Adaptation to Sea level rise Tool (COAST). COAST modeling software mimics floods from storms and sea level rise on community assets such as homes and businesses, then tallies the cumulative damages over time so communities can better understand the cost to them of not adapting (vulnerability assessment), as well as the costs and benefits (damage reduction) of implementing various adaptation actions.

Catalysis was contracted by Erin L. Deady, P.A. to use COAST to perform a vulnerability assessment of homes and commercial building structures and to model adaptation scenarios within Monroe County in Key Largo as part of the GreenKeys! project. Working with Erin L. Deady, P.A., Catalysis conducted three (3) community workshops in October, November and December 2014, during which County residents in Key Largo voted on modeling parameters and assumptions for “no-action” and three (3) adaptation action scenarios: 1) Elevating and floodproofing buildings; 2) building barriers close to shore; and 3) purchasing properties vulnerable to sea level rise through a voluntary buyout program. Voting occurred during Workshops #2 and #3 (results can be found in the appendix Section 6 of this report) and focused on certain model parameters as well as whether or not actions should be further evaluated.

The “asset” selected for analysis was the value of residential and commercial buildings, obtained from Monroe County tax records. Sea Level Rise assumptions were based upon the Unified Sea Level Rise Projection for Southeast Florida<sup>1</sup>. Those projections included a low and high estimate of sea level rise in 2030 of 3” and 7” respectively, as well as a low and high estimate of sea level rise in 2060 of 9” and 24” respectively. As requested by workshop participants, a lower sea level rise projection was also employed in the analysis based only on the rate of sea level rise that has occurred over the last 100 years, outside of the official Unified Sea Level Rise Projection document. A straight line projection of the tide gauge trend was added to the modeling parameters, for a very low scenario of sea level rise of 1.82” in 2030 and 4.53” in 2060. Surge values from various sized storms were obtained from the most recent Federal Emergency Management Act (FEMA) Flood Insurance Study. Key findings from the worst case vulnerability assessment included one-time damage estimates of \$2.0 Million from a nuisance flood in 2060 under a high sea level rise scenario of 24” and \$289.2 Million from a Hurricane Wilma-sized flood in 2060 under the same sea level rise scenario. Cumulative damages over time from storms of various sizes resulted in significantly higher damage estimates by 2060, with \$1.673 Billion in damages under the very low sea level rise scenario of 4.53”, and \$2.130 Billion in damages under a high sea level rise scenario of 24”. The value of properties (buildings and land) permanently inundated by sea level rise alone by 2060 (from daily flooding at high tide) ranged from \$206.9 Million (very low scenario) to \$705.6 Million (high scenario). Once the modeling indicated such properties would be flooded by the daily high tide, the software no longer subjected it to continuing cumulative damages from that point in time forward.

The three (3) adaptation actions to model identified by the Project Team and County Staff included:

- Elevating and floodproofing buildings

---

<sup>1</sup> Southeast Florida Regional Climate Change Compact Counties, Sea Level Rise Ad Hoc Technical Working Group (April 2011).



- Building barriers close to the coast (to protect from storm surge but not sea level rise); and
- Purchase of properties vulnerable to sea level rise through a voluntary buyout program over a phased timeframe.

For each action, costs were determined by the consultant and staff team, and in some cases, modified by workshop participants by polling. Modeling parameters (e.g., building elevation heights, the distance between the barrier and the coast as well as the height of the barrier, the number of residents accepting a buyout for their properties, etc.) also were established by workshop participants through a keypad polling process. Catalysis then used COAST again with the adaptation actions in place to quantify the predicted reduction in damages over the same time period as the vulnerability assessment.

These results were converted into benefit-cost ratios. Ratios greater than 1 represented actions that reduced more in damages in the future than it cost to implement them. Ratios less than 1 represented actions that would cost more than the amount of reduced damages in the future (i.e., not cost effective). The action that had the best benefit-cost ratio was **elevating and floodproofing buildings** (accounting for those not already elevated or floodproofed in the area of Key Largo within Monroe County), which had a benefit-cost ratio between 5.48 and 13.70 (meaning for every \$1.00 spent on elevating and floodproofing, the avoided damages would range from \$5.48 to \$13.70), depending on the sea level rise scenario (high, low or tide gauge trend) and construction cost estimates (high and low). **Building barriers** had the second highest benefit-cost ratios, but with all results below 1 (0.40 to 0.93). The voluntary buyout program had benefit-cost ratios ranging from 0.02 to 1.21. The only result with a value greater than 1 was for the tide gauge trend sea level rise scenario, however. Aside from the model outputs, there were other factors which contributed to these results as discussed in this document. A similar analysis for Stock Island was completed at a later date and can be found in Appendix 6.

These benefit-cost ratios were presented to County residents and keypad polling technology was used to evaluate their opinions. After looking at the COAST model results and participating in the group discussions, residents voted that elevating and floodproofing buildings was their most preferred action. In addition, residents thought the County should pursue sources of funding to help private property owners implement this strategy.

The modeling results and community engagement process enabled the Project Team to provide the County residents with a context for beginning more difficult conversations and decision-making processes regarding their vulnerabilities. Discussions of factors outside of the model should lead to diverse co-benefits (e.g., choosing to restore mangrove forests to not only improve coastal ecosystems but also protect buildings from wave attenuation) and planning outcomes. Importantly, benefit-cost ratios resulting from this work tend to open difficult conversations about exactly what is most important to a community in planning how to adapt to sea level rise and future storm surges.

However, these results do not mean that the County should begin implementing a program to elevate and floodproof residential and commercial buildings. Catalysis recommends that the County use this information to:

- Further discuss sea level rise vulnerability with County residents and the importance of having a method to weigh different adaptation actions against one another (benefit-cost analysis)



- Develop a framework for using new knowledge to engage with residents so that consensus on an eventual adaptation action is data- and stakeholder-driven
- Share this information with neighboring communities so that more regional communication can take place and strengthen any local momentum towards adaptation
- Document any progress or failures towards adaptation so that other communities around the country have lessons from which they can learn.

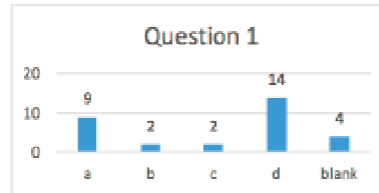
## 6 APPENDIX: PUBLIC INPUT AND COST CONSIDERATIONS OF PROPOSED STRATEGIES

### 6.1 KEYPAD POLLING RESULTS FROM COMMUNITY WORKSHOP #2

**GreenKEYS! Keypad Polling Results from the COAST community modeling exercise conducted November 5 2014 at the Nelson Government Center in Key Largo, FL**

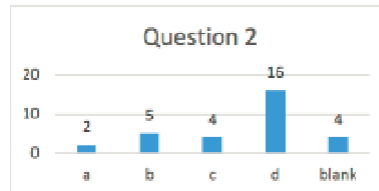
**Question #1: Currently in Key Largo, 40% of properties are already elevated. What percentage of additional Key Largo V-zone buildings do you want to see elevated in this model?**

1 a	25%	9	29%
b	50%	2	6%
c	75%	2	6%
d	<b>The draft input of 100%</b>	<b>14</b>	<b>45%</b>
blank		4	13%
Total		31	100%



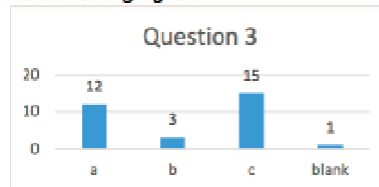
**Question #2: What percentage of Key Largo A-zone buildings do you want to see floodproofed in this model?**

2 a	25%	2	6%
b	50%	5	16%
c	75%	4	13%
d	<b>The draft input of 100%</b>	<b>16</b>	<b>52%</b>
blank		4	13%
Total		31	100%



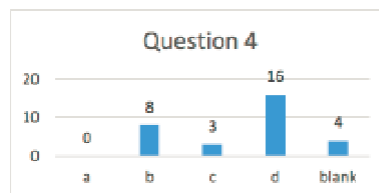
**Question #3: Currently in Key Largo, new buildings are required to be elevated to the 100-year flood elevation, which ranges from 6 to 15 feet across the Key. For parcels that will be elevated in the model, do you want them to be elevated up to this code or to something higher?**

3 a	Up to current code	12	39%
b	Up to current code plus 1	3	10%
c	Up to current code plus 3	15	48%
blank		1	3%
Total		31	100%



**Question #4: The model estimates floodproofing to a certain height. How high would you like to see parcels floodproofed?**

4 a	1 ft	0	0%
b	3 ft	8	26%
c	6 ft	3	10%
d	<b>The draft input of 8 ft</b>	<b>16</b>	<b>52%</b>
blank		4	13%
Total		31	100%



**IV. PROPOSED AMENDMENT** (Deletions are ~~stricken through~~ and additions are underlined.)

Planning Commission recommendations are shown with deletions in blue with a ~~double strikethrough~~, and additions in blue with a double underline.

Land Development Code (LDC) amendments are being processed separately. LDC text is included below simply to provide the BOCC and the public with complete representation of the amendments. LDC text is identified in green.

**Policy 101.5.30**

In order to preserve the existing community character and natural environment, Monroe County shall limit the height of structures including landfills to 35 feet. Height is defined as the vertical distance between grade and the highest part of any structure, including mechanical equipment, but excluding spires and/or steeples on structures used for institutional and/or public uses only; chimneys; radio and/or television antennas; flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures with attached antennas and/or collocations. However, in no event shall any of the exclusions enumerated above be construed to permit any habitable or usable space to exceed the applicable height limitations, except as specifically permitted in Policies 101.5.31, 101.5.32 and 101.5.33. Exceptions will be allowed for appurtenances to buildings, transmission towers and other similar structures. In the case of airport districts, there shall be no exceptions to the 35-foot height limitation.

**Policy 101.5.31**

For Ocean Reef, a gated master planned community which is inaccessible to the surrounding community, and has a distinct community character, buildings may include non-habitable architectural decorative features (such as finials, railings, widow's walk, parapets) that exceed the 35-foot height limit in Policy 101.5.30, but such features shall not exceed 5 feet above the building's roof-line. This exception shall not result in a building together with any architectural decorative feature with a height that would exceed 40 feet.

As used in this policy, a master planned community means a planned community of 100 or more acres in area subject to a master plan or other development order approved by the county where public access is restricted and the community is operated and maintained by the community including the provision of comprehensive, private utilities and transportation facilities and services within its boundaries and a homeowners association or similar entity which regulates development standards and monitors development requests by its members.

**Policy 101.5.32**

Within in 1 year of the effective date of this policy, Monroe County shall adopt Land Development Regulations which provide a Flood Protection Height Exception to Policy 101.5.30 to promote public health, safety and general welfare; allow adaptation to coastal flooding, storm surge and other hazards; protect property from flooding and minimize damages; minimize public and private losses due to flooding; minimize future expenditures of public funds for flood control projects and for recovery from flood events; and mitigate rising flood insurance premiums. A Flood Protection Height Exception of up to a maximum of five (5) feet above the 35-foot height limit shall be provided to allow lawfully existing buildings to be voluntarily elevated up to three (3) feet above FEMA base flood elevation; and a flood protection height exception of a maximum of three (3) feet above the 35-foot height limit shall be provided to allow new (new construction or substantially improved) buildings to voluntarily elevate up to three (3) feet above FEMA base flood elevation.

These exceptions are in order to promote flood protection, minimize flood damage, reduce flood insurance premiums and minimize future expenditures of public funds for recovery from flood events. In no case shall a Flood Protection Height Exception result in a new building exceeding a maximum height of 38 feet or a lawfully existing building exceeding a maximum height of 40 feet.

**Policy 101.5.33**

Within in 1 year of the effective date of this policy, Monroe County shall adopt Land Development Regulations which provide a Flood Protection Height Exception for lawfully established existing buildings which exceed the 35-foot height limit, to promote public health, safety and general welfare; allow adaptation to coastal flooding, storm surge and other hazards; protect property from flooding and minimize damages; minimize public and private losses due to flooding; minimize future expenditures of public funds for flood control projects and for recovery from flood events; and mitigate rising flood insurance premiums. A lawfully established existing building may be repaired, improved, redeveloped and/or elevated to meet required FEMA base flood elevation (BFE) provided the building does not exceed a total maximum building height of 40 feet, and the building is limited to the existing lawfully established intensity, floor area, building envelope (floor to floor height), density and type of use. For lawfully established existing buildings that are proposed to exceed a total height of 40 feet, a public hearing before the Planning Commission and the Board of County Commissioners shall be required to review and specify the maximum approved height prior to issuance of any county permit or development approval. The Planning Commission shall provide a recommendation to the BOCC on the maximum height of a building. The BOCC shall adopt a resolution specifying the maximum approved height.

---

**Section 101-1. - Definitions.**

The following words, terms and phrases, when used in this Land Development Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \* \* \*

Elevate means the action of retrofitting or raising a building to a higher position.

Elevated Building means a building that has its lowest floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Retrofit means methods to modify a lawfully established existing building to reduce its exposure to flooding and raise the living area to meet or exceed flood levels. In general, retrofitting involves lifting the building and constructing a new foundation or extending the existing foundation, or leaving the building in place and either constructing a new elevated floor system within the building or adding a new upper story and converting the ground level to a compliant enclosure that is used only for parking, building access, or storage.

\* \* \* \* \*

**Sec. 130-187. Maximum height.**

No structure or building shall be developed that exceeds a maximum height of 35 feet. Exceptions will be allowed for chimneys; spires and/or steeples on structures used for institutional and/or public uses only; radio and/or television antenna; flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures with attached antenna and/or collocations as permitted

in chapter 146. Exceptions will be allowed for flood protection as specifically permitted in Policies 101.5.32 and 101.5.33 and listed below. However, in no event shall any of the exclusions enumerated in this section be construed to permit any habitable or usable space to exceed the maximum height limitation, except as specifically permitted in Policies 101.5.32 and 101.5.33. In the case of airport districts, the height limitations therein shall be absolute and the exclusions enumerated in this section shall not apply.

- A. Within the Ocean Reef master planned community which is gated, isolated and inaccessible to the surrounding community, and has a distinct community character, buildings may include non-habitable architectural decorative features (such as finials, railings, widow's walk, parapets) that exceed the 35-foot height limit, but such features shall not exceed 5 feet above the building's roof-line. This exception shall not result in a building together with any architectural decorative feature with a height that would exceed **40 feet**.
- B. As provided in Policy 101.5.32, buildings voluntarily elevated to meet or exceed the FEMA Base Flood Elevation (BFE) may exceed the 35-foot height limit as follows:
1. For NEW ~~single family (detached dwelling unit) and multi-family attached dwelling unit~~ buildings which are voluntarily elevated to **exceed** the building's minimum required BFE, an exception of a maximum of **three (3)** feet above the 35-foot height limit may be permitted. The amount of the height exception shall be no greater than the amount of voluntary elevation above BFE. In no event shall a new building exceed **38 feet** in height or two (2) habitable floors. This exception shall apply to the substantial improvement of buildings, whether voluntary or not.
  2. For lawfully established EXISTING ~~multi-family~~ buildings (~~detached and attached dwelling unit~~) which do not exceed the 35-foot height limit and are voluntarily retrofitted to **meet and/or exceed** the building's minimum required BFE, an exception of a maximum of **five (5)** feet above the 35-foot height limit may be permitted. The amount of the height exception shall be no greater than the distance necessary to elevate the building to **meet** BFE **plus** up to **three (3)** feet of voluntary elevation above BFE. In no event shall an existing building be elevated to exceed a total building height of 40 feet.
  3. No exception shall result in a total building height that exceeds **40 feet**.
  4. Buildings not being elevated to at least meet the required FEMA BFE are not eligible for this exception.
  5. ~~No exception shall be provided to new buildings located in an AE-10 or VE-10 or greater FEMA flood zone.~~
- C. As provided in Policy 101.5.33, lawfully established EXISTING multi-family (~~attached dwelling unit~~) buildings which exceed the 35-foot height limit may be repaired, improved, redeveloped and/or elevated to meet the required FEMA BFE provided the building does not exceed a total maximum building height of 40 feet, and the building is limited to the existing lawfully established intensity, floor area, building envelope (floor to floor height), density and type of use. A Flood Protection Height Exception of a maximum of **five (5)** feet may be permitted to **meet** the building's minimum required FEMA BFE. The amount of the exception shall be no greater than the amount of elevation necessary to **meet** BFE.

Buildings not being elevated to at least meet the required FEMA BFE are not eligible for this exception.

D. As provided in Policy 101.5.33, for lawfully established EXISTING multi-family (attached dwelling unit) buildings which exceed the 35-foot height limit that are proposed to exceed a total height of 40 feet, a public hearing before the Planning Commission and Board of County Commissioners to review and specify the maximum approved height shall be required prior to issuance of any county permit or development approval. The Planning Commission shall provide a recommendation to the BOCC on the maximum height of a building. The BOCC shall adopt a resolution specifying the maximum approved height.

1. For lawfully established EXISTING multi-family( attached dwelling unit) buildings that are voluntarily repaired, improved, redeveloped and/or elevated to meet the building's minimum required FEMA BFE, but will require a height exception of more than five (5) feet, a Flood Protection Height Exception exceeding the 35-foot height limit may be provided by the BOCC based on the following criteria:
  - a. The flood zone of the parcel;
  - b. The number of dwelling units lawfully established and an analysis of the number of dwelling units which may not be able to redevelop on the subject parcel without a height exception;
  - c. The physical characteristics of the existing building and parcel;
  - d. The susceptibility of the existing building and its contents to flood damage and the effects of such damage on the property owner;
  - e. The possibility that materials from the existing building may be swept onto other lands to the injury of others;
  - f. The availability of alternate solutions;
  - g. If the new proposed building height will result in increased flood risk; result in additional threats to public safety; result in extraordinary public expense; create nuisance; or cause fraud on or victimization of the public; and
  - h. Community character.
  - i. Buildings not being elevated to at least meet the required FEMA BFE are not eligible for this exception.
2. A BOCC resolution shall specify the findings of criteria of D.1. a. through g. (above) and specify the approved maximum total height for the proposed building.

## **V. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, THE FLORIDA STATUTES, AND PRINCIPLES FOR GUIDING DEVELOPMENT**

**A. The proposed amendment is consistent with the following Goals, Objectives and Policies of the Monroe County Year 2030 Comprehensive Plan. Specifically, the amendment furthers:**

**Goal 101:** Monroe County shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources.

### **GOAL 216**

Monroe County shall maintain a program of hazard mitigation and post-disaster redevelopment to increase public safety and reduce damages and public expenditures.

**Objective 216.1**

Monroe County shall maintain a program of hazard mitigation in the Coastal High Hazard Area (CHHA) which reduces floodplain alteration and damage or loss due to natural disasters.

**Policy 216.1.4**

Monroe County shall continue its policy of reviewing the current Building Code and, as appropriate, adopting structural standards and site alteration restrictions that meet or exceed the minimum FEMA requirements. The Building Code shall be reviewed and revised at least every five years. The recommendations of the applicable interagency hazard mitigation report shall be considered in revisions to the Code.

**Policy 216.1.5**

Monroe County shall continue to participate in the National Flood Insurance Program (NFIP) Community Rating System (CRS) to the maximum extent possible and shall seek to improve its current CRS Class rating.

**Policy 216.1.6**

Monroe County shall continue to enforce federal, state and local setback and elevation requirements to promote the protection and safety of life and property. Revisions to the existing setback requirements contained in the land development regulations shall be considered as a means of reducing property damage caused by storms.

**Objective 601.3**

Monroe County shall continue implementation efforts to eliminate substandard housing and to preserve, conserve and enhance the existing housing stock, including historic structures and sites.

**Policy 601.3.1**

Monroe County shall coordinate with other County agencies to monitor housing conditions. Standards for evaluation of the structural condition of the housing stock are summarized below:

Sound: Most housing units in this category are in good condition and have no visible defects. However, some structures with slight defects are also included.

Deteriorating: A housing unit in this category needs more repair than would be provided in the course of regular maintenance, such as repainting. A housing unit is classified as deteriorating when its deficiencies indicate a lack of proper upkeep.

Dilapidated (Substandard): A housing unit in this category indicates that the unit can no longer provide safe and adequate shelter or is of inadequate original construction including being constructed below the minimum required elevation by FEMA or the County's Floodplain Regulations.

**Policy 601.3.2**

The County Code Compliance Office and Building Department will enforce building code regulations and County ordinances governing the structural condition of the housing stock, to ensure the provision of safe, decent and sanitary housing and stabilization of residential neighborhoods.



**B. The amendment is consistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statute.**

For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the principles for guiding development and any amendments to the principles, the principles shall be construed as a whole and no specific provision shall be construed or applied in isolation from the other provisions.

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
  - 1. The Florida Keys Aqueduct and water supply facilities;
  - 2. Sewage collection, treatment, and disposal facilities;
  - 3. Solid waste treatment, collection, and disposal facilities;
  - 4. Key West Naval Air Station and other military facilities;
  - 5. Transportation facilities;
  - 6. Federal parks, wildlife refuges, and marine sanctuaries;
  - 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
  - 8. City electric service and the Florida Keys Electric Co-op; and
  - 9. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(1) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post disaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and

maintaining the Florida Keys as a unique Florida resource.

Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is consistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle.

**C. The proposed amendment is consistent with the Part II of Chapter 163, Florida Statute (F.S.). Specifically, the amendment furthers:**

Section 163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

Section 163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

## **VI. PROCESS**

Comprehensive Plan amendments may be proposed by the Board of County Commissioners, the Planning Commission, the Director of Planning, or the owner or other person having a contractual interest in property to be affected by a proposed amendment. The Director of Planning shall review and process applications as they are received and pass them onto the Development Review Committee and the Planning Commission.

The Planning Commission shall hold at least one public hearing. The Planning Commission shall review the application, the reports and recommendations of the Department of Planning & Environmental Resources and the Development Review Committee and the testimony given at the public hearing. The Planning Commission shall submit its recommendations and findings to the Board of County Commissioners (BOCC). The BOCC holds a public hearing to consider the transmittal of the

proposed comprehensive plan amendment, and considers the staff report, staff recommendation, and the testimony given at the public hearing. The BOCC may or may not recommend transmittal to the Florida Department of Economic Opportunity (DEO). The amendment is transmitted to DEO, which then reviews the proposal and issues an Objections, Recommendations and Comments (ORC) Report. Upon receipt of the ORC report, the County has 180 days to adopt the amendments, adopt the amendments with changes or not adopt the amendment.

## **VII. STAFF RECOMMENDATION**

Staff recommends APPROVAL of the proposed amendments.

## **VIII. EXHIBITS**

1. Transcription of the BOCC height discussion, from the October 7, 2014 public hearing
2. March 24, 2015 DRC Staff Report
3. March 24, 2015 DRC Minutes
4. May 26, 2015 DRC Staff Report
5. May 26, 2015 DRC Minutes
6. August 25, 2015 DRC Staff Report
7. August 25, 2015 DRC Minutes
8. October 27, 2015 DRC Staff Report
9. October 27, 2015 DRC Minutes
10. January 26, 2016 DRC Staff Report
11. January 26, 2016 DRC Minutes
12. February 24, 2016 PC Staff Report
13. February 24, 2016 PC Minutes
14. Table of FEMA flood zones and number of private, vacant parcels in unincorporated Monroe County
15. FEMA data sheets on Rebuilding in Flood zones and ‘Reduce Your Risk, Reduce Your Premium’
16. Proposed Comprehensive Plan and Land Development Code Amendments