

AGENDA

PLANNING COMMISSION  
MONROE COUNTY  
MARATHON GOV'T CENTER  
2798 OVERSEAS HIGHWAY  
MARATHON, FL 33050

May 25, 2011  
10:00 A.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMISSION:

Denise Werling, Chairman  
Randy Wall, Vice Chairman  
Jeb Hale  
Elizabeth Lustberg  
William Wiatt

STAFF:

Townsley Schwab, Senior Director of Planning and Environmental Resources  
Susan Grimsley, Ass't County Attorney  
John Wolfe, Planning Commission Counsel  
Joe Haberman, Planning & Development Review Manager  
Tiffany Stankiewicz, Development Administrator  
Mitch Harvey, Comprehensive Planning Manager  
Steven Biel, Sr. Planner  
Rey Ortiz, Planner  
Gail Creech, Planning Commission Coordinator

COUNTY RESOLUTION 131-92 APPELLANT TO PROVIDE RECORD FOR APPEAL

-

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

-

SWEARING OF COUNTY STAFF

CHANGES TO THE AGENDA

-

APPROVAL OF MINUTES

April 13, 2011

MEETING

New Item:

-

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO AMEND THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM UNDESIGNATED TO RESIDENTIAL CONSERVATION (RC) FOR PROPERTY KNOWN AS WISTERIA ISLAND, HAVING REAL ESTATE PARCEL NUMBER 00123950-000000; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR THE TRANSMITTAL TO THE SECRETARY OF STATE AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

[M2010-108 SR PC 05.25.11.PDF](#)

[M2010-108 Draft Ord for PC 05.25.11.PDF](#)

[M2010-108 Maps 1-2 for PC 05.25.11.PDF](#)

[M2010-108 Combined Exhibits.pdf](#)

2. Keith & Schnars Presentation Begins at 1:00 PM

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,





**MEMORANDUM**  
**MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT**  
*We strive to be caring, professional and fair*

**To:** Monroe County Planning Commission

**From:** Mitchell N. Harvey, AICP *MNH*  
Comprehensive Planning Manager

**Date:** May 16, 2011

**Subject:** Request for an Amendment to the Monroe County 2010 Comprehensive Plan, Future Land Use Map (FLUM) designation for Wisteria Island from Undesignated to Residential Conservation (RC).

**Meeting:** May 25, 2011

**I REQUEST**

This is a request by Monroe County to amend the Monroe County 2010 Comprehensive Plan, Future Land Use Map (FLUM) designation from undesignated to Residential Conservation (RC) for the property known as Wisteria Island (aka, Christmas Tree Island).



Wisteria Island is an approximately 21-acre unincorporated spoil island located approximately 500 feet north of Sunset Key within Key West harbor and west of the City of Key West. The property owners also own submerged lands surrounding the island.

1 Address: N/A  
2  
3 Real Estate Number: RE 00123950-000000  
4  
5 Legal Description: A parcel of Bay Bottom Land and Spoil Island of Key West, Florida,  
6 and more particularly described as follows:  
7 Commencing at the Northwesterly end of Simonton Street at the  
8 intersection of the Southwesterly end right-of-way line of Simonton  
9 Street and the waters of the Bay of Florida, run north 60 degrees  
10 west for a distance of 2,150 feet, more or less, to the point of  
11 beginning of the property, hereinafter described. From said point of  
12 beginning, continue north 30 degrees East for a distance of 1,700  
13 feet; thence run South 60 degrees East for a distance of 1,000 feet;  
14 thence run South 30 degrees West fir a distance of 1,700 feet back to  
15 the point of beginning.  
16

## 17 18 **II PROCESS**

19 Comprehensive Plan Amendments may be proposed by the Board of County Commissioners  
20 (BOCC), the Planning Commission, the Director of Planning, or the owner or other person  
21 having a contractual interest in property to be affected by a proposed amendment. The  
22 Director of Planning shall review and process applications as they are received and pass them  
23 onto the Development Review Committee (DRC) and the Planning Commission.  
24

25 The Planning Commission shall hold at least one public hearing. The Planning Commission  
26 shall review the application, the reports and recommendations of the Department of Planning  
27 & Environmental Resources and the Development Review Committee and the testimony given  
28 at the public hearing. The Planning Commission shall submit its recommendations and  
29 findings to the Board of County Commissioners (BOCC). The BOCC holds a public hearing  
30 to consider the transmittal of the proposed comprehensive plan amendment, and considers the  
31 staff report, staff recommendation, and the testimony given at the public hearing. The BOCC  
32 may or may not recommend transmittal to the Florida Department of Community Affairs  
33 (DCA). The amendment is transmitted to DCA, which then reviews the proposal and issues an  
34 Objections, Recommendations and Comments (ORC) Report. Upon receipt of the ORC  
35 Report, the County has 60 days to adopt the amendment, adopt the amendment with changes or  
36 not adopt the amendment.  
37

### 38 **A. BACKGROUND INFORMATION**

39  
40 Wisteria Island has no Future Land Use Map (FLUM) designation. In 2009, the property  
41 owner requested a FLUM amendment for Wisteria Island from undesignated to Mixed Use  
42 Commercial (MC). The island is located adjacent to Sunset Key and the City of Key West.  
43 Since the adjacent properties have future land use categories and existing development that are  
44 similar to the requested future land use designation of MC, Monroe County staff, in  
45 coordination with DCA, worked with the applicant to develop a corresponding sub-area policy,  
46 similar to an overlay district for the island. The purpose of the proposed Sub Area Policy was  
47 to restrict the maximum development potential of Wisteria Island, which would be allowed by  
48 the applicant's original request for a Mixed Use Commercial (MC) FLUM designation, by  
49 creating policy language in the form of a Comprehensive Plan Future Land Use Element text

1 amendment. This Sub Area Policy was to guide the development of this spoil island by the  
2 enactment of area-specific regulations that allow development to occur subject to limitations  
3 and conditions designed to protect existing natural resources.  
4

5 County staff sent the FLUM amendment and text amendment applications to the City of Key  
6 West staff on April 27, 2010. The Key West Development Review Committee met on May 27,  
7 2010 and reviewed the requested change.  
8

9 On June 16, 2010, the Florida Department of Community Affairs submitted a letter to Monroe  
10 County expressing concerns regarding the proposed FLUM amendment and Sub Area Policy  
11 that sought to develop Wisteria Island with 35 single family homes and accessory docking, 35  
12 transient units containing 85 rooms, affordable housing and 39,000 square feet of non-  
13 residential uses. The letter cited several existing Comprehensive Plan Goals, Objectives and  
14 Policies that conflicted with the proposed densities and intensities. Page 2 of the letter states:  
15 *“the data further describes all of-shore islands that are not targeted for acquisition and*  
16 *conservation as being Residential Conservation with a density of 0.1 unit per 10 acres.”* The  
17 proposed FLUM designation of Residential Conservation presently being considered is  
18 consistent with this determination. The DCA letter is included as Exhibit C.  
19

20 On June 29, 2010, the Monroe County Board of County Commissioners approved a resolution  
21 requesting that the City of Key West provide the BOCC with input regarding the proposed Sub  
22 Area Policy and MC FLUM Amendment, especially the reliance of water, sewer, solid waste,  
23 and on shore facilities on Key West or to be provided by Key West. On July 20, 2010, the City  
24 of Key West approved a resolution recommending that the BOCC deny the proposed Sub Area  
25 Policy and FLUM amendment for Wisteria Island, given the fact that Key West would have  
26 been the sewer service provider to the Island and the resultant project would have produced  
27 offsite impacts affecting Key West. The applicant then withdrew its application prior to the  
28 BOCC meeting of July 21, 2010. On July 21, 2010, the BOCC directed staff to initiate a  
29 FLUM amendment for Wisteria Island, since the island had not been designated when the  
30 FLUM was initially adopted. The proposed FLUM amendment for Wisteria Island, from  
31 undesignated to Residential Conservation (RC), is consistent with the existing Land  
32 Development Code Land Use District category of Off-Shore Island (OS).  
33

34 On November 3, 2010, the Monroe County Planning Commission held a public hearing to  
35 review the proposed FLUM amendment from undesignated to Residential Conservation for  
36 Wisteria Island. Following a staff presentation, public input and Commission discussion, the  
37 Planning Commission voted 3-2 to recommend approval to the Monroe County Board of  
38 County commissioners to transmit the proposed FLUM amendment to the Florida Department  
39 of Community Affairs. However, it was subsequently discovered that the Surrounding  
40 Property Owner Notice (SPON) was not sent as required by Monroe County code Section 102-  
41 158(d)(3)a, which states: *“notice of changes to the land use district map and the FLUM shall*  
42 *be mailed to owners within 300 feet of the affected property 15 days prior to the required*  
43 *hearing before the planning commission”*. The affected property owner received a notice, but  
44 not the surrounding property owners within 300 feet of the affected property, therefore it has  
45 been determined that the public hearing must be reheard before the Planning Commission prior  
46 to Board of County Commission review.  
47  
48

1 **III CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE**  
2 **PLAN, THE FLORIDA ADMINISTRATIVE CODE, AND PRINCIPLES FOR GUIDING**  
3 **DEVELOPMENT**  
4

5 A. The proposed amendment is consistent with the following Goals, Objectives, and Policies of  
6 the Monroe County Year 2010 Comprehensive Plan. Specifically, the amendment furthers:  
7

8 1. Goal 101 of the Monroe County Year 2010 Comprehensive Plan considers the health  
9 and safety of people and protection of natural resources.  
10

11 2. Goal 102 of the Monroe County Year 2010 Comprehensive Plan directs growth to lands  
12 that are intrinsically most suitable for development and encourages conservation and  
13 protection of environmentally sensitive lands.  
14

15 3. Policy 102.7.2, which states:

16 *By January 4, 1997, Monroe County shall adopt Land Development Regulations which*  
17 *will further restrict the activities permitted on offshore islands. These shall include the*  
18 *following:*

19 1. *development shall be prohibited on offshore islands (including spoil islands)*  
20 *which have been documented as an established bird rookery or nesting area*  
21 *(See Conservation and Coastal Management Policy 207.1.3.);*

22 2. *campgrounds and marinas shall not be permitted on offshore islands;*

23 3. *new mining pits shall be prohibited on offshore islands;*

24 4. *permitted uses by-right on islands (which are not bird rookeries) shall include*  
25 *detached residential dwellings, camping (for the personal use of the owner of*  
26 *the property on a temporary basis), beekeeping, accessory uses, and home*  
27 *occupations (subject to a special use permit requiring a public hearing);*

28 5. *temporary primitive camping by the owner, in which no land clearing or other*  
29 *alteration of the island occurs, shall be the only use of an offshore island which*  
30 *may occur without necessity of a permit;*

31 6. *the use of any motorized vehicles including, but not limited to, trucks, carts,*  
32 *buses, motorcycles, all-terrain vehicles and golf carts shall be prohibited on*  
33 *existing undeveloped offshore islands;*

34 7. *planting with native vegetation shall be encouraged whenever possible on spoil*  
35 *islands; and*

36 8. *public facilities and services shall not be extended to offshore islands.*  
37

38 4. Goal 105 of the Monroe County Year 2010 Comprehensive Plan recognizes the finite  
39 capacity for land development while balancing development with the natural  
40 environment and provides a framework for future development and land acquisition for  
41 the next 20 years.  
42

43 5. Goal 202 of the Monroe County Year 2010 Comprehensive Plan requires that the  
44 environmental quality of Monroe County's estuaries, nearshore waters (canals, harbors,  
45 bays, lakes and tidal streams,) and associated marine resources shall be maintained and,  
46 where possible, enhanced.  
47

- 1 6. Goal 203 of the Monroe County Year 2010 Comprehensive Plan promotes the  
2 protection and enhancement of the health and integrity of living marine resources and  
3 marine habitat, including mangroves, sea grasses, coral reefs and fisheries.  
4
- 5 7. Goal 204 of the Monroe County Year 2010 Comprehensive Plan protects and enhances  
6 the health and integrity of Monroe County's marine and freshwater wetlands.  
7
- 8 8. Goal 205 of the Monroe County Year 2010 Comprehensive Plan promotes the  
9 protection and enhancement of the health and integrity of Monroe County's native  
10 upland vegetation.  
11
- 12 9. Goal 207 of the Monroe County 2010 Comprehensive Plan protects and conserves  
13 existing wildlife and wildlife habitats.  
14
- 15 10. Goal 209 of the Monroe County 2010 Comprehensive Plan discourages private land  
16 uses on offshore islands.  
17
- 18 11. Goal 212 requires Monroe County to prioritize shoreline land uses and establish criteria  
19 for shoreline development in order to preserve and enhance coastal resources and to  
20 ensure the continued economic viability of the County.  
21
- 22 12. Policies 215.2.3, 217.4.2 and 1401.2.2: No public expenditures shall be made for new  
23 or expanded facilities in areas designated as units of the Coastal Barrier Resources  
24 System, saltmarsh and buttonwood wetlands, or offshore islands not currently  
25 accessible by road, with the exception of expenditures for conservation and parklands  
26 consistent with natural resource protection, and expenditures necessary for public  
27 health and safety.  
28
- 29 B. The proposed amendment is consistent with the Florida Administration Code (F.A.C.),  
30 Chapter 9J-5. Specifically, the amendment furthers:  
31
- 32 1. 9J-5.006(3)(b)4 F.A.C. ensures the protection of natural resources and historic  
33 resources.  
34
- 35 2. 9J-5.0012(3)(b)1 F.A.C. protects, conserve, or enhance remaining coastal wetlands,  
36 living marine resources, coastal barriers, and wildlife habitat.  
37
- 38 3. 9J-5.0013(2)(c)3 F.A.C. protects native vegetative communities from destruction by  
39 development activities.  
40
- 41 4. 9J-5.0013(2)(c)5 F.A.C. restricts activities known to adversely affect the survival of  
42 endangered and threatened wildlife.  
43
- 44 5. 9J-5.0013(2)(c)6 F.A.C. protects conservation of the natural functions of existing soils,  
45 fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including  
46 estuarine marshes, freshwater beaches and shores, and marine habitats.  
47

1 6. 9J-5.0013(3)(b) F.A.C. directs development away from wetlands by using land use  
2 factors such as type, intensity or density, extent, distribution and location of allowable  
3 land uses and the types, values, functions, sizes, conditions and locations of wetlands.  
4

5 C. The amendment is Consistent with the Principles for Guiding Development in the Florida  
6 Keys Area of Critical State Concern pursuant to Chapter 380.0552(7), F.S.  
7

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

12 (a). To strengthen local government capabilities for managing land use and  
13 development so that local government is able to achieve these objectives  
14 without the continuation of the area of critical state concern designation.

15 (b). To protect shoreline and marine resources, including mangroves, coral reef  
16 formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

17 (c). To protect upland resources, tropical biological communities, freshwater  
18 wetlands, native tropical vegetation (for example, hardwood hammocks and  
19 pinelands), dune ridges and beaches, wildlife, and their habitat.

20 (d). To ensure the maximum well-being of the Florida Keys and its citizens  
21 through sound economic development.

22 (e). To limit the adverse impacts of development on the quality of water  
23 throughout the Florida Keys.

24 (f). To enhance natural scenic resources, promote the aesthetic benefits of the  
25 natural environment, and ensure that development is compatible with the  
26 unique historic character of the Florida Keys.

27 (g). To protect the historical heritage of the Florida Keys.

28 (h). To protect the value, efficiency, cost-effectiveness, and amortized life of  
29 existing and proposed major public investments, including:

- 30 1. The Florida Keys Aqueduct and water supply facilities;
- 31 2. Sewage collection and disposal facilities;
- 32 3. Solid waste collection and disposal facilities;
- 33 4. Key West Naval Air Station and other military facilities;
- 34 5. Transportation facilities;
- 35 6. Federal parks, wildlife refuges, and marine sanctuaries;
- 36 7. State parks, recreation facilities, aquatic preserves, and other  
37 publicly owned properties;
- 38 8. City electric service and the Florida Keys Electric Co-op; and
- 39 9. Other utilities, as appropriate.

40 (i). To limit the adverse impacts of public investments on the environmental  
41 resources of the Florida Keys.

42 (j). To make available adequate affordable housing for all sectors of the  
43 population of the Florida Keys.

- 1 (k). To provide adequate alternatives for the protection of public safety and  
2 welfare in the event of a natural or manmade disaster and for a post disaster  
3 reconstruction plan.
- 4 (l). To protect the public health, safety, and welfare of the citizens of the Florida  
5 Keys and maintain the Florida Keys as a unique Florida resource.

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

8  
9  
10 **IV ANALYSIS OF PROPOSED DENSITIES, INTENSITIES AND COMPATABILITY**  
11 **WITH ADJACENT DEVELOPMENT**  
12

13 Wisteria Island currently has no future land use designation within Monroe County, nor was it  
14 included on the initial Tier Maps adopted by Monroe County. Staff is recommending a Future  
15 Land Use Map (FLUM) designation of Residential Conservation (RC) for Wisteria Island. The  
16 RC designation is to encourage preservation of open space and natural resources while  
17 providing for very low-density residential development in areas characterized by a  
18 predominance of undisturbed native vegetation. Low-intensity public uses and utilities are also  
19 allowed. According to Policy 101.4.21 of the Monroe County Year 2010 Comprehensive Plan,  
20 a Future Land Use Map (FLUM) designation of RC has a maximum allocated density of 0.25  
21 units per acre, which would allow a maximum of 5 units on 21.35 acres. Policy 101.4.21 also  
22 states that the corresponding land use (zoning) districts allowed under the RC FLUM category  
23 is Offshore Island (OS) and Native Area (NA).

24  
25 Wisteria Island has a Land Use District (zoning) designation of Offshore Island (OS) based on  
26 the Monroe County Code Section 101-2.(13)e, which states: "*All keys or islands without a*  
27 *specific land use designation shall be considered zoned as off-shore islands whether they are*  
28 *labeled as (OS) OFFSHORE ISLANDS, unlabeled, not shown on these maps, or lie beyond the*  
29 *areas covered by these maps.*" The Purpose of the OS zoning designation, as established in  
30 Section 130-40, is to establish areas that are not connected to U.S. 1 as protected areas, while  
31 permitting low-intensity residential uses and campground spaces in upland areas that can be  
32 served by cisterns, generators and other self-contained facilities. The Offshore Island (OS)  
33 land use district (zoning) has an allocated density of 0.10 units per gross acre, which is  
34 equivalent to 1 unit per 10 gross acres. The upland acreage of Wisteria Island is 21.35 acres;  
35 therefore, the current maximum number of units permitted under the Offshore Island (OS) land  
36 use (zoning) district designation is 2 units.

37  
38 The proposed RC FLUM amendment would provide consistency between the Comprehensive  
39 Plan and the Land Development Regulations. As shown in the table below, the proposed RC  
40 FLUM designation does not alter the net potential residential development of this property.  
41 Any increase in density allowed under the RC FLUM category would require a land use  
42 district (zoning) amendment from OS to NA.  
43  
44  
45  
46  
47

	<b>Proposed RC FLUM</b>	<b>Existing OS Zoning</b>	<b>NA Zoning</b>
<u>Allocated density</u>	<u>0.25 du/acre</u>	<u>0.1/acre</u>	<u>0.25/acre</u>
<u>Acreage</u>	<u>21.35 acres</u>	<u>21.35 acres</u>	<u>21.35 acres</u>
<u>Development Potential</u>	<u>5 units</u>	<u>2 units</u>	<u>5 units</u>

Again, Policy 101.4.1 of the Monroe County Year 2010 Comprehensive Plan states: “*The principal purpose of the Residential Conservation land use category is to encourage preservation of open space and natural resources while providing for very low-density residential development in areas characterized by a predominance of undisturbed native vegetation.*” This indicates that the RC future land use category is suitable for this island, even though it is a spoil island, because it does have pockets of native vegetation.

**COMPATIBILITY ANALYSIS:**

Exhibit A is an aerial photograph that illustrates the existing land uses within the surrounding area of Wisteria Island, which includes Sunset Key and the Key West mainland.

**V ENVIRONMENTAL ANALYSIS:**

Comprehensive Plan Policy 101.4.22 states in part that “*All development shall be subject to clearing limits defined by habitat and the location of the property in the Land Use District (zoning) Overlay Tier Maps and the wetland requirements in Policy 102.1.1.* Policy 102.7.3 states: *Monroe County shall discourage developments proposed on offshore islands by methods including, but not limited to, designated offshore islands as Tier 1 lands.*” Monroe County is currently working toward processing a tier designation for this undesignated offshore island, as well as other tierless privately owned offshore islands.

The wetland protection requirements of Policy 102.1.1 state, in part, that the open space requirement for mangroves, undisturbed salt marsh, and buttonwood wetlands is 100%. Objective 102.1 of the Comprehensive Plan requires new development to comply with environmental standards and environmental design criteria which will protect disturbed wetlands, native upland vegetation and beach/berm areas. This objective is supported by the previously discussed Policy 102.1.1. In addition, Policy 102.2.1 requires no net loss of disturbed wetlands, requiring on-site mitigation or off-site mitigation through contribution to the environmental restoration fund.

Staff conducted a site review on April 28, 2010. The existing habitat on Wisteria Island is dominated by disturbed upland communities (20.04 acres). Disturbed wetland communities constitute 1.31 acres of the site. There are patches of native vegetation on the island. Review of the 1991 ADID (Advanced Identification Survey) indicated that there are no protected or listed species within Wisteria Island.

1 **VI IMPACT ON PUBLIC FACILITIES AND SERVICES (CONCURRENCY)**

2  
3 Policy 102.7.2 establishes specific criteria and allowable uses on offshore islands. Subsection  
4 1of this policy states: "development shall be prohibited on offshore islands (including spoil  
5 islands) which have been documented as an established bird rookery or nesting area". This  
6 offshore spoil island does not meet the established bird rookery criteria found in Policy  
7 102.7.2, therefore public facilities would be allowed to support permitted uses, which include  
8 detached residential dwellings. The proposed Residential Conservation (RC) FLUM category  
9 would allow up to 5 detached dwelling units on Wisteria Island.

10  
11 Policy 1401.4.1 requires Monroe County to adopt Level of Service standards for the following  
12 public facility types: road, sanitary sewer, solid waste, drainage, potable water, and parks and  
13 recreation. The LOS standards are established in the following sections of the Comprehensive  
14 Plan: Traffic Circulation, Policy 301.1.1; Potable Water, Policy 701.1.1; Solid Waste, Policy  
15 801.1.1; Sanitary Sewer, Policy 901.1.1; Drainage, Policy 1001.1.1; and Recreation and Open  
16 Space, Policy 1201.1.1.

17  
18 **1. Traffic Circulation – Policy 301.1.1**

19  
20 "For all County roads, Monroe County hereby adopts a minimum peak hour level of  
21 service (LOS) standard of D, based on the Florida Department of Transportation  
22 (FDOT) methodology for determination of LOS, as measured by peak hour traffic  
23 volume. The County shall maintain the level of service on County roads within five  
24 percent (5%) of LOS D. [9J-5.007(3)(c)]"

25  
26 Staff has determined that there will be no substantial impact to the local or regional  
27 roads as result of this FLUM amendment.  
28

29 **2. Potable Water – Policy 701.1.1**

30 "Monroe County hereby adopts the following level of service standards to achieve Objective  
31 701.1 and shall use these standards as the basis for determining facility capacity and the demand  
32 generated by a development. [9J-5.011(2)(c)2d]

33  
34 **Level of Service Standards**

- |    |    |   |                               |
|----|----|---|-------------------------------|
| 35 | 1. | <i>Quantity:</i>                            |                               |
| 36 |    | <i>Residential LOS</i>                      | <i>66.50 gal./capita/day</i>  |
| 37 |    | <i>Non-Residential LOS</i>                  | <i>0.35 gal./sq. ft./day</i>  |
| 38 |    | <i>Overall LOS</i>                          | <i>132.00 gal./capita/day</i> |
| 39 |    |   | <i>(Ord. 021-2009)</i>        |
| 40 |    |   |                               |
| 41 |    | <i>Equivalent Residential Unit</i>          | <i>149.00 gallons per day</i> |
| 42 |    | <i>(2.24 average persons per</i>            |                               |
| 43 |    | <i>household x 66.5 gallons/capita/day)</i> |                               |
| 44 |    |   |                               |
| 45 |    |   |                               |
| 46 | 2. | <i>Minimum Pressure:</i>                    |                               |
| 47 |    | <i>20 PSI at customer service</i>           |                               |
| 48 |    |   |                               |

- 1                   3.     *Minimum Potable Water Quality:*  
2                             *Shall be as defined by the U.S. Environmental Protection Agency. (Part 143-*  
3                             *National Secondary Drinking Standards, 40 CFR 143, 44FR 42198)"*  
4  
5

6                   Policy 701.1.1 of the County Comp Plan sets the level of service for residential potable  
7                   water at 66.5 gal/capita/day and nonresidential at 0.35 gal/sq.ft./day. When calculating  
8                   the potential potable water needs, the maximum occupancy was used. If the density  
9                   and intensity allowed under the RC FLUM category for Wisteria Island is at maximum,  
10                   the potable water supply capacity available to the Florida Aqueduct Authority will meet  
11                   the maximum demand for potable water.  
12

13                   **Total Potential Capacity Required:**

14                             5 units x 2.4 people/unit = 12 people

15                             The total capacity required for the residential use with 12 people is:

16                                     66.5gal/capita/day x 12 people = 798 gal/day  
17

18                   Policy 701.3.1 states: *"Alternative water sources such as reverse osmosis, cisterns and*  
19                   *water re-use shall be evaluated and the most feasible solution implemented in the event*  
20                   *that the necessary withdrawals from the Biscayne Aquifer are limited."*  
21

22                   Water supply could potentially be provided with onside water systems, such as cisterns.  
23                   Connection to the Florida Keys Aqueduct Authority (FKAA) potable water system is  
24                   not required. However, the FKAA system has available capacity to accommodate the  
25                   predicted level of service that could result from the map designation. Any transmission  
26                   capacity upgrades necessary to serve potential development should be addressed by the  
27                   landowner during the development approval process as required by the County's  
28                   Comprehensive Plan and Land Development Regulations.  
29

30                   **3. Solid Waste – Policy 801.1.1**  
31

32                   *"Monroe County hereby adopts the following level of service standards to achieve Objective*  
33                   *801.1, and shall use these standards as the basis for determining facility capacity and the demand*  
34                   *generated by a development. [9J-5.011(2)(c)2]*  
35

36                             ***Level of Service Standards:***  
37

38                             1.     *Collection Frequency:*

39                                     *Residential: a minimum of one time per two weeks – domestic refuse*  
40   *a minimum of one time per two weeks - yard trash*

41                                     *Commercial: by contract*  
42

43                             2.     *Disposal Quantity:*

44                                     *5.44 pounds per capita per day or 12.2 pounds per day per ERU*  
45                                     *(Equivalent Residential Unit)*  
46

47                                     *Haul Out Capacity:*

48                                     *95,000 tons per year or 42,668 ERUs.*

1  
2           3.     *Duration of Capacity:*  
3                 *Sufficient capacity shall be available at a solid waste disposal site to accommodate*  
4                 *all existing and approved development for a period of at three from the projected*  
5                 *date of completion of the proposed development or use.”*  
6  
7

8           Policy 801.1.1 sets the level of service for residential solid waste disposal at 5.44  
9           lb/capita/day.

10  
11           The total capacity required for the residential use of 12 people is:  
12           5.44 lbs/capita/day x 12 people = 65.28 lbs/day  
13

14           According to the Monroe County Public Facilities Capacity Report for 2009, Waste  
15           Management (WM) has more than enough capacity to handle this increase. Solid waste  
16           would be collected manually on Wisteria and removed via existing licensed waste  
17           haulers.  
18

19  
20           **4. Sanitary Sewer – Policy 901.1.1**  
21

22           *“Monroe County shall ensure that at a the time a development permit is issued,*  
23           *adequate sanitary wastewater treatment and disposal facilities are available to support*  
24           *the development at the adopted level of service standards, concurrent with the impacts*  
25           *of such development. [9J-5.011(2)(c)2]”*  
26

27           Permanent Level of Service Standards:

28  
29           The total capacity required for the residential use with 12 people is:  
30           145 gal x 12 people/day = 1,740 gal/day  
31

32           Monroe County does not presently have a plan for providing sanitary sewer service to  
33           Wisteria Island. The anticipated need for sanitary sewer service must meet the State of  
34           Florida mandated treatment requirements.  
35

36  
37           **5. Drainage – Policy 1001.1.1**  
38

39           *“Water Quality Level of Service Standards - Minimum Water Quality:*

40  
41           *All projects shall be designed so that the discharges will meet Florida State Water*  
42           *Quality Standards as set forth in Chapters 17-25 and 17-302, F.A.C, incorporated*  
43           *herein by reference. In addition, all projects shall include an additional 50% of the*  
44           *water quality treatment specified below, which shall be calculated by multiplying the*  
45           *volumes obtained in Section (a) by a factor of 1.5, Retention/Detention Criteria*  
46           *(SFWMD Water Quality Criteria 3.2.2.2):*  
47

- 1 a) *Retention and/or detention in the overall system, including swales, lakes,*  
2 *canals, greenways, etc., shall be provided for one of the three following*  
3 *criteria or equivalent combinations thereof:*  
4 (1) *Wet detention volume shall be provided for the first inch of runoff*  
5 *from the developed project, or the total runoff of 2.5 inches times the*  
6 *percentage of imperviousness, whichever is greater.*  
7 (2) *Dry detention volume shall be provided equal to 75 percent of the*  
8 *above amount computed for wet detention.*  
9 (3) *Retention volume shall be provided equal to 50 percent of the above*  
10 *amounts computed for wet detention.*  
11  
12 b) *Infill residential development within improved residential areas or*  
13 *subdivisions existing prior to the adoption of this comprehensive plan must*  
14 *ensure that its post-development stormwater run-off will not contribute*  
15 *pollutants which will cause the runoff from the entire improved area or*  
16 *subdivision to degrade receiving water bodies and their water quality as*  
17 *stated above.*  
18  
19 c) *New Development and Redevelopment projects which are exempt from the*  
20 *South Florida Water Management District permitting process shall also*  
21 *meet the requirements of Chapter 40-4 and 40E-40, F.A.C.:*  
22  
23  
24

25 **6. Recreation & Open Space - Policy 1201.1.1**

26 *“Monroe County hereby adopts the following level of service standards to achieve*  
27 *Objective 1201.1, and shall use these standards as the basis for determining recreation*  
28 *land and facility capacity:*

29 *Level of Service Standards for Neighborhood and Community Parks:*

- 30 1) *0.82 acres per 1000 functional population of passive, resource-based*  
31 *neighborhood and community parks; and*  
32 2) *0.82 acres per 1000 functional population of activity-based neighborhood*  
33 *and community parks within each of the Upper Keys, Middle Keys, and*  
34 *Lower Keys subareas. [9J-5.014(3)(c)4]”*  
35  
36

Recreational Level of Service Standards:

Activity	Requirement	Monroe County Pop. (July 2008)	Acres Required	Existing	Complies
Passive Park	0.82 ac/ 1000 people	72, 243	59.24 ac	97.96 ac	Yes
Active Park	0.82 ac/ 1000 people	72,243	59.24 ac	97.96 ac	Yes

1 As demonstrated by the chart above, the County has more than enough additional  
2 recreational capacity beyond the adopted level of service for recreational activities  
3 potentially required as a result of the proposed zoning map designation.  
4  
5

6 **VII STAFF RECOMMENDATION**

7 Staff recommends approval of the proposed FLUM amendment from Undesignated to Residential  
8 Conservation (RC).  
9

10 **VIII EXHIBITS**

- 11 A. FLUM Map  
12 B. Map that identifies the FEB Corp property line, Depth in Feet, US Navy Restricted Areas  
13 and Danger Zones, and the City of Key West Jurisdiction  
14 C. Letter from Florida Department of Community Affairs, dated June 16, 2010  
15 D. Letter from Roger Bernstein, President of FEB Corp, dated September 22, 2010  
16 E. Memo Summary of 10/18/10 DRC Meeting Issues and Staff Response  
17 F. Letter from Owen Trepanier, dated October 22, 2010  
18 G. Planning Commission November 3, 2010 Meeting Minutes



**ORDINANCE NO. \_\_\_\_\_ -2011**

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING THE REQUEST BY MONROE COUNTY TO AMEND THE FUTURE LAND USE MAP (FLUM) DESIGNATION FROM UNDESIGNATED TO RESIDENTIAL CONSERVATION (RC) FOR THE PROPERTY KNOWN AS WISTERIA ISLAND, HAVING REAL ESTATE NUMBER 000123950-000000; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR THE TRANSMITTAL TO THE SECRETARY OF STATE AND THE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Monroe County Planning Commission held a public hearing on May 25, 2011 and following public deliberation, voted \_\_\_ to \_\_\_ to approve a resolution recommending approval (denial) of the proposed amendment to the Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan;

**WHEREAS**, the Monroe County Board of County Commissioners (BOCC) voted to transmit the proposed amendment to the Florida Department of Community Affairs on June 20, 2011; and

**WHEREAS**, the BOCC makes the following findings of fact and conclusions of law:

1. The existing unincorporated area to be amended presently contains approximately 22 acres of undeveloped upland offshore spoil area known as Wisteria Island, which is located within Key West Harbor, approximately 500 feet northeast of Sunset Island.
2. The affected property presently has no adopted Future Land Use Map (FLUM) category.
3. The proposed Residential Conservation (RC) FLUM category will allow 0-0.25 units per acre (Allocated Density).

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- 4. The proposed Residential Conservation (RC) FLUM category is consistent with the current Land Development Code, Land Use District designation of Offshore Island (OS).
- 5. All required facilities and services necessary to accommodate the impacts of development within the affected property must be available prior to the issuance of a building permit or certificate of occupancy.
- 6. The proposed amendment will not affect the existing or future land use character of Monroe County.
- 7. The proposed amendment is internally consistent with the Monroe County Comprehensive Plan.
- 8. The proposed amendment is consistent with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF MONROE COUNTY, FLORIDA:**

**Section 1.** The Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan, for the property described as Wisteria Island & adjacent bay bottom (OR385-897-898), having Real Estate Number 000123950-000000, be amended from Undesignated to Residential Conservation (RC).

**Section 2.** If any section, subsection, sentence, clause, item, change, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such validity.

**Section 3.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

**Section 4.** This ordinance shall be transmitted to the Planning Department to the Department of Community Affairs pursuant to Chapter 163 and 380, Florida Statutes.

**Section 5.** This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administrative Commission finding the amendment in compliance with Chapter 163, Florida Statutes.

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**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida, at a special meeting held on the \_\_\_\_ day of \_\_\_\_\_ A.D., 2011.

Mayor Heather Carruthers \_\_\_\_\_  
Mayor Pro Tem David Rice \_\_\_\_\_  
Commissioners Sylvia Murphy \_\_\_\_\_  
Commissioner George Neugent \_\_\_\_\_  
Commissioner Kim Wigington \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS OF  
MONROE COUNTY, FLORIDA

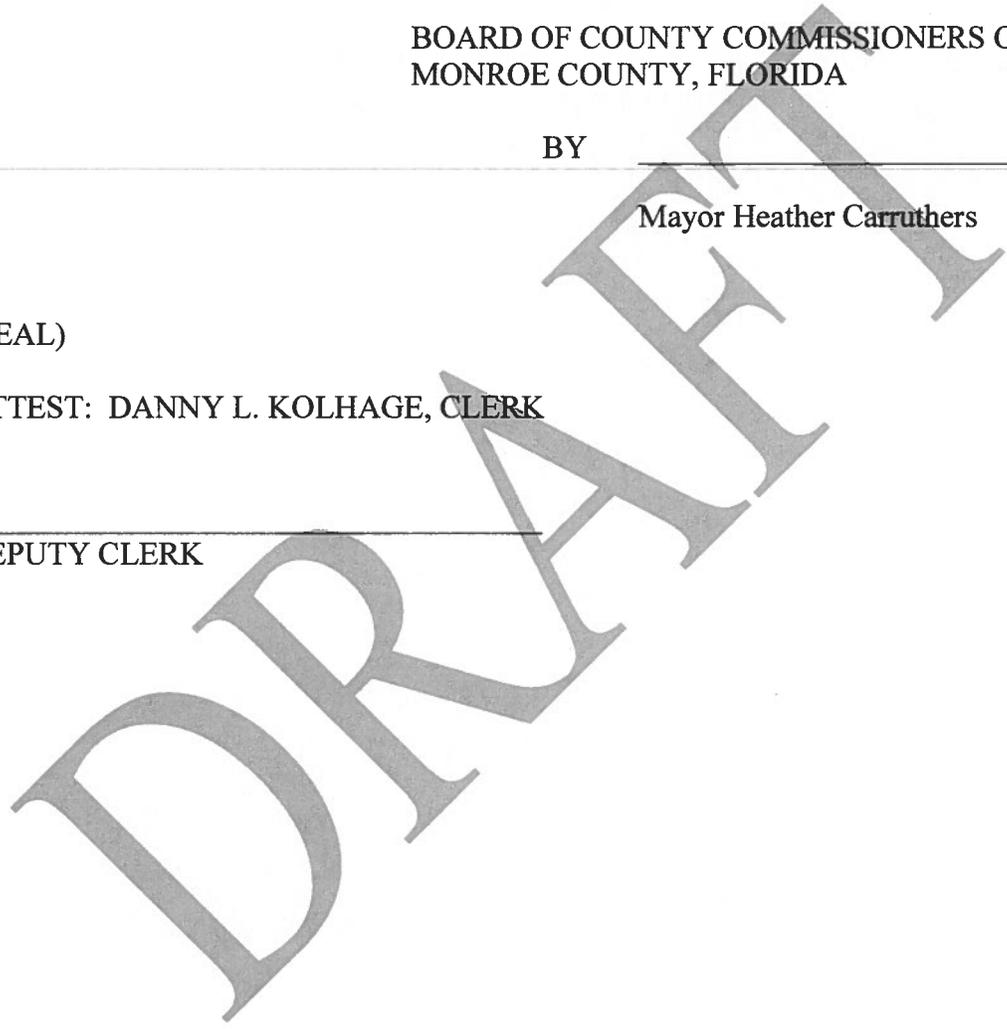
BY \_\_\_\_\_

Mayor Heather Carruthers

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_  
DEPUTY CLERK





**The Monroe County Future Land Use Map is amended  
as indicated above.**

Proposal: Future Land Use change for RE 00123950-000000 from Undesignated to  
Residential Conservation (RC)



Monroe County Future Land Use Map Amendment



Existing Conditions



Proposed Conditions

Future Land Use Designations: RC = Residential Conservation; RL = Residential Low; RM = Residential Medium; RH = Residential High; MC = Mixed Use/Commercial; MCF = Mixed Use/Commercial Fishing; I = Industrial; R = Recreation; INS = Institutional; E = Educational; PB = Public Buildings/Grounds; PF = Public Facilities; M = Military; C = Conservation; AD = Airport District; H = Historic Overlay; RC = Residential Conservation



Existing Land Use



Tier Designation



Growth Management Division  
We strive to be caring, professional, and fair.

The Monroe County Future Land Use Map is proposed to be amended as indicated above and briefly described as:

Key: Wisteria Island Mile Marker: N/A Map Amendment #: M29103  
Land Use District Map #: N/A

Proposal: Future Land Use change of one parcel from Undesignated to Residential Conservation (RC).

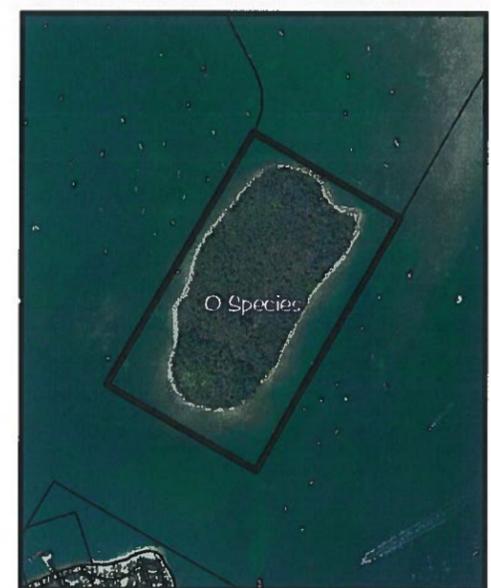
Property Description: RE 00123950-000000



This map is for use by the Monroe County Growth Management Division only. The data contained herein is not a legal representation of boundaries, parcels, roads, right of way, or other geographical data.



Habitat Type



Number of Protected Species



Sovereign Submerged Lands

Fleming Key

Sovereign Submerged Lands

FEB Corp.

Wisteria Island  
FEB Corp.

Sovereign Submerged Lands

Sunset Key

- FEB Corporation
- Bathymetry (Depth in Feet)
- US Navy Restricted Areas and Danger Zone (CFR 334.610)
- City of Key West Jurisdiction - 600' Buffer

  
 This map is the property of the City of Key West. It is not to be used for any other purpose without the written consent of the City of Key West. All rights reserved. © 2010 City of Key West.

Monroe County Future Land Use Map Amendment

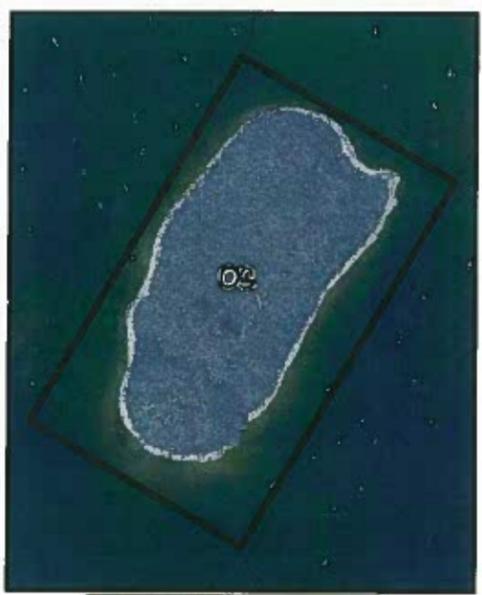


Existing Conditions

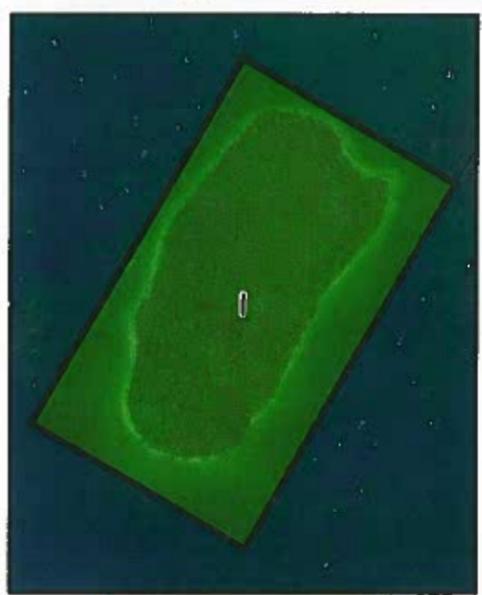


Proposed Conditions

Future Land Use Designations: RC = Residential Conservation; RL = Residential Low; RM = Residential Medium; RH = Residential High; MC = Mixed Use/Commercial; MCF = Mixed Use/Commercial Fishing; I = Industrial; R = Recreation; INS = Institutional; E = Educational; PB = Public Buildings/Grounds; PF = Public Facilities; M = Military; C = Conservation; AD = Airport District; H = Historic Overlay; RD = Residential Conservation.



Existing Land Use



Tier Designation

**Growth Management Division**  
We strive to be caring, professional, and fair.

The Monroe County Future Land Use Map is proposed to be amended as indicated above and briefly described as:

Key: Wisteria Island Mile Marker: N/A Map Amendment #: M29103  
Land Use District Map #: N/A

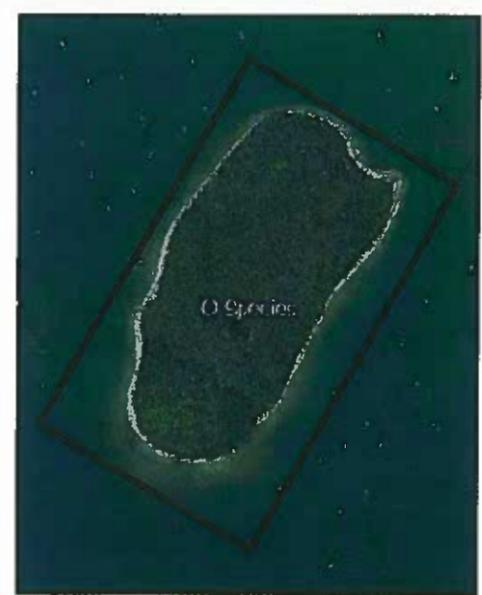
Proposal: Future Land Use change of one parcel from Undesignated to Residential Conservation (RC).

Property Description: RE 00123950-000000

This map is for use by the Monroe County Growth Management Division only. The data contained herein is not a legal representation of boundaries, parcels, roads, right of way or other geographical data.



Habitat Type



Number of Protected Species



**FEB CORP.**

P.O.Box 2455  
Key West, Florida 33045-2455  
Telephone: (305) 445-8500 ext. 201  
roger@2bernsteins.com

September 22, 2010

Ms. Christine Hurley, Division Director  
Monroe County Growth Management  
Marathon Government Center  
2798 Overseas Highway  
Marathon, Florida 33050

Re: Wisteria Island – BOCC-Directed FLUM Designation

Dear Ms. Hurley:

I am writing in my capacity as President of F.E.B. Corp., owner of the spoil island located in Key West Harbor, known as Wisteria. We understand that the Growth Management Division was directed by the BOCC to propose a FLUM designation for Wisteria, and that a designation of Residential Conservation ("RC") will be the subject of public hearings to be held on an expedited schedule<sup>1</sup> in an attempt to transmit that proposed designation in January:

As owner of Wisteria, we appreciate and support the County's intent to select an appropriate FLUM designation for our property. However, as the recent Amendment process revealed, no existing land use category is suitable to this unique property. RC designation would be inconsistent with Policy 101.4.1, because this spoil island is not "characterized by a predominance of undisturbed native vegetation". To the contrary, the map prepared by GMD staff for this FLUM Amendment reveals NO undisturbed native vegetation. What little native vegetation exists on Wisteria is disturbed: 1 1/3<sup>rd</sup> acre of "Disturbed with Salt Marsh", and less than 1 1/3<sup>rd</sup> acre of "Disturbed with Mangroves". Your staff has documented that most of this 21.35 acre island is vegetated by invasive species, conservation of which would contravene public policy. Wisteria does not provide habitat for protected species, as is starkly apparent on that same map, which reports the number of protected species to be zero.

<sup>1</sup> The County-proposed FLUM Schedule contemplates the following hearing dates:  
Development Review Committee (DRC): October 5, 2010, 10 AM, Marathon Government Center  
Media Room  
Planning Commission (PC): November 3, 2010, 10 AM, Marathon Government Center  
EOC/Commission Room  
Board of County Commissioners (BOCC) Transmittal Hearing: January 18, 2010 (date is tentative  
and location to be determined)

Christine Hurley, Division Director  
Growth Management  
September 22, 2010  
Page 2

To assign an inappropriate RC designation to Wisteria on the basis that RC is consistent with Offshore Island zoning (which staff considers applicable by default) begs the question. Zoning classification must follow FLUM designation, not vice versa. This FLUM "dog" can't be wagged by the insubstantial tail of a by-default zoning classification.

Clearly, Wisteria is unique. It is immediately adjacent to Monroe County's largest municipality, on a busy international and military port and in deep water. Wisteria shares none of the material characteristics of, and therefore doesn't belong in the same category as, the remote mangrove islands and native habitat preserves that comprise almost all "offshore islands".

As owner of Wisteria, we intend to participate fully and cooperatively in the BOCC-directed designation process. However, the course that this process has taken raises two serious concerns. The combination of time pressure and the lack of a suitable FLUM category other than RC is something that we would have no choice but to oppose.

First. A new land use category should accommodate the unique characteristics and development potential of a spoil island bordering a dense urban area and an active deep water port. Instead of opposing RC designation, we would much prefer to devote our efforts toward cooperatively building a constructive solution to this unique land use challenge.

Second. The proposed expedited schedule does not allow sufficient time for intergovernmental coordination with the City of Key West nor does it accommodate the alternative of holding a County Planning Commission hearing in Key West. Recent Resolutions adopted by the BOCC and the City Commission recognize the need for close coordination with the City and for participation by its residents in FLUM hearings concerning this island in Key West Harbor.

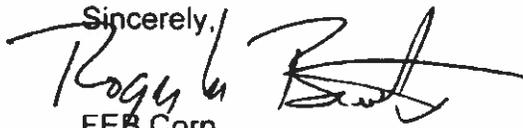
I realize that Growth Management Division is proceeding on a course directed by the BOCC, and will be understandably reluctant to change course without further direction by the BOCC. Having watched a video recording of the BOCC meeting at which that direction was given, it appeared to me that some members of the Board presumed RC designation to be the likely outcome of the process they directed. However, it was also evident that the Board explicitly avoided prejudging or directing that outcome, and instead sought a staff-driven recommendation. In light of staff's subsequent mapping work, and the conclusions that logically flow from it concerning the inadequacy of existing categories, I respectfully submit that everyone involved in the FLUM amendment process would be

Christine Hurley, Division Director  
Growth Management  
September 22, 2010  
Page 3

well served by redirecting the process toward creation of a new land use category narrowly tailored to meet Wisteria's unique circumstances, challenges and opportunities<sup>2</sup>.

Accordingly, the property owner requests that this matter be brought back to the BOCC at its next meeting for consideration of a revised directive, *i.e.*, drafting a land use category appropriate to Wisteria Island, to be included in the second 2011 transmittal.

Thank you and GMD staff for your professional and courteous consideration. Please be assured of our continued cooperation.

Sincerely,  
  
FEB Corp.  
Roger M. Bernstein, President

RMB/ves

<sup>2</sup> There appear to be numerous "true" Offshore Islands which have no FLUM or an inconsistent FLUM. Although Wisteria does not share their characteristics, this may be an appropriate time to review the other islands.

**MEMORANDUM**  
**MONROE COUNTY GROWTH MANAGEMENT DIVISION**  
*We strive to be caring, professional and fair*

**To:** Townsley Schwab  
Senior Director of Planning

**From:** Mitchell N. Harvey, AICP *mnH*  
Comprehensive Planning Manager



**Date:** October 26, 2010

**RE: Summary of Wisteria DRC Meeting Issues**

---

The following issues were raised by Nick Mulick, Owen Trepanier, and property owner Roger Bernstein at the Monroe County Development Review Committee (DRC) meeting that was held on 10/18/10 to review the draft staff report for the staff initiated proposed Wisteria Island Future Land Use Map (FLUM) amendment from undesignated to Residential Conservation (RC).

- Is a spoil island with no bird rookery an Offshore Island?

**Staff response:**

There is no definition of offshore island in the Comprehensive Plan or the Land Development Code.

Policy 102.7.2 of the Monroe County 2010 Comprehensive Plan states:

*By January 4, 1997, Monroe County shall adopt Land Development Regulations which will further restrict the activities permitted on offshore islands. These shall include the following:*

- 1. development shall be prohibited on offshore islands (including spoil islands) which have been documented as an established bird rookery or nesting area (See Conservation and Coastal Management Policy 207.1.2);*
- 2. campgrounds and marinas shall not be permitted on offshore islands;*
- 3. new mining pits shall be prohibited on offshore islands;*

4. *permitted uses by-right on islands (which are not bird rookeries) shall include detached residential dwellings, camping (for the personal use of the owner of the property on a temporary basis), beekeeping, accessory uses, and home occupations (subject to a special use permit requiring a public hearing);*
5. *temporary primitive camping by the owner, in which no land clearing or other alteration of the island occurs, shall be the only use of an offshore island which may occur without necessity of a permit;*
6. *the use of any motorized vehicles including, but not limited to, trucks, carts, buses, motorcycles, all-terrain vehicles and golf carts shall be prohibited on existing undeveloped offshore islands;*
7. *planting with native vegetation shall be encouraged whenever possible on spoil islands; and*
8. *public facilities and services shall not be extended to offshore islands.*

This Policy indicates development activities shall be prohibited on offshore islands with bird rookeries. The Future Land Use designation of RC does not prohibit development and is an adequate Future Land Use designation since no bird rookery is present.

Policy 207.1.2 of the Monroe County 2010 Comprehensive Plan states:

*Development shall be prohibited on offshore islands (including spoil islands) which have been documented as an established bird rookery, as identified on the current Protected Animal Species Map.*

According to the County's chief biologist, there are no established bird rookeries on Wisteria Island. Therefore, development is not prohibited on Wisteria Island. In addition, existence of a bird rookery is not required for an island to be considered an "Offshore Island".

In addition, Section 101-2(13)e of the Monroe County Land Development Code (LDC) states: *All keys or islands without a specific land use designation shall be considered zoned as off-shore islands whether they are labeled as (OS) OFF-SHORE ISLANDS, unlabeled, not shown on these maps, or lie beyond the areas covered by these maps. (Code 1979, Section 9.5-3; Ord. No 33-1986, Section 2-101; Ord, No. 39-1089, Section 1).*

This is why Wisteria Island is considered to be zoned (OS) OFF-SHORE ISLAND. According to Policy 101.4.21 of the Monroe County 2010 Comprehensive Plan, the only corresponding FLUM designation to OS is Residential Conservation (RC).

Section 130-40 and Section 130-90 of the LDC were consequently adopted to be consistent with Policy 102.7.2 of the Monroe County 2010 Comprehensive Plan, as cited above.

Section 130-40 of the LDC states: *The purpose of the OS District is to establish areas that are not connected to U.S. 1 as protected areas, while permitting low-intensity residential uses and campground spaces in upland areas that can be served by cisterns, generators and other self-contained facilities.*

This further defines offshore islands as areas not connected to US 1.

Section 130-90 of the LDC States:

*Offshore island district (OS):*

- (a) *The following uses are permitted as of right in the offshore island district:*
- (1) *Detached residential dwellings;*
  - (2) *Camping, for the personal use of the owner of the property on a temporary basis;*
  - (3) *Beekeeping;*
  - (4) *Accessory uses;*
  - (5) *Home occupations—Special use permit required;*
  - (6) *Tourist housing uses that were established (and held valid state public lodging establishment licenses) prior to January 1, 1996. Vacation rental use, of a dwelling unit in existence as of January 1, 2000, if a special vacation rental permit is obtained under the regulations established in section 134-1;*
  - (7) *Collocations on existing antenna-supporting structures, pursuant to section 146-5(3); and*
  - (8) *Satellite earth stations less than two meters in diameter, as accessory uses, pursuant to section 146-5(6).*
- (b) *The following is permitted as a minor conditional use in the offshore island district (OS), subject to the standards and procedures set forth in chapter 110, article III: satellite earth stations greater than or equal to two meters in diameter, as accessory uses, pursuant to section 146-5(6).*

Section 130-90 of the LDC specifies the uses permitted on land with an Offshore Island (OS) future land use district designation, consistent with Policy 102.7.2 of the Monroe County 2010 Comprehensive Plan.

- Wisteria is located in close proximity to Key West, a densely developed urban area and should be given a FLUM that is compatible with the surrounding area.

**Staff Response:** Any proposed increases in density and intensity from what is allowed under the Offshore Island (OS) land use district must demonstrate that there are sufficient facilities and services available to accommodate the impacts of development. Further, RC is not incompatible with the surrounding areas,

- Does concurrency apply to Wisteria at the FLUM amendment stage? Must facilities and services be available concurrent with the impact of development to support the approval of a FLUM amendment?

**Staff Response:** Florida Statutes and Rules require that facilities and services be available concurrent with the impact of development. The Florida Department of Community Affairs (DCA) requires local jurisdictions to provide a concurrency analysis as part of any proposed FLUM amendment that involves an increase of density and/or intensity. Although the property owner has demonstrated that there is sufficient capacity to accommodate impacts resulting from a FLUM of Mixed Use Commercial with a Sub Area Policy, they have not secured commitments from all service providers. Until such time as commitments are secured, staff can not support any proposed increases in density and intensity for Wisteria Island. RC would allow up to 5 units on Wisteria Island and OS allows camping or up to 2 units with cisterns. With RC and OS, you can develop self sustaining dwelling units.

- How many other spoil islands are undesignated?

**Staff Response:** Staff has reviewed the GIS and Property Appraiser data base. There are 196 privately-owned islands listed on the Property Appraiser's records. Only two privately owned islands have no FLUM designation:

RE 00124030-000000 – WOLKOWSKY DAVID W LIV TRUST – Ballast Key  
RE 00123950-000000 – FEB Corp – Wisteria Island

Wisteria Island is the only privately owned spoil island with no FLUM designation. Ballast Key is not a spoil island.

- Is the County obligated to follow the decision of an adjacent jurisdiction? This is in regards to the Key West City Commission vote of 5-0 to not support any County decision that affects Key West, which was made in response to the proposed Wisteria Island FLUM amendment to Mixed Use Commercial (MC) with a Sub Area Policy.

**Staff Response:** The “County” did not “follow” a decision of the adjacent City of Key West, as the application for Mixed Use Commercial with a Sub Area Policy was withdrawn. The County is required to coordinate with adjacent jurisdictions as stated in *Goal 1301* and *Objective 1301.1* of the Intergovernmental Coordination Element.

Goal 1301 of the Monroe County 2010 Comprehensive Plan states: *Monroe County shall promote and encourage intergovernmental coordination between the County; the municipalities of Key West, Key Colony Beach, and Layton; the Counties of Dade and Collier; regional, state, and federal governments in order to anticipate and resolve present and future concerns and conflicts.*

Objective 1301.1 of the Monroe County 2010 Comprehensive Plan states: *Monroe County shall establish or maintain coordination mechanisms to ensure that full consideration is given to the impacts of development allowed by the Monroe County Comprehensive Plan upon the plans of adjacent municipalities, adjacent counties of Dade and Collier, the region, the State and Federal Governments, as well as the impacts of those entities’ plans on the County.*

Consequently, in furtherance Goal 1301 and Objective 1301.1, the County has an obligation to consider and coordinate with the City of Key West regarding Wisteria Island and its impacts on Key West’s facilities and services when pursuing a proposed FLUM amendment.

- Is Wisteria Tier I based upon Policy 102.7.3 of the Monroe County 2010 Comprehensive Plan?

**Staff Response:** Policy 102.7.3 of the Monroe County 2010 Comprehensive Plan states: *Monroe County shall discourage developments proposed on offshore islands by methods including, but not limited to, designated offshore islands as Tier 1 Lands.* It is staff’s opinion that, based upon this Policy, all offshore islands are to be designated Tier I.

Wisteria Island was not included within the adopted Tier Overlay Map Series, therefore, Monroe County is processing all privately owned offshore islands not originally included in the adopted Tier Maps to obtain an official designation. Wisteria Island is to be included in the upcoming round of Tier Map reviews that will occur in 2011.

Naja Gerard, a concerned citizen, supported the staff recommendation of RC, but felt that the staff report’s FLUM map incorrectly indicated there were no listed species on Wisteria Island. It was noted that there may be osprey, bald eagle, and white crown pigeons nesting or using Wisteria Island. No evidence has been submitted to support this comment.

10/22/10

Mr. Townsley Schwab, Senior Director  
 Monroe County Planning and Environmental Resources  
 Marathon Government Center  
 2798 Overseas Highway, Suite 400  
 Marathon, FL 33050

TREPANIER



& ASSOCIATES INC

LAND USE PLANNING  
 DEVELOPMENT CONSULTANTS

**Re: Wisteria – FLUM Designation**

Dear Mr. Schwab:

Thank you for the opportunity to speak with the DRC on 10/18/10. As we stated at that meeting, we appreciate the Planning Department's hard work and commitment to implementing sound planning policy in the Florida Keys.

We have thoroughly reviewed the DRC staff report and believe there are several issues that warrant your further consideration:

1. The staff report proposes to assign a Future Land Use Map ("FLUM") designation of Residential Conservation ("RC") to Wisteria. According to the staff report the rationale for this proposed RC assignment is that because Wisteria has the default zoning of Off-Shore Island ("OS") according to MCC Sec. 101-2(13) RC is an appropriate FLUM designation. The analysis does not consider that by definition the assignment of a default OS zoning to Wisteria is predicated upon the fact that there was no critical and thoughtful analysis of Wisteria's characteristics as they relate to FLUM and zoning changes as required under MCC Sec. 105-158. To assign a FLUM designation on the basis of an arbitrary and default zoning category is not only inconsistent with, but also a rejection of, standard planning practice. A FLUM designation must be based on the unique characteristics of the land itself and that of the surrounding land not on the happenstance of an arbitrary and default zoning classification.
2. An RC designation of Wisteria would be inconsistent with the principal purpose of the RC category (Policy 101.4.1), because Wisteria is not "characterized by a predominance of undisturbed native vegetation". The staff report itself acknowledges this lack of undisturbed native vegetation but does not analyze the impact relative to the purpose of the RC category.
3. As demonstrated by the recent amendment process, no existing land use category is suitable for this unique property and while there are over 70 islands that either have no FLUM designation or have inconsistent designations for which RC may be appropriate, none share Wisteria's unique attributes and characteristics, which include:
  - Location within or adjacent to a deepwater commercial port designated in F.S. Sec. 403.021(9)(b);
  - Location adjacent to an urban area;
  - Location outside any Coastal Barrier Resource Area;
  - Location outside any National Wildlife Refuge;

- Generally meeting the County definition for disturbed lands; and
  - Access to water at least four (4) feet below mean sea level at low tide.
4. The technical documents used in the staff report and available at the DRC meeting show Wisteria as Tier 1 land. We'd like the record to be accurate in that Wisteria has never received a Tier designation;
  5. Finally, considering that an RC designation is clearly inappropriate based firstly on the land use and environmental characteristics of both Wisteria island and the surrounding islands, and secondly on the arbitrary and default zoning classification of OS, may I strongly suggest that this process be used to create an appropriate designation for this unique property based the land's characteristics and applicable comprehensive plan criteria rather than simply pounding a square peg into a round hole.

Thank you for you consideration.

Best regards,

A handwritten signature in blue ink, appearing to read "Owen Trepanier", written in a cursive style.

Owen Trepanier

## Harvey-Mitch

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**From:** Owen Trepanier [owen@owentrepanier.com]  
**Sent:** Monday, October 25, 2010 4:27 PM  
**To:** Harvey-Mitch  
**Subject:** FW: Wisteria - FLUM Designation  
**Attachments:** DRC response.pdf

Hi Mitch,  
Hope you had a nice weekend.  
Do you know if our point of view can be considered in the DRC staff report?  
Thanks.  
Owen

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**Trepanier & Associates, Inc.**  
Ph. 305-293-8983  
Fx. 305-293-8748

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**From:** Owen Trepanier  
**Sent:** Monday, October 25, 2010 11:05 AM  
**To:** 'Schwab-Townsley'  
**Subject:** Wisteria - FLUM Designation

Hi Townsley,  
Please see attached letter regarding the DRC staff report.  
Thanks.  
Owen

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**Trepanier & Associates, Inc.**  
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