

# Monroe County Working Waterfronts Preservation Master Plan

April 30, 2007

Prepared by:

South Florida Regional Planning Council  
Center for Urban and Environmental Solutions at Florida Atlantic University



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## Executive Summary

Monroe County consists of a 120-mile-long archipelago known as the Florida Keys, which is frequently separated into upper, middle and lower divisions. The low-lying islands of the Keys extend from the southeastern tip of the Florida peninsula to the Dry Tortugas and lie between the Gulf of Mexico and the Atlantic Ocean. They are separated from the mainland by Biscayne Bay, Barnes Sound, Blackwater Sound, and Florida Bay.

Recreational and commercial working waterfronts are a part of the history and culture that makes the Keys unique, and sustain a valuable resource that is essential to the County's quality of life. There are a number of important business sectors in Monroe County that depend on access to the water. A major concern of the consequences of changes in the working waterfront in the Florida Keys is the loss of commercial fishing, due to its historical and cultural importance.

Monroe County is losing recreational and commercial working waterfronts along with public access to the water through the redevelopment of marine facilities, including marinas, boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage. A limited supply of waterfront land and an increasing demand by different uses is leading to loss of the "working waterfront," which includes commercial marinas, boatyards, wet and dry storage, fish houses, commercial fishing vessel dockage and marine-related industries such as boat dealers, boat repair and maintenance services, commercial fishing and tourism. The current trends are conversion of waterfront to non-water dependent uses and privatization of waterfront reducing public water access.

The Monroe County Working Waterfronts Preservation Master Plan incorporates several products including:

1. Working Waterfronts Preservation Master Plan incorporating proposed CDMP and LDR amendments
2. Marine Facilities Database and GIS Map Atlas
3. Monroe County Marina Siting Plan

Recommendations are based on research which began in 2005 when Monroe County retained the South Florida Regional Planning Council (SFRPC) and the Center for Urban and Environmental Solutions of Florida Atlantic University (CUES) to develop a *Monroe County Marine Management Strategic Plan* to provide strategies for protecting and preserving the working waterfronts of Monroe County. Monroe County adopted the *Marine Management Strategic Plan* in March 2006. The following summer, work began on Phase 2.

The goal of Phase 2 is to develop a coordinated implementation strategy specifying government policies, programs, regulations and legislative measures that will establish the structure to achieve the objective of preserving the working waterfront. Phase 2 includes the refinement and updating of the Marine Facilities Database and Geographic Information System (GIS) Map Atlas and the development of a Marina Siting Plan as required by state statute.

The legal and regulatory framework around recreational and commercial working waterfronts in Monroe County is complex and extends beyond the County's own local laws, ordinances, and regulations. Preserving recreational and commercial working waterfronts requires changes to the County's land use framework. Specific amendments are being proposed to encourage the

preservation of the working waterfront, including commercial fishing and other water-dependent uses.

The proposed amendments strive to balance the need to preserve public access and maritime services which benefit the public with the property owner's desire to change to non-water dependent uses which could subsidize or otherwise provide greater revenue potential depending on changing market conditions

The working waterfronts database is an up-to-date and user-friendly catalogue of marine facilities in Monroe County. It is the result of the in-depth research and survey work performed by the project team during the preparation of both the *Marine Management Strategic Plan* (Phase 1) and the *Monroe County Working Waterfronts Preservation Master Plan* (Phase 2). It renders current and enhances Monroe County's marine facility database developed in the 1990's. Included as well is a revised GIS Map Atlas using updated facility information and latest aerial photographs.

Monroe County is required by state statute to develop a marina siting plan. However, unlike less developed and ecologically significant coastal areas of the state, the complex set of local, state, and federal laws and regulations guiding land development and natural resource protection in Monroe County provides an extensive framework that has resulted in limiting marina siting and expansion in many areas of the County. Under these circumstances, it is more likely that the *Monroe County Marina Siting Plan* will be used in future to assist staff and property owners in determining whether specific properties could be suitable to expand existing marine uses.

This project has focused on actions that can be implemented directly by Monroe County. However, County action alone cannot encompass the full range of possible policy or regulatory changes that could help in preserving and strengthening recreational and commercial working waterfronts in the Florida Keys. Other policy and regulatory possibilities will need to be further explored to complement the changes in policy suggested herein.

## Section 1: Introduction

### Background

A recreational and commercial working waterfront is defined in the Waterway and Waterfront Improvement Act, Florida Statute Sec. 342.07 (2005) as:

“A parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.”

Monroe County is experiencing the loss and redevelopment of waterfront marine facilities and their associated businesses and employment. A limited supply of waterfront land and an increasing demand by different uses is leading to loss of the “working waterfront,” which includes commercial marinas, boatyards, wet and dry storage, fish houses, commercial fishing vessel dockage and marine-related industries such as boat dealers, boat repair and maintenance services, commercial fishing and tourism. The current trends are conversion of waterfront to non-water dependent uses and privatization of waterfront reducing public water access.

This study has occurred in two phases, culminating in the recommendations for changes to Monroe County 2010 Comprehensive Master Development Plan and Land Development Regulations illuminated in this document. These recommendations are based on research which began in 2005 when Monroe County retained the South Florida Regional Planning Council (SFRPC) and the Center for Urban and Environmental Solutions of Florida Atlantic University (CUES) to develop a *Monroe County Marine Management Strategic Plan* to provide strategies for protecting and preserving the working waterfronts of Monroe County.

Monroe County adopted the *Marine Management Strategic Plan* in March 2006. The following summer, work began on Phase 2. The goal of Phase 2 is to develop a coordinated implementation strategy specifying government policies, programs, regulations and legislative measures that will establish the structure to achieve the objective of preserving the working waterfront. Phase 2 includes the refinement and updating of the Marine Facilities Database and Geographic Information System (GIS) Map Atlas and the development of a Marina Siting Plan as required by state statute.

### Acknowledgements

A number of individuals and organizations participated in the process of developing the Working Waterfronts Preservation Master Plan and Marina Siting Plan. These include:

**Monroe Board of County Commissioners**

Mayor Mario DiGennaro  
Mayor Pro Tem Dixie Spehar  
Commissioner Charles “Sonny” McCoy  
Commissioner George Neugent  
Commissioner Sylvia Murphy

**Monroe County Staff**

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Aref Joulani, Senior Director, Planning & Environmental Resources  
Jose Papa, Comprehensive Planning Manager  
Clarence Feagin, Senior Planner

**Monroe County Marine and Port Advisory Committee**

Names to be listed here

Without the participation of these individuals, this plan would not be possible. Their assistance is greatly appreciated.

## Section 2: Working Waterfronts in Monroe County

### Background

Monroe County is experiencing the loss and redevelopment of waterfront marine facilities and their associated businesses and employment. The current trends in the County and across the state are conversion of waterfront to non-water dependent uses and privatization of waterfront, reducing public water access. The Florida Legislature also recognized these trends and passed legislation in 2005 and 2006 requiring local government action.

The Monroe County Board of County Commissioners (BOCC) acknowledged the urgent need to address the loss of commercial and recreational “working waterfronts” following public meetings held in the summer of 2004. The BOCC then adopted Ordinance No. 017-2005 in July 2005, imposing a moratorium on the redevelopment and conversion of marine facilities, including commercial marinas and the working waterfront. During this timeframe, Monroe County retained SFRPC and CUES in March 2005 to develop the *Monroe County Marine Management Strategic Plan* (available online at <http://www.sfrpc.com/mcmmsp.htm>). The *Plan* consisted of several distinct parts including a working waterfronts report, a legal overview, a general policies report, demographic and economic analysis, and a GIS map atlas of marine facilities. In addition, a list of proposed Action Steps was provided in the *Final Report of the Monroe County Marine Management Strategic Plan*, which was submitted to the County in January 2006. The BOCC accepted the findings of this report in March 2006.

In June 2006, the BOCC directed County staff to extend the Interim Development Ordinance (IDO) and adopt amendments to the Monroe County 2010 Comprehensive Master Development Plan (CDMP) and Land Development Regulations (LDRs). This IDO is set to expire on July 10, 2007, or when amendments to the CDMP and LDRs to help preserve working waterfronts become effective, whichever occurs first.

In response to the IDO extension and as a follow-up to the earlier work, Monroe County contracted with the SFRPC and CUES in September 2006 to enhance the understanding of existing water-dependent uses by conducting a survey of the marine facilities identified in the first phase of the project, preparing CDMP and LDR amendments, and a Marina Siting Plan. Stakeholder involvement has been solicited throughout both phases of the study, as an overall waterfront protection strategy is developed for the Florida Keys.

### Study Area

Monroe County consists of a 120-mile-long archipelago known as the Florida Keys, which is frequently separated into upper, middle and lower divisions. The low-lying islands of the Keys extend from the southeastern tip of the Florida peninsula to the Dry Tortugas and lie between the Gulf of Mexico and the Atlantic Ocean. They are separated from the mainland by Biscayne Bay, Barnes Sound, Blackwater Sound, and Florida Bay.

The study area for this plan is Monroe County from mile marker 126 thru 0 on U.S. 1 and portions of County Road 905 in Key Largo.<sup>1</sup> The County population of 80,510<sup>2</sup> is spread across only 30 of the

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<sup>1</sup> Mile markers are often used as referencing points to provide direction for residents and tourists of Monroe County.

822 islands of the Keys and is connected by 19 miles of bridges.<sup>3</sup> People of Hispanic origin (independent of race) made up 16% of residents in 2000, and non-Hispanic whites accounted for another 77%. The remaining 7% of Monroe County residents were of other non-Hispanic races, including Black and African American (4%). The median age of Monroe County residents is 42.6 years. The County's average household size is 2.2, with a per capita income of \$37,901.<sup>4</sup>

It is believed that the Keys evolved from the eroded foothills of the ancient Appalachian mountains into surfaces made up of limestone and fossilized reefs. Over many centuries, a unique system of plants and animals has evolved on the islands and adapted to the warm, subtropical environment of the Keys. Public lands have now been acquired to preserve over 100 endangered and threatened species of the islands such as Marsh Rabbit, Key Deer, and the American Crocodile. In fact, more than 60 percent of the land mass in the Keys is in government ownership. Development pressure on the Keys has also prompted state lawmakers to designate the area a place of "critical state concern."

The islands feature sensitive coral reefs just off the shoreline. The waters are highly productive marine nurseries, resulting in a world-wide diving, fishing, and boating destination. The millions of tourists who visit the Keys provide a major source of employment for local residents. Another appealing element of the Keys is a relaxed lifestyle exhibited by residents and an eclectic mix of artists, writers, musicians, and others who contribute to the unique culture. The rich history of the Keys also attracts a fair share of visitors to museums, historical centers, and the town of Key West.

### The Upper Keys

The Upper Keys region includes the island areas from Florida City south to Channel 2.<sup>5</sup> In 2000, this area had a total population of 22,013 residents and 16,978 housing units. About one-third (5,795) of the housing is seasonal, recreational, or occasional use. The Upper Keys are known for numerous restaurants, businesses, beaches, and other natural amenities that provide convenience for residents and fascination for visitors. A map showing the Upper Keys is shown in Figure 1.

The largest of all the islands of the Keys is Key Largo, located south of Florida City, and ending at Angelfish Key in the Atlantic Ocean.<sup>6</sup> Key Largo boasts a population of 12,971 residents and covers 5,186 acres of land. The area is known as the "diving capital of the world" and features two of the most beautiful underwater attractions: John Pennekamp Coral Reef State Park and Key Largo National Marine Sanctuary. Key Largo has a total of 9,694 housing units, 31.2 percent of which are intended for seasonal, recreational, or occasional use. More than 70 percent of the 5,853 housing units are owner-occupied.

Continuing south on U.S. 1, the community of Tavernier<sup>7</sup> is a place known to be rich in history and character. It has a population of 3,852 residents.<sup>8</sup> This town was one of the earliest settled regions in the Keys and was used as a launching point for the wrecking industry (salvaging of goods from ship wrecks) prevalent in the 1800s. Tavernier also had a thriving farming industry before the major

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<sup>2</sup> University of Florida Bureau of Economic and Business Research, 2007.

<sup>3</sup> The demographic descriptions of the Keys are based on data from the 2000 U.S. Census and calculated by grouping study areas together based on zip codes.

<sup>4</sup> Most demographic information is based on the 2000 U.S. Census.

<sup>5</sup> Near mile marker 73 on US 1 and the islands connected by County Road 905.

<sup>6</sup> U.S. 1 mile marker 97 to 107 and extending onto County Road 905.

<sup>7</sup> It is located between mile marker 91 and 97.

<sup>8</sup> Livable CommuniKeys Master Plan – Tavernier Creek, Monroe County Government.

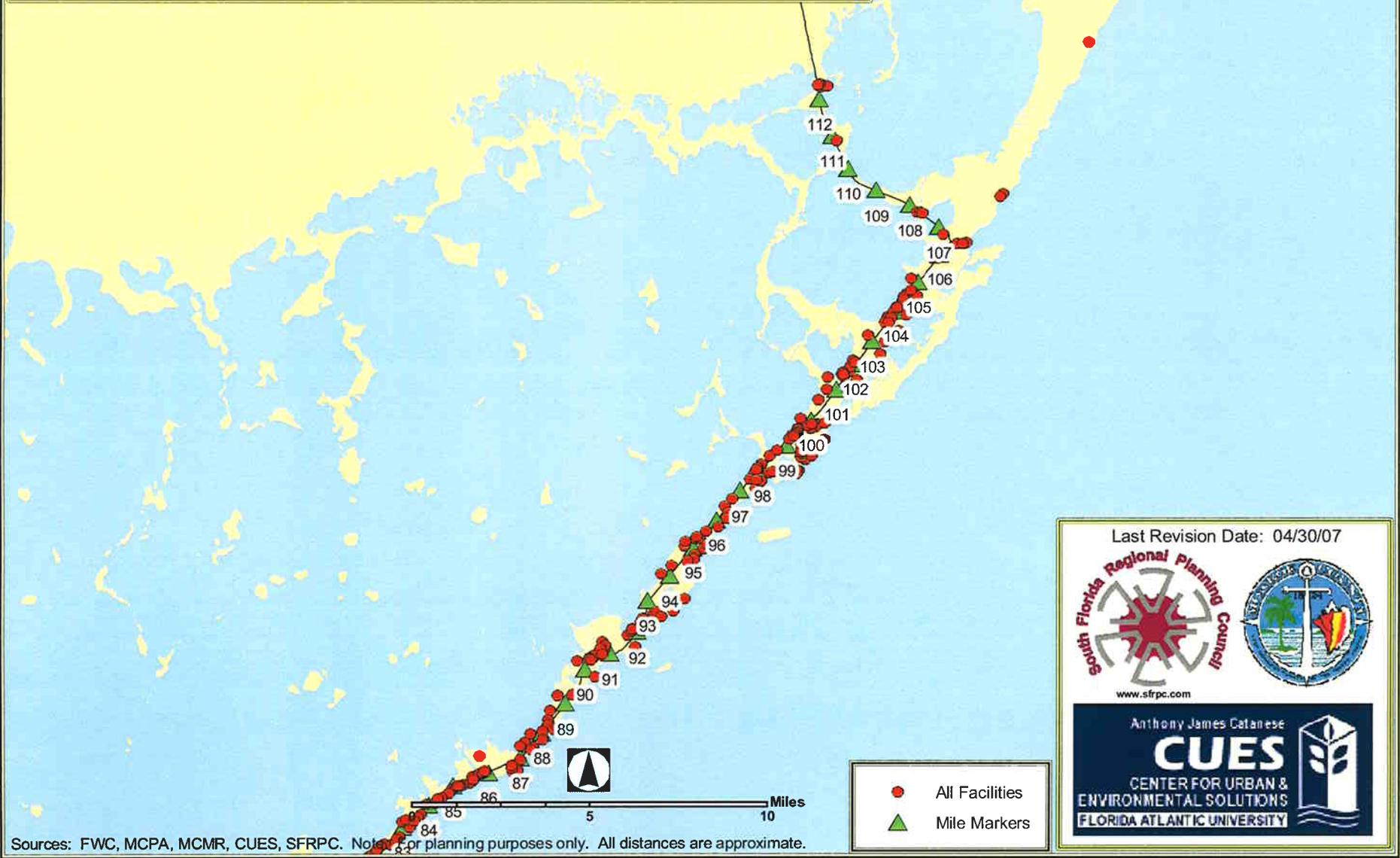
hurricane of 1935 destroyed the main farming export routes. Today, the community is comprised of a mix of single family and mobile homes, condominiums, small marine-related businesses, and other light industrial uses.

One of the most popular Keys in the Upper Keys region is Islamorada.<sup>9</sup> It is often referred to as the “sportfishing capital of the world” and attracts tourists worldwide to compete in its many fishing tournaments. An interesting site on Islamorada is Lignumvitae State Botanical Park, the highest point of the Keys at 18 feet above sea level. The 2005 population of Islamorada is 3,485 but this varies considerably, depending on seasonal visitors, as in the rest of the Keys.

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<sup>9</sup> Located roughly between mile markers 80 and 85 on U.S. 1.

# Monroe County Working Waterfronts Preservation Master Plan and Marina Siting Plan Marine Facilities Database Upper Keys



Sources: FWC, MCPA, MCMR, CUES, SFRPC. Note: For planning purposes only. All distances are approximate.

## The Middle Keys

The Middle Keys region<sup>10</sup> runs from Channel 2 to the 7-mile bridge and is often referred to as the “heart of the Keys.” It contains an abundance of activities for year-round residents and tourists alike, such as beaches, cinemas, water activities, restaurants, bars, and businesses. The population in this region is 12,030 with most people residing in Marathon. In 2000, there were 9,681 housing units in the Middle Keys, and 5,506 of these units are owner-occupied.<sup>11</sup> A map of the Middle Keys is shown in Figure 2.

The less developed portion of the Middle Keys is Long Key,<sup>12</sup> with a population of only 544 residents. At the time of the 2000 U.S. Census, there were 252 of the 767 housing units occupied with nearly 80 percent of them being owner-occupied. A large portion of Long Key is dedicated as a state park, which has become a favorite for campers and nature-seekers. There is an abundance of wildlife onshore and offshore that can be experienced by canoe or nature trails when visiting Long Key State Park.

The City of Marathon<sup>13</sup> has evolved from a small fishing village into a town with its own airport, business clusters, and visitor attractions incorporated in 1999. It also has many of the common natural habitats of the Keys, such as seagrasses, mangroves, wetlands, and hardwood hammocks. The dredge and fill activities of the 1950s and 1960s were significant in altering the landscape of this area, allowing for greater residential and commercial development. The area has a 2005 population of 10,255 residents, with almost 65 percent of them owning houses in Marathon.

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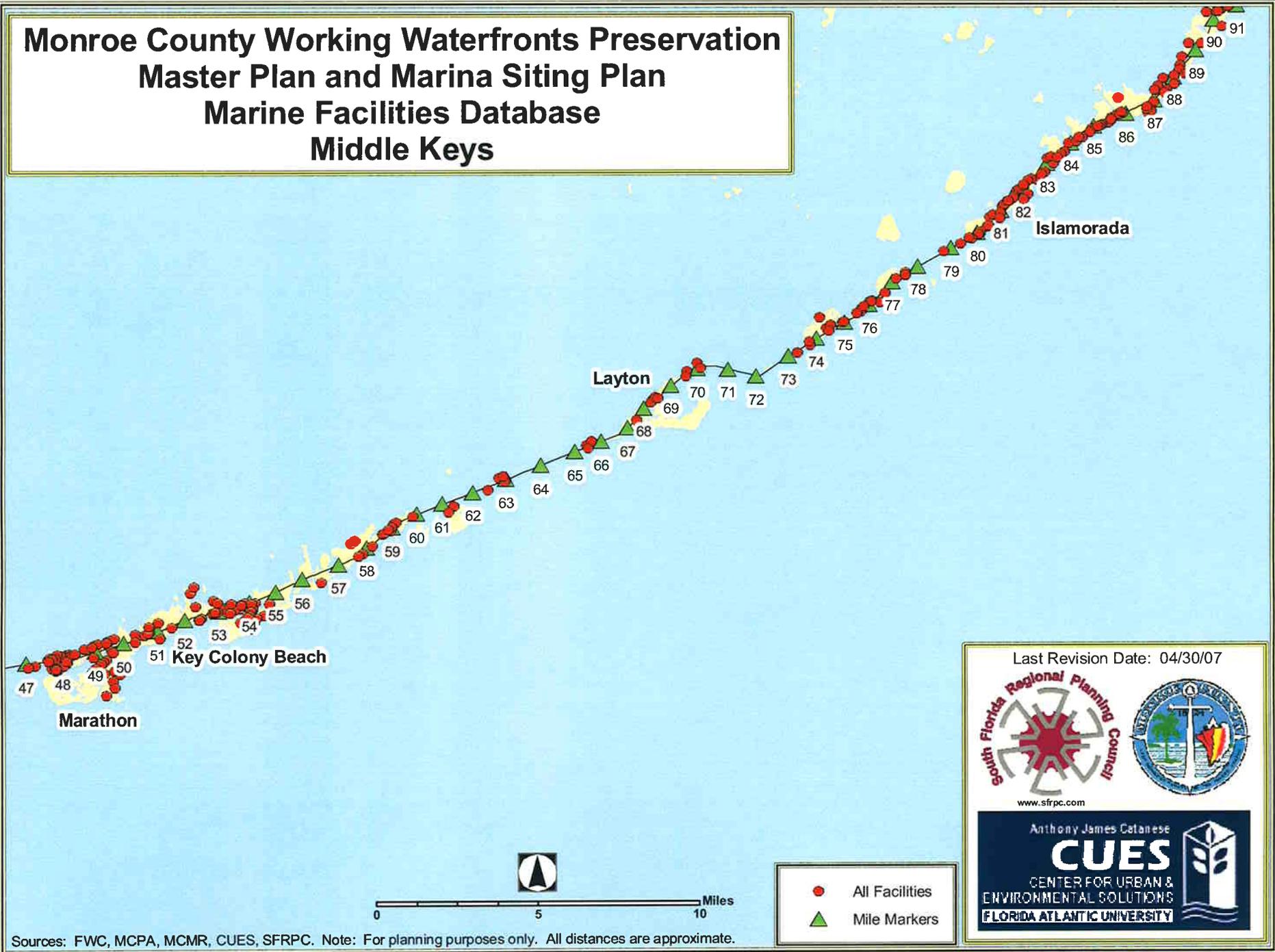
<sup>10</sup> Begins at mile marker 42 and ends at Craig Key or just before mile marker 73.

<sup>11</sup> The zip codes that are considered to be part of the middle Keys are 33001, 33050, and 33051.

<sup>12</sup> This area stretches from mile marker 65 to mile marker 72 at Craig Key.

<sup>13</sup> Between mile marker 47 and 60

# Monroe County Working Waterfronts Preservation Master Plan and Marina Siting Plan Marine Facilities Database Middle Keys



Sources: FWC, MCPA, MCMR, CUES, SFRPC. Note: For planning purposes only. All distances are approximate.

## The Lower Keys

The Lower Keys region extends from mile marker 0 in Key West to mile marker 41, just past Little Duck Key on the 7-mile bridge. This area features something for everyone with the obvious focus on water activities, nature tours, historical centers, and vibrant night life. In 2000 the Lower Keys region<sup>14</sup> had a population of 45,486, with more than 75 percent of residents in the City of Key West. There were a total of 24,913 housing units in this region, and 19,589 or 78 percent of them are owner-occupied. It should be noted that the population of the Keys can increase by as much as 35 percent in the winter months and during certain festivities.<sup>15</sup> A map of the Lower Keys is shown in Figure 3.

The northernmost portion of the Lower Keys contains Big Pine Key, No Name Key, Spanish Harbor Keys, Bahia Honda, and Money Key. This area is connected by U.S. 1 mile markers 30 thru 41 and had a population of 5,159. There are 2,320 occupied housing units spanning these islands, with more than 75 percent of them owner-occupied units. It is also notable that habitat conservation is especially important in this region due to the large population of Marsh Rabbit and Florida Key Deer that are found here.

The Keys stretching from Lower Sugarloaf Key (mile marker 16) to Little Torch Key (mile marker 29) has a total population of 6,097. There are 2,742 occupied housing units, with over 80 percent of them being owner-occupied units. The area has a mix of residential, commercial, and vacation-style resorts. This group of islands makes up some of the least developed areas in the Keys and is also known for its unique native wildlife. Berky Bat Tower and Looe Key National Marine Sanctuary are notable landmarks in this area.

Stock Island, located to the north of Key West at about mile marker 5, is the southernmost portion of unincorporated Monroe County. The island is home to an important community of workers and businesses that serve the local economy. More recently, the area has been facing increased pressure to redevelop many of its waterfront industries into upscale residential communities. Of great significance is the fact that this island contains the only industrial, deepwater port remaining in the lower Keys.

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<sup>14</sup> Contains the zip codes of 33040, 33042, and 33043

<sup>15</sup> Percentage increase was calculated by dividing the housing units for seasonal, recreational, or occasional use by occupied housing units for Monroe County using the 2000 U.S. Census.

# Monroe County Working Waterfronts Preservation Master Plan and Marina Siting Plan Marine Facilities Database Lower Keys



0 Key West

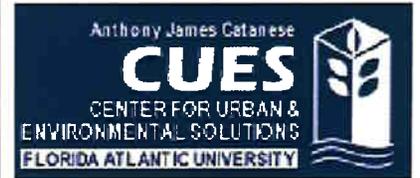


- All Facilities
- ▲ Mile Markers

Last Revision Date: 04/30/07



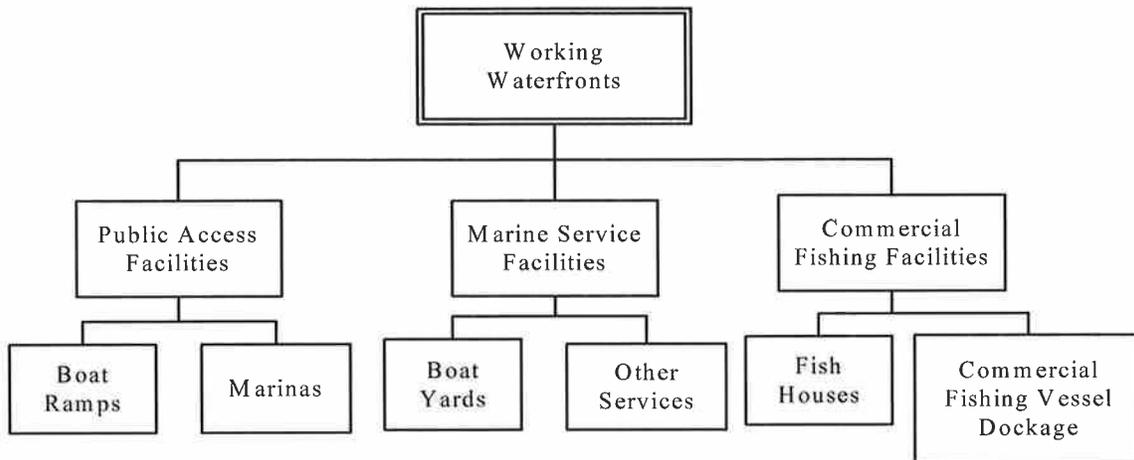
www.sfrpc.com



Sources: FWC, MCPA, MCMR, CUES, SFRPC. Note: For planning purposes only. All distances are approximate.

In Monroe County, recreational and commercial working waterfronts encompass a wide variety of uses and activities, both commercial and recreational, as illustrated in the diagram which follows.

**Figure 4: Recreational and Commercial Working Waterfronts in Monroe**



Monroe County is losing recreational and commercial working waterfronts along with public access to the water through the redevelopment of marine facilities, including marinas, boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage, at what seems an unprecedented rate. In order to get a handle on the pace of conversion, the project team identified and analyzed both state and local datasets to evaluate the rate, magnitude and characteristics of working waterfront conversion in the Florida Keys over the last five years.

Current and historic Monroe County property appraiser’s data were analyzed to try to pinpoint changes in property codes indicative of working waterfront conversion. This data did point to broad land use changes. For example, property codes would show that a certain property converted from commercial to vacant. However, property codes could not provide sufficiently detailed information to extract changes related to working waterfronts from the database and identify the precise characteristics of these changes. In addition, Monroe County building permit data was obtained and analyzed in the hopes of generating a more complete picture of working waterfront conversion. This dataset reflected all permitted new and modified structures in the Keys; however, it only classified new structural changes into general categories - residential, commercial and industrial – impeding the ability to isolate working waterfront properties and classify new property uses unfolding there. Finally, state data were obtained from the Department of Business and Professional Regulation (DBPR) and Department of Revenue (DOR). These datasets only denoted conversion of a subset of the Monroe County parcels affected by conversions and did not specify the new uses to which parcels were converted. In conclusion, existing data sources could not provide a sufficiently specific understanding of working waterfront conversion because of their limited structure and content. Regardless of the limitations of the existing datasets, one need only drive through the Keys to see the significant change and redevelopment of waterfront properties and marine related uses.

## **The Economic, Historic and Cultural Importance of Recreational and Commercial Working Waterfronts in Monroe County**

Recreational and commercial working waterfronts are a part of the history and culture that makes the Keys unique, and sustain a valuable resource that is essential to the County's quality of life. There are a number of important business sectors in Monroe County that depend on access to the water. A major concern of the consequences of changes in the working waterfront in the Florida Keys is the loss of commercial fishing, due to its historical and cultural importance.

In Phase 1, the project team carried out a demographic and economic analysis of the marine industry in Monroe County and simulated the results of the loss of marine-related activities using REMI Policy Insight.<sup>16</sup> The analysis showed the following under the two scenarios tested. The loss of the entire commercial fishing industry and associated fish houses without any replacement economic activities is estimated to lead to a reduction of approximately 3% in economic output for the Florida Keys over a 25-year horizon. The conversion of half of the marinas and boatyards into residential units, with the corresponding increase of the resident population, could lead to almost 2% in additional economic output for Monroe County. These impacts, while modest when viewed from a strictly economic perspective, do not consider the exceptional historical and cultural value of the "working waterfront" in Monroe County.<sup>17</sup>

## **Section 3: Working Waterfront Preservation Strategies and Tools**

### **Comprehensive Plan and Land Development Regulation Amendments**

Preserving recreational and commercial working waterfronts requires changes to the County's land use framework. The project team reviewed the current Monroe County's current Comprehensive Plan and the Land Development Regulations and crafted specific amendments to encourage the preservation of the working waterfront, including commercial fishing and other water-dependent uses. The full texts of the proposed amendments can be found in Appendices 1 and 2.

The legal and regulatory framework around recreational and commercial working waterfronts in Monroe County is complex and extends beyond the County's own local laws, ordinances, and regulations. The Federal and State governments each have adopted legislation to protect certain aspects of the Florida Keys. For example, the Federal Government passed the Florida Keys National Marine Sanctuary and Protection Act in 1990 to protect the environmentally sensitive waters surrounding the Keys. The State of Florida has declared Monroe County an Area of Critical State Concern to address issues dealing with the local economy, environment, and community needs. It was this designation that led to the creation of a carrying capacity study and a new system for permitting development (the Tier System). The locally adopted Monroe County Year 2010

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<sup>16</sup> REMI is an economic and demographic forecasting and policy analysis model developed by Regional Economic Models, Inc. The model is calibrated for each of the seven counties of southeast Florida (Monroe to Indian River), and includes a "Rest of Florida" component to enable measurement of the interaction of the regional economy with the rest of the state. It uses a large amount of detailed economic and demographic data to establish a "baseline" forecast for each county out to the year 2050.

<sup>17</sup> For the entire results and additional background, see *Monroe County Marine Management Strategic Plan Appendix 4, Demographic and Economic Analysis of Monroe County and the Marine Industry*, December 2005.

Comprehensive Plan addresses a variety of concerns of the State, while more specifically addressing the needs and desires of the local community, offering a vision for the future.<sup>18</sup>

Changing existing County policy with respect to working waterfronts begins with changes to selected goals, objectives, and policies in the Monroe County 2010 Comprehensive Development Master Plan. The Land Development Regulations support and implement the CDMP through the daily work of reviewing and permitting changes in land use and properties. They work together to achieve the BOCC's stated policy goals. Amending the CDMP and supporting LDRs to control certain conversions and redevelopments is recommended to help limit future losses of working waterfront and public access. Their continuing loss will negatively affect the economy and bring an end to critical marine services (e.g. boatyards), marinas that are available to the public, and traditional trades associated with commercial fishing and recreation.

The proposed amendments strive to balance the need to preserve public access and maritime services which benefit the public with the property owner's desire to change to non-water dependent uses which could subsidize or otherwise provide greater revenue potential depending on changing market conditions.

### **Proposed Changes to the Future Land Use Element**

*Data and Analysis for Revision of Future Land Use Element Policy 101.4.5:* The purpose of the amendment is to maintain and enhance the commercial fishing activities within the Mixed Use/Commercial land use category. The language added maintains the objective of preserving commercial fishing activities and supports the direction the BOCC is taking in protecting the working waterfront and community character. Commercial fishing is an important economic engine in Monroe County, which ranks among the top 10 nationally in terms of fishing landings. Data compiled by the University of Florida for the Bureau of Economic and Business Research shows that for 2004, the total quantity of landings added up to 14,694,007 pounds. House Bill 955 (Chapter 2005-157, Laws of Florida), the Florida Waterway and Waterfront Improvement Act of 2005. This act amends Chapter 163, Part II, of the Comprehensive Planning and Land Development Regulation Act, Section 163.3177, F.S., to require Comprehensive Plans of coastal counties, such as Monroe County, to adopt strategies and incorporate in the Comprehensive Plan regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts, including public access.

*Data and Analysis for Revision of Future Land Use Element Policy 101.4.6:* The purpose of the text amendment is to ensure the development of employee and workforce housing within the Mixed Use/Commercial Fishing land use category. This land use category already allows residential uses but the additional text clarifies the types of residential units to be built within the Mixed Use/Commercial Fishing land use category. The text revision supports the BOCC commitment to the provision of affordable housing, which supports the commercial fishing industry by ensuring that workers within the industry have affordable housing. Additional text amendments to this policy clarify that sport fishing, charter boats, and all water dependent and water related uses are highly encouraged within the Mixed Use/Commercial Fishing land use category.

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<sup>18</sup> See *Monroe County Marine Management Strategic Plan, Appendix 1: Legal Overview and General Policies Report*, December 2005 for additional detail.

Data and Analysis for Revision of Future Land Use Element Policy 101.4.7: The purpose of the text amendment is to clarify the purpose of the Maritime Industries (MI) land use district within the Industrial future land use category. The purpose statement has been included in the comprehensive plan to clarify that the MI land use district's main purpose is to establish and conserve areas for maritime uses, including employee housing.

### **Proposed Changes to the Conservation and Coastal Management Element**

Data and Analysis for New Goal 219, Community Character and Preservation of Working Waterfronts: The purpose of the new goal is to establish that the preservation of community character and recreational and commercial working waterfronts is a desired goal of the BOCC and is in keeping with the passage of House Bill 955 (Chapter 2005-157, Laws of Florida), the Florida Waterway and Waterfront Improvement Act of 2005. This act amends Chapter 163, Part II, of the Comprehensive Planning and Land Development Regulation Act. Section 163.3177, F.S., requires coastal counties to adopt strategies and incorporate in their Comprehensive Plan regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts, including public access. Commercial fishing activities and tourism play a substantial role in the County's economy. A study conducted in the mid-1990s revealed that the Keys then served as host to approximately three million visitors per year who spent roughly \$1.2 billion. In addition, the data showed that \$50- to \$70-million per year were realized from combined catches of spiny lobster, stone crab, and scale fish.

Data and Analysis for New Objective 219.1 on Community Character and Preservation of the Working Waterfronts: The new objective lays out specific measures that the BOCC will take to meet the goal of preserving community character and recreational and commercial working waterfronts. Policies established under the new objective shall protect the waterfront from further non-water dependent uses and the privatization of waterfront that reduces public access to the water. Strategies include, but are not limited to, the expansion and redevelopment of current marinas, the creation of flexible land use regulations pertaining to the working waterfront, intergovernmental coordination, and the establishment of preservation policies.

Data and Analysis for New Policy 219.1.1: Monroe County has been experiencing the loss and redevelopment of waterfront marine facilities and their associated businesses and employment. Current trends are conversion of waterfront marine facilities and their associated businesses to non-water dependent uses and privatization of waterfront, reducing public water access. A growing population and rising property values along the coast further drive the trend to convert marinas and waterfront properties into residential units. As pointed out in the data and analysis for the Conservation and Coastal Element, the County is heavily reliant on commercial fishing activities and tourism to support its economy. Losing waterfront land to private developers could have a devastating effect on the commercial and recreational working waterfront resulting in a future downturn in the County's economy.

Data and Analysis for Policy 219.1.2: The purpose of the new policy is to lay out comprehensive strategies to protect the waterfront from further privatization through partnerships with the State and Monroe County municipalities to revitalize, enhance, and protect the waterfront. The County will also explore the possibility of purchasing land or development rights along the waterfront in order to preserve the waterfront for the community and commercial and recreational activities.

Data and Analysis for Policy 219.1.3: In keeping with the goal of maintaining public access to navigable waterways, this policy states that the County will not vacate or diminish publicly owned pathways and ends of roads.

Data and Analysis for Policy 212.4: The objective has been changed to reflect the need to refer to the Marina Siting Plan in the development, redevelopment, and expansion of new marinas within unincorporated Monroe County. The objective also states the importance of locating marinas in areas with the maximum physical advantages, and minimizing any environmental impacts.

Data and Analysis for Policy 212.4.1: This policy is being removed upon the adoption of the *Monroe County Marina Siting Plan* (MSP) and completion of the marina survey.

Data and Analysis for Policy 212.4.2: This policy is being removed upon the completion of the marina survey.

Data and Analysis for Policy 212.4.3: This policy is being removed upon adoption of the *Monroe County Marina Siting Plan*. The *Marina Siting Plan* will be referred to for criteria in the development, redevelopment, or expansion of marinas within unincorporated Monroe County.

Data and Analysis for Policy 212.4.4: Language has been added referencing the *Marina Siting Plan* criteria for building, expanding, redeveloping, and developing marinas within unincorporated Monroe County.

Data and Analysis for Policy 212.4.6: This policy is being removed. Development of new marinas may take place provided that criteria specified in the *Marina Siting Plan* have been met and the necessary permits from all applicable state and federal regulatory agencies have been obtained.

Data and Analysis for Policy 212.4.7: Additional language has been added to ensure that anyone expanding or redeveloping existing marinas obtain all necessary permits from all applicable state and federal regulatory agencies.

Data and Analysis for Policy 213.1.2: As part of the definition contained within the Waterway Improvement Act, F.S. Sec. 342.07 (2005), recreational and commercial working waterfront is:

*“A parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water....”*

New language has been added stating the BOCC’s goal of ensuring adequate public access. In carrying out this goal, the County has committed to completing a Public Access Plan to assess the community’s needs for public access to the waterfront.

## **Land Development Regulations Data and Analysis**

Monroe County’s Land Development Regulations were reviewed to identify potential inconsistencies in permitted uses within the various land use districts which could allow conversion to non-water dependent uses. The majority of the County’s recreational and commercial working waterfronts are located within several land use districts: Marine Industrial (MI), Mixed Use (MU) and Suburban Commercial (SC). Within each of these districts numerous non-water dependent uses

are permitted as-of-right, or as minor or major conditional uses, providing a potential mechanism for conversion.

Proposed Changes to Chapter 9.5, Article 1, Section 9.5-4, Definitions: New or amended definitions are proposed for the terms boatyard, commercial fishing, recreational and commercial working waterfronts, and water dependent and water related uses. These definitions provide clarification on terms used in policies throughout the Monroe County 2010 Comprehensive Plan and Land Development Regulations that protect uses pertinent to the County's character and economy, such as public access to navigable waters, marinas, and commercial fishing.

Proposed Changes to Section 9.5-250 Maritime Industries District (MI): Changes to this district have been made to meet the goal of preserving maritime industries along the waterfront. As-of-right uses will include employee housing. Small hotels will be allowed as a major conditional use in this land use district. A *Marina Siting Plan* will be adopted by reference through the CDMP. Marinas may be built or redeveloped as a major conditional use if all criteria set forth in the *Marina Siting Plan* has been met.

Proposed Changes to Section 9.5, Article 7, Division 3, including new Section 9.5-272, Recreational and Commercial Working Waterfronts: This new section of the Land Development Regulations is consistent with Goal 219, Community Character and Preservation of Working Waterfronts, of the Monroe County 2010 Comprehensive Development Master Plan. The new regulations set forth the amount of allowable redevelopment of water-dependent uses within unincorporated Monroe County. The regulations also provide incentives, methods of alternative compliance, and exemptions providing flexibility to property owners.

Proposed Changes to Chapter 9.5, Article 5, Section 9.5-143, Nonconforming Uses: New language clarifies that within commercial fishing land use districts, Commercial Fishing Area (CFA), Commercial Fishing Village (CFV), and Commercial Fishing Special Districts (CFSD), non-conforming uses may be re-established, which allows flexibility within these land use districts.

Proposed Changes to Chapter 9.5, Article 5, Section 9.5-144, Nonconforming Structures: New language allows for flexibility in the rebuilding of nonconforming structures in land use districts primarily devoted to water dependent uses. This policy is consistent with the goal of protecting Monroe County's working waterfront and commercial fishing industry, which are valuable to the County's character and economy.

## **Marine Facilities Database and Geographic Information System (GIS) Mapping**

### **Marine Facilities Database and Survey Overview**

As part of the Phase 2 effort, the project team revised the Marine Facilities Inventory Map Atlas from Phase 1 using the updated facility information and latest aerial photographs. To illustrate the kinds of analysis possible using the database within a GIS environment, Council staff prepared sample maps illustrating facilities in the Upper, Middle, and Lower Keys that include activities consistent with the working waterfront.

The working waterfronts database is an up-to-date and user-friendly catalogue of marine facilities in Monroe County, created using Microsoft Access software. It is the result of the in-depth research and survey work performed by the project team during the preparation of both the *Marine*

*Management Strategic Plan* (Phase 1) and the *Monroe County Working Waterfronts Preservation Master Plan* (Phase 2). It renders current and enhances Monroe County's marine facility database developed in the 1990's.

During the preparation of the *Monroe County Marine Management Strategic Plan* (Phase 1) in 2005, the project team researched and compiled a listing of all identifiable marine facilities in Monroe County using several key data sources: the original Monroe County database, the Florida Fish and Wildlife Research Institute (FWRI) Marinas Database, the Florida Department of Environmental Protection (FDEP) Marinas Database, several public websites and the latest aerals. Together, these combined datasets generated a list of 442 marine facilities<sup>19</sup>

To validate and improve this initial dataset, the project team collaborated with the Florida Fish and Wildlife Conservation Commission (FWC) to survey all listed sites as part of the Working Waterfronts Preservation Master Plan. Parallel to the Monroe County project, CUES has been working with FWC, Urban Harbors Institute at the University of Massachusetts-Boston, and Bordner Research to help build a comprehensive database focused on statewide recreational boating facilities such as marinas, boat ramps, dry storage facilities, mooring fields, and docks. The Monroe County Marine Facilities Database and GIS Map Atlas has a broader survey scope than the FWC project, including both recreational and commercial working waterfronts, so survey crews from the project team and the FWC worked in the field to ensure that both commercial and recreational marine facilities were visited to collect additional information from management and staff.

The survey results refined the information captured in Phase 1 of this study and provided additional information on characteristics such as wet slips, broadside space, dry storage, ramps/hoists, liveaboards, parking, and mooring fields. Field crews were also instructed to collect information on the kinds of activities taking place at the facilities, such as commercial fishing, a restaurant, seafood processing, charter fishing, associated residential uses, boat repair or seafood sales. In the process, more than 100 additional facilities were included in the database.

The updated database provides the County with the ability to analyze the extent, location and composition of its working waterfronts and enables County staff to sort through all data entries to find and review key marine facilities. When used in a GIS environment, the information can be displayed over other layers of information, such as parcels, land use districts, and key environmental features. Using specific queries, the location, characteristics, activities and surrounding uses of marine facilities and working waterfront related clusters can be easily mapped for review and further analysis. This database is a powerful tool that will remain relevant into the future; County staff can easily update facility information as changes are identified.

The working waterfronts survey information also serves as the basis for the *Working Waterfronts Preservation Master Plan* GIS mapping. The survey information, coupled with recent aerial photography of Monroe County, has been used to prepare a revised map atlas of marine facilities throughout the Keys, creating a series of maps illustrating facilities in the Upper Keys, Middle Keys, Lower Keys, and on Stock Island that include activities consistent with the recreational and commercial working waterfront. The map atlas is provided under separate cover.

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<sup>19</sup> See *Monroe County Marine Management Strategic Plan, Appendix 3: Map Atlas for the Marine Facilities Inventory* for the full Phase 1 list

In addition, the project team developed a set of criteria to enable the quick identification of the characteristics of the facilities included in the inventory. The criteria are listed in Table 1, along with a description of how they were applied. Using the information contained in the updated database, each facility was assigned the characteristics if responses to the survey or information gathered through any of the initial sources supported the classification.

**Table 1**  
**Monroe County - Working Waterfront Facilities Database**  
**Classification Criteria for Waterfront Facilities**

Facility Characteristic	Description of Facility Characteristic
Marina (Monroe County)	(M-5) Marina means a facility for the storage (wet and dry), launching and mooring of boats together with accessory retail and service uses, including restaurants and liveboards, charter boat and sport diving uses, except where prohibited, but not including docks accessory to a land-based dwelling unit limited to the use of owners or occupants of those dwelling units.
Commercial Fishing	Any water-dependent facility (marina, boat yard, etc.) that provides support services to commercial fishing activities
Seafood Processing	Any water-dependent facility that receives fresh seafood for processing
Seafood Sales	Any water-dependent facility that receives fresh seafood from commercial fishermen for resale
Trap Yard	Space for storage of lobster traps and access to load / unload them on vessels
Charter Fishing	Any water-dependent facility (marina, boat yard, etc.) that provides support services to recreational fishing activities (charters) and/or sales/rentals of equipment and supplies for recreational fishing
Sport Diving	Any water-dependent facility (marina, boat yard, etc.) that provides support services to recreational diving activities and/or sales/rentals of equipment and supplies for diving
Boat Manufacturing	Manufacturing of marine vessels
Boat Sales	Retail sales of marine vessels
Boat Repair	Any water-dependent facility that provides maintenance and/or repair services for marine vessels
Fuel Sales	Any water-dependent facility that provides retail marine fuel sales
Pumpout	Pumpout capability associated with a qualified marine facility
Restaurant	Restaurant associated with a qualified marine facility
Residential	Residential housing (including single family, multi-family and condominiums) associated with a qualified marine facility - excludes workforce housing for the facility
Hotel / Motel	Hotel / motel associated with a qualified marine facility, including cabins and/or rental spaces in campgrounds and transient RV parks
Liveboards	Slips, docks or mooring sites where liveboard vessels are permitted to moor
Docks / Broadside	Docks or broadside space available for rental (including transient) or purchase, or owned by associated residential for the benefit of owners
Wet Slips	Wet slips available for rental or purchase, or owned by associated residential

Moorings	Mooring sites available for rental or purchase, or owned by associated residential
Ramps	One or more points of access to the water for launching trailered vessels
Parking	Parking for vehicles and/or trailers associated with a qualified marine facility
Lifts / Hoists	Equipment that can lift marine vessels to move them between the water and dry storage or maintenance and repair facilities
Dry Storage	Dry stack (inside or outside) and outside storage for marine vessels

The updated and improved marine facility database compiled for Phase 2 of the project and delivered to County staff contains information on a total of 545 facilities. These facilities are displayed with a numbered point on the updated Map Atlas. In addition, the Atlas includes a facility listing tied to the numbered points on the map with basic identification for each facility.

Most of the surveys of Monroe County marine facilities were conducted as part of the Florida Boating Access Inventory and Economic Study for FWC. They were completed using the Florida Boating Access Facility Inventory Survey, a modular survey form, which includes a primary form and a variable number of additional modules, depending on the characteristics of each facility:

- Primary Form
- Supplemental Wet slip Form
- Supplemental Broadside Space and Mooring Form
- Supplemental Transient Form
- Supplemental Dry stack and Outside Storage Form
- Supplemental Boat Ramp Form
- Supplemental Amenities Form
- Supplemental Marina Form
- Liveaboards Addendum (developed specifically for Monroe County)

Of the total of 545 facilities, 535 were included in the initial universe of facilities to be surveyed; the other ten were carried forward from the Phase 1 database without being surveyed. FWC determined that 48 of these 535 were not recreational facilities – the SFRPC completed surveys for these non-recreational facilities using the same survey instrument. Of the remaining 487 facilities, FWC determined that 61 were ramps without other associated activities, and completed a specific survey for those “ramp only” facilities. This left a total of 426 recreational facilities that were not “ramp only.” Of these 426, surveys were not completed for 49 facilities where access was either not possible or was denied, and another 12 of the facilities listed were either not found or were found to be vacant.

The 413 surveys conducted by FWC and the 48 conducted by the SFRPC represent the 461 for which survey information is available. Limited information has been included in the database for the facilities where surveys were not completed, based on either Phase 1 data collection or partial information collected through the survey process. The surveys were carried out between December 2006 and February 2007. Note that 408 of the facilities have been linked to a specific parcel (folio number) in the Monroe County Property Appraiser database.

Monroe County staff has provided invaluable input into the application of the criteria established in the classification table. As of April 30, 2007, a total of 270 facilities have been classified as marinas, based on Monroe County’s definition and on the information available in the facilities database,

augmented by County staff review. Of that total, 133 were located in the municipalities and the other 137 are in the unincorporated County. The 270 marinas identified at this time are displayed on the maps that are included in the *Marina Siting Plan*.

The majority of the facilities in the inventory (309) include docks or some type of broadside space, and 182 have wet slips that attach to the docks at the front or the back. There are 61 facilities in the inventory that offer charter boat fishing and 7 that offer sport diving services; 59 offer fuel sales and 46 offer pumpout; 191 had ramps, 26 have lifts or hoists and 48 offer dry storage.

Many of the facilities were associated with residential uses such as a condominium (151) or a hotel/motel (117), and 53 offered berthing or services for liveaboards. However, 260 facilities were not linked to any of those residential uses.

### **Monroe County Marina Siting Plan**

Monroe County is required by state statute to develop a marina siting plan. However, unlike less developed and ecologically significant coastal areas of the state, the complex set of local, state, and federal laws and regulations guiding land development and natural resource protection in Monroe County provides an extensive framework that has resulted in limiting marina siting and expansion in many areas of the County. Under these circumstances, it is more likely that the *Monroe County Marina Siting Plan* will be used in future to assist staff and property owners in determining whether specific properties could be suitable to expand existing marine uses.

The *Marina Siting Plan* incorporates many of the Governor's Blue Ribbon Marina Committee's recommendations for future policies regarding marina siting (issued in 1983). While Monroe County is not among those required by law to prepare a manatee protection plan, which includes a boat facility siting element, the necessity of preparing marina siting criteria is mandated by the Monroe County 2010 Comprehensive Development Master Plan to enhance the sound development and effective management of shoreline uses countywide.

Whether new or expanding marina facilities with three or more slips will be permitted by the County shall reflect consideration of the following primary criteria:

- benthic vegetation and faunal assemblages;
- adequacy of circulation and tidal flushing;
- access to deep water through existing channels of adequate depth; and
- impact of boats on crocodiles, manatees, and turtles.

Other secondary factors to be considered include:

- minimal shoreline modification necessary and
- location of propeller dredging problem areas.

Additional factors that may be considered include the quality and size of upland areas and degree of alteration necessary, and the ability to restore and enhance marina resource values at sites subject to past alteration<sup>20</sup>. These criteria are consistent with the Florida Keys Marina and Dock Siting Policies and Criteria set forth in Section 18-21.0041, FAC, regarding Sovereignty Submerged Lands

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<sup>20</sup> Policy 212.4.3 Monroe County CDMP

Management, as well as the City of Marathon Marina Siting Plan. Site suitability is based on these guidelines and, to the extent data currently exist; the criteria have been mapped in GIS.

It is important to note at the outset that the marina siting guidance in this plan applies to unincorporated Monroe County only and shall not supersede, preempt, or nullify more restrictive federal, state, or municipal rules, regulations, or requirements that apply. Any entity intending to develop or renovate a marina within a municipality's boundaries must consult that municipality's comprehensive plan and land development regulations. It remains the applicant's responsibility to obtain the necessary permits from all applicable state and federal regulatory agencies prior to issuance of a County permit (Policy 212.4.7 Monroe County CDMP). Compliance with the provisions of this plan does not imply approval of other permitting requirements.

New or expanding marine facilities will need to meet all of the criteria in the plan, providing documentation describing how each site will satisfy these criteria. Once it has been established that a prospective site has been approved by the relevant state and federal permitting agencies, it must then meet the requirements of the Monroe County Marina Siting Plan. In addition:

1. The provisions of this plan shall not preempt or nullify any other more restrictive federal, state, or local regulations that apply.
2. For the purposes of the Monroe County Marina Siting Plan, existing boat facilities shall be defined as those facilities which have received all active and required permits and are legally authorized, constructed, and in operation as of the effective date of this plan. All legally existing boat facilities shall be allowed to continue with the existing use, and may renovate according to permitting guidelines, provided there is no change in facility size, including no increase in the number of wet or dry slips, unless the facility meets the expansion criteria as provided in the Monroe County Marina Siting Plan.
3. A project will be able to request a possible variance if a pressing need is demonstrated and if the facility is used by the general public.

The full text of the *Monroe County Marina Siting Plan* can be found under separate cover.

### **Other Options to Preserve the Working Waterfront**

The goal of Phase 2 is to develop implementation strategies including government policies, programs, regulations and legislative measures that will establish the structure to achieve the objective of preserving recreational and commercial working waterfronts in Monroe County, including the refinement and updating of the Marine Facilities Database and GIS Map Atlas and the development of a Marina Siting Plan as required by state statute. The geographic focus of this project has been recreational and commercial working waterfronts in the unincorporated County.

This project has focused on actions that can be implemented directly by Monroe County. However, County action alone cannot encompass the full range of possible policy or regulatory changes that could help in preserving and strengthening recreational and commercial working waterfronts in the Florida Keys. Other policy and regulatory possibilities will need to be further explored, and the County should give serious consideration to pursuing all of these in an effort to complement the changes in policy suggested herein.

The first and lowest cost action the County can take is to collaborate and coordinate with Keys municipalities, other coastal counties and municipalities, and the State on issues affecting recreational and commercial working waterfronts. At a minimum, this will help reduce confusion as well as the potential for unintended consequences of local actions taken in relative isolation.

Some policy changes would have to be effected at the state or federal level. For example, there has been much discussion about possible changes in tax policy and property assessment standards to assist marine industries and working waterfronts. While, a clear consensus has not emerged about what changes will produce the desired result, none of the ideas can be effectively and consistently applied without state action. The 2007 Legislature, which as of this writing is still in session, is considering changes to the state's property tax structure, which if implemented, will have broad ranging effects that cannot yet be measured with any degree of accurate predictability. The County has already been working with the Florida Association of Counties on these issues and that effort should continue.

### **Recreational and Commercial Working Waterfronts Mitigation Fund**

As it has in dealing with the issue of attainable workforce housing, the County should further explore the concept of creating a pool of dedicated funds that could be used to acquire waterfront property for continued use as recreational or commercial working waterfronts, or to acquire development rights or other incentives to help working waterfronts remain a vital and important sector of the County's economy and character.

## **Section 4. Conclusion**

For the Florida Keys' recreational and commercial working waterfronts to flourish over time, the County will need to pursue actions on several fronts, changing what can be done at the local level and looking beyond the County to the state and federal regulatory and statutory structures. Throughout this ongoing work the County needs to coordinate effectively with all stakeholders – cities, regional entities, state agencies, federal agencies, property owners, and the general public.

**Appendix 1:**

**Amendments to the Monroe County 2010 Comprehensive Development  
Master Plan**

ORDINANCE NO. \_\_\_ -- 2007<sup>21</sup>

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN TO REVISE SECTIONS OF THE FUTURE LAND USE AND CONSERVATION AND COASTAL MANAGEMENT ELEMENTS REGARDING RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES**

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**WHEREAS**, Monroe County's working waterfronts provide practical, logistical, and economic benefit to the public and to the County's economy and character, and;

**WHEREAS**, Monroe County is experiencing the loss of recreational and commercial working waterfront and the loss of public access to the water due to the redevelopment of marine facilities, including, but not limited to marinas, boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage, at an unprecedented rate, and;

**WHEREAS**, it is important to preserve an acceptable level of working waterfront while still allowing an appropriate mix of water dependent and non-water dependent uses, and;

**WHEREAS**, fundamental elements of working waterfronts should be preserved to ensure that the ongoing need for working waterfronts is not exacerbated by non-water dependent development or redevelopment of water dependent facilities currently provided in numerous land use districts and distributed throughout Monroe County, and;

**WHEREAS**, the Board of County Commissioners makes the following Findings of Facts:

1. On July 20, 2005 the Board of County Commissioners adopted Ordinance No. 017-2005 deferring the acceptance of development applications for the redevelopment and conversion of marine facilities until land development regulations which protect the working waterfront are drafted.
2. Ordinance No. 17-2005 directed staff to enter into an interlocal agreement with the South Florida Regional Planning Council to prepare a *Marine Management Strategic Plan*.
3. The Board of County Commissioners adopted the *Marine Management Strategic Plan* on March 15, 2006.
4. On September 30, 2006, the Board of County Commissioners directed staff to enter into an interlocal agreement with the South Florida Regional Planning Council to develop

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<sup>21</sup> Draft April 24, 2007

implementation strategies for the *Marine Management Strategic Plan* including a *Working Waterfronts Preservation Master Plan*, *Marina Siting Plan*, Comprehensive Development Master Plan Amendments and supporting Land Development Regulations, and a database of marine-related facilities.

5. On March 21 and April 3, 2007 the Board of County Commission heard progress reports on the development of the proposed amendments, paying particular attention to the concept of “no net loss.”

**WHEREAS**, if the Comprehensive Development Master Plan and Land Development Regulations are not amended to control certain conversions and redevelopments, future losses of recreational and commercial working waterfront and public access will negatively affect the economy and bring an end to critical marine services (e.g. boat yards), marinas that are available to the public, and traditional trades associated with commercial fishing; and

**WHEREAS**, Goal 212 of the 2010 Comprehensive Development Master Plan directs the County to prioritize shoreline land uses and establish criteria for shoreline development in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County; and

**WHEREAS**, Goal 213 of the 2010 Comprehensive Development Master Plan directs the County to ensure adequate public access to the beach or shoreline; and

**WHEREAS**, Objective 502.1 of the 2010 Comprehensive Development Master Plan directs the County to promote the preservation and enhancement of the existing ports and port related activities, and;

**WHEREAS**, the Board of County Commissioners has considered the comments of the public, recommendations of the Planning Commission, recommendations of staff and other matters, and;

**NOW, THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THE FOLLOWING: that the preceding findings support its decision to approve the amendments to the Monroe County Comprehensive Development Master Plan as provided herein:

**Section 1.**

**Amend Future Land Use Element Objective 101.4 as follows:**

Monroe County shall regulate future development and redevelopment to maintain the character of the community and protect the natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map. [9J-5.006(3)(b) 3]

**Policy 101.4.5**

The principal purpose of the Mixed Use/ Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and

office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted.

The maintenance and enhancement of commercial fishing, sport fishing, charter boats and related traditional water dependent and water related uses such as retail, storage, and repair and maintenance which support the fishing industry shall be encouraged within this land use category.

This land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and non-residential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed;
2. a maximum floor area ratio of 0.10 shall apply; and
3. maximum net residential density shall be zero.

**Policy 101.4.6**

The principal purpose of the Mixed Use/ Commercial Fishing land use category is to provide for the maintenance and enhancement of commercial fishing, sport fishing, and charter boats and related traditional water dependent and water related uses such as retail, storage, and repair and maintenance which support the fishing industry. Residential uses are also permitted. Residential units designated as affordable and employee housing will be encouraged in Mixed Use/Commercial Fishing. In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

1. only low intensity commercial uses shall be allowed
2. a maximum floor area ratio of 0.10 shall apply; and
3. maximum net residential density shall be zero. [9J-5.006(3)(c)1 and 7]

**Policy 101.4.7**

The principal purpose of the Industrial land use category is to provide for the development of industrial, manufacturing, and warehouse and distribution uses. Other commercial, public, residential, and commercial fishing-related uses are also allowed. [9J-5.006(3) (c) 1 and 7]

Within the Industrial land use category shall be a Maritime Industries District. The purpose of the MI district is to establish and conserve areas suitable for maritime uses such as ship building, ship repair and other water dependent manufacturing and service uses.

**Section 2.**

**Amend the Conservation and Coastal Management Element as follows:**

**Goal 219 -- Community Character and Preservation of Recreational and Commercial Working Waterfronts**

It is the intent of the County to promote the responsible management of its coastal area, and to balance the protection of recreational and commercial working waterfronts with the provision of water-related recreational activities and with the preservation of coastal and natural resources.

**Objective 219.1**

Monroe County shall implement a strategy that provides regulatory incentives and criteria to encourage the preservation of recreational and commercial working waterfronts.

**Policy 219.1.1**

The County shall encourage the maintenance of community character, public values and traditional uses on the waterfront. To accomplish this, the County shall adopt land development regulations to:

1. Protect the working waterfront by establishing that commercial fishing activities are an important community value and that impacts associated with these uses are normal and compatible with other uses of the waterfront;
2. Support mixed use development adjacent to marinas which provides a range of services and activities for boaters and their families, including restaurants, shops, and other activities for residents and visitors.
3. Ensure public access and creation of public spaces in the redevelopment of marine facilities through the provision of pedestrian access along the shoreline, protection of view sheds, and creation of public open space, subject to reasonable limits;
4. Variances under the Commercial Fishing Area District, Commercial Fishing Village District and the Commercial Fishing Special District shall be granted to enable traditional uses, such as public access and commercial fishing to continue.
5. Non-conforming structures existing that are lawfully established and located within the Mixed Use/Commercial Fishing category, as indicated on the Future Land Use Map, may be rebuilt if damaged or destroyed, provided that they are rebuilt to the preexisting use, building footprint and configuration without increase in density or intensity of use.

**Policy 219.1.2**

The strategy to protect working commercial and recreational private and public waterfronts shall include but not be limited to the following actions:

1. Participating in Waterfronts Florida Partnership Program. This program helps participating communities develop a plan to revitalize, renew and promote interest in their waterfront districts;
2. Partnering and working with key municipal governments with jurisdiction over the commercial waterfront areas to ensure that their Comprehensive Plans include provisions and features that protect and preserve existing marine dependent sites;
3. Redevelopment of waterfront property shall be devoted primarily to water dependent uses.

4. Land development regulations shall ensure that the development intensity devoted to commercial marine services and public access is not significantly reduced over time.
5. Investing directly in property preservation, either through purchase of property or purchase of the development rights to the property;
6. Considering exploring a concept similar to TDRs to “transfer” marine uses to other suitable sites;

Policy 219.1.3

The County shall not vacate, diminish, or otherwise impair publicly-owned pathways, sidewalks, roads, ends of roads, parking areas, docks or boat launching facilities, and other access points that are currently used, or susceptible to use, by the public to access the shorelines.

**Section 3.**

**Amend GOAL 212 as follows:**

Monroe County shall prioritize shoreline land uses and establish criteria for shoreline development in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County. [9J-5.012(3)(a); 9J-5.013(2)(a)]

**Objective 212.4**

~~By January 4, 1998, Monroe County shall complete an analysis of the need for additional marina facilities and shall develop criteria for marina siting which shall meet or exceed state standards. [9J-5.012(3)(b)1,2 and 3; 9J-5.013(2)(b)2]~~ Monroe County shall adhere to criteria set forth in the Marina Siting Plan for the development of new marinas and the redevelopment and expansion of current marine facilities. In general, development of new marinas and redevelopment and expansion of current marinas shall be located in areas where maximum physical advantages exist and where no unreasonable or excessive impacts are foreseen on marine resources.

**Policy 212.4.1**

~~New marinas having three (3) or more slips shall be prohibited until:~~

- ~~1. a marina survey is completed; and~~
- ~~2. marina siting criteria are adopted by Monroe County and approved by DER, DNR and ACOE. [9J-5.012(3)(e)1,2,3 and 8; 9J-5.013(2)(e)1 and 6]~~

**Policy 212.4.2**

~~Monroe County shall complete a survey of all existing recreational and commercial marinas. Such survey shall include, at a minimum:~~

- ~~1. number of wet and dry slips;~~
- ~~2. usage rates of wet and dry slips;~~
- ~~3. breakout of slips by boat size;~~
- ~~4. on-site amenities including the number of parking spaces;~~
- ~~5. surrounding uses and any known or potential compatibility problems;~~
- ~~6. availability for public use (recreational marinas only);~~
- ~~7. number of boat ramps provided and the boat lanes for each ramp;~~
- ~~8. condition of facilities;~~
- ~~9. existing DER-accepted documentation of water quality trends;~~
- ~~10. availability of pump-out facilities; and~~

~~11. potential for marina expansion according to siting criteria (See Policy 212.4.3).  
[9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]~~

**Policy 212.4.3**

~~Monroe County shall develop and adopt marina siting criteria. In general, marinas shall be located in areas where maximum physical advantages exist and where no unreasonable or excessive impacts are foreseen on marine resources. Marina construction shall not involve destruction of any significant marine wetlands or seagrass beds.~~

~~Specific criteria for marina siting expansion shall be developed consistent with DER Rule 17-312, F.A.C., DNR Rule 18-21.004 F.A.C., and regulations of ACOE. They shall reflect consideration of the following:~~

- ~~1. access to deep water through existing channels of adequate depth (See Policy 212.5.2);~~
- ~~2. benthic vegetation and faunal assemblages;~~
- ~~3. impact of boats on crocodiles, manatees, and turtles. [9J-5.012(3)(c)1,2,3 and 8; and adequacy of circulation and tidal flushing.~~

~~Other factors to be considered include:~~

- ~~1. minimization of shoreline modification and~~
- ~~2. location of propeller dredging problem areas.~~

**Policy 212.4.4.1**

Applicants for development approval of marinas with three (3) or more slips shall meet the following:

1. Monroe County's marina siting criteria set forth in the Monroe County Marina Siting Plan (See Policy 212.4.3);
2. Monroe County's dock siting criteria (See Objective 212.5 and related policies), and;
3. criteria of Rule 17-312 Part IV and Rule 18-21.004, F.A.C. [5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

**Policy 212.4.5.2**

Applicants for development approval of docking facilities for fewer than three (3) slips shall meet the following criteria:

1. Monroe County's dock siting criteria (See Objective 212.5 and related policies); and
2. Criteria of Rule 17-312 Part IV and Rule 18-21.004, F.A.C. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

**Policy 212.4.6**

~~Siting of new marinas with three (3) or more slips shall be prohibited until full utilization of existing marinas has occurred within a five (5) mile radius of a proposed new marina site.[9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]~~

**Policy 212.4.7.3**

Applicants for a permit to develop a new marina or expand an existing marina facility shall obtain necessary permits from all applicable state and federal regulatory agencies prior to issuance of a County permit. [9J-5.012(3)(c)1,2,3 and 8; 9J-5.013(2)(c)1 and 6]

**Section 4.**

**Amend GOAL 213 as follows:**

Monroe County shall ensure adequate public access to the beach or shoreline. [9J-5.012(3)(a); 9J-5.013(2)(a)]

**Objective 213.1**

Monroe County shall maintain and increase the amount of public access to the beach or shoreline consistent with the estimated public need and environmental constraints. [9J-5.012(3)(b)9]

**Policy 213.1.1**

Monroe County shall complete a Public Access Plan for unincorporated Monroe County. The Public Access Plan shall estimate the existing capacity of and need for the following types of public access facilities:

1. public access points to the beach or shoreline through public lands;
2. public access points to the beach or shoreline through private lands;
3. parking facilities for beach or shoreline access;
4. coastal roads and facilities providing scenic overlooks;
5. marinas;
6. boat ramps;
7. public docks;
8. fishing piers; and
9. traditional shoreline fishing areas. [9J-5.012(3)(c)9]

**Policy 213.1.2**

Monroe County shall adopt Land Development Regulations which:

1. implement recommendations of the Public Access Plan;
2. provide for the enforcement of public access to beaches renourished at public expense by prescription, prescriptive easement, or any other legal means;
3. provide for the enforcement of public access requirements of the Coastal Zone Protection Act of 1985;
4. specify standards for transportation and parking facilities for beach and shoreline access;
5. include environmental design criteria which reflect environmental constraints. [9J-5.012(3)(c)9]
6. ensure adequate public access to public facilities including boat ramps, docks, and fishing piers and bridges. [F.S. 342.07 (2006)].

**Section 5. Severability**

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance by the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 6. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion of any appropriate federal, state, or County law, rule, code or regulation, the more restrictive shall apply.

**Section 7. Transmittal.**

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

**Section 8. Filing.**

This ordinance shall be filed in the Office of the Secretary of State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

**Section 9. Effective Date.**

This ordinance shall become effective as provided by law and stated above. Where Comprehensive Plan amendments may be required in order for any part of this ordinance to be deemed consistent with the Comprehensive Plan, the effective date of such part shall be as of the effective date of the required Comprehensive Plan amendment and as otherwise required by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2007.

Mayor Mario DiGennaro	_____
Mayor Pro Tem Dixie Spehar	_____
Commissioner Charles "Sonny" McCoy	_____
Commissioner George Neugent	_____
Commissioner Sylvia Murphy	_____

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Mayor Mario DiGennaro

(SEAL)  
ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

**Appendix 2:**

**Amendments to the Monroe County Land Development Regulations**

ORDINANCE NO. \_\_\_ -- 2007<sup>22</sup>

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS REGARDING RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES**

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**WHEREAS**, Monroe County's working waterfronts provide practical, logistical, and economic benefit to the public and to the County's economy and character, and;

**WHEREAS**, Monroe County is experiencing the loss of recreational and commercial working waterfront and the loss of public access to the water due to the redevelopment of marine facilities, including, but not limited to marinas, boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage, at an unprecedented rate, and;

**WHEREAS**, it is important to preserve an acceptable level of working waterfront while still allowing an appropriate mix of water dependent and non-water dependent uses, and;

**WHEREAS**, fundamental elements of working waterfronts should be preserved to ensure that the ongoing need for working waterfronts is not exacerbated by non-water dependent development or redevelopment of water dependent facilities currently provided in numerous land use districts and distributed throughout Monroe County, and;

**WHEREAS**, the Board of County Commissioners makes the following Findings of Facts:

1. On July 20, 2005 the Board of County Commissioners adopted Ordinance No. 017-2005 deferring the acceptance of development applications for the redevelopment and conversion of marine facilities until land development regulations which protect the working waterfront are drafted; and
2. Ordinance No. 17-2005 directed staff to enter into an interlocal agreement with the South Florida Regional Planning Council to prepare a *Marine Management Strategic Plan*
3. The Board of County Commissioners adopted the *Marine Management Strategic Plan* on March 15, 2006.
4. On September 30, 2006, the Board of County Commissioners directed staff to enter into an interlocal agreement with the South Florida Regional Planning Council to develop implementation strategies for the *Marine Management Strategic Plan* including a Working

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<sup>22</sup> Draft April 24, 2007

Waterfronts Preservation Master Plan, Marina Siting Plan, Comprehensive Development Master Plan Amendments and supporting Land Development Regulations, and a database of marine-related facilities.

5. On March 21 and April 3, 2007 the Board of County Commission heard progress reports on the development of the proposed amendments, paying particular attention to the concept of “no net loss.”

**WHEREAS**, if the land development regulations are not amended to control certain conversions and redevelopments, future losses of working waterfront and public access will negatively affect the economy and bring an end to critical marine services (e.g. boat yards), marinas that are available to the public, and traditional trades associated with commercial fishing; and

**WHEREAS**, Goal 212 of the 2010 Comprehensive Development Master Plan directs the County to prioritize shoreline land uses and establish criteria for shoreline development in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County; and

**WHEREAS**, Goal 213 of the 2010 Comprehensive Development Master Plan directs the County to ensure adequate public access to the beach or shoreline; and

**WHEREAS**, Objective 502.1 of the 2010 Comprehensive Development Master Plan directs the County to promote the preservation and enhancement of the existing ports and port related activities, and;

**WHEREAS**, the Board of County Commissioners has amended the Monroe County Comprehensive Development Master Plan to outline policies protective of the working waterfront; and therefore, the Land Development Regulations must also be amended to remain consistent, and;

**WHEREAS**, the Board of County Commissioners has considered the comments of the public, recommendations of the Planning Commission, recommendations of staff and other matters, and;

**NOW, THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THE FOLLOWING: that the preceding findings support its decision to approve the amendments to the Monroe County Land Development Regulations as provided herein:

**Section 1.**

**Amend Chapter 9.5, Article 1, Section 9.5-4, Definitions, as follows:**

(B-7) Boatyard means a boating or harbor facility located on or having direct access to navigable water for building, maintaining, and performing extensive repair on boats and small ships, marine engines and equipment. A boatyard shall be distinguished from a marina by the larger scale and greater extent of work done in a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats for maintenance or repair.

(C-12) Commercial fishing means the catching, landing, processing or packaging of seafood for commercial purposes, including the mooring and docking of boats and/or the storage of traps and other fishing equipment ~~and charter boat uses and spot diving uses~~. Dockage associated with commercial fishing shall be distinguished from a marina by the nature of the docking and/or mooring facilities, which are traditionally provided for commercial fishing vessels as a function of the commercial fishing operation.

(R-5) Recreational and commercial working waterfronts means a parcel or parcels of real property that provide access for water dependent commercial activities, including hotels and motels as defined in 9.5-4(H-7), or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. Seaports are excluded from the definition. This definition is consistent with the definition of Recreational and Commercial Working Waterfronts found in Chapter 342.07 Florida Statutes.

(W-7) ~~Water dependent facility means a use that is functionally dependent on actual access to open waters.~~ Water dependent uses are maritime activities that are carried out only on, in, or adjacent to water areas because they require direct access to water. Water dependent uses include, but are not limited to, fish houses, boat barns, boat yards, ship building, boat repair and storage (other than for trailer-able boats), marinas, ports, ferry terminals, commercial fishing, fishing trap storage and manufacturing, and water dependent utilities.

(W-11) Water related uses are activities which are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water dependent or waterway uses. Water related uses include, but are not limited to, boat storage (other than boat barns), fishing trap storage and manufacturing, tropical fish collection and sales and aquaria, ship stores, bait and tackle stores, and dive shops.

## Section 2.

### **Amend Sec. 9.5-250. Maritime Industries District (MI) as follows:**

- a) The following uses are permitted as of right in the Maritime Industries District:
- (1) Boat building, repair and storage;
  - (2) Commercial retail uses of less than five thousand (5,000) square feet of floor area;
  - (3) Office uses of less than five thousand (5,000) square feet of floor area;
  - (4) Light and heavy industrial uses;
  - (5) Commercial apartments involving less than six (6) dwelling units, but tourist housing uses, vacation rental use, of commercial apartments is prohibited;
  - (6) Employee housing;
  - ~~(6)~~ (7) Commercial fishing;
  - ~~(7)~~ (8) Manufacture, assembly, repair, maintenance and storage of traps, nets and other fishing equipment;
  - ~~(8)~~ (9) Institutional uses;
  - ~~(9)~~ (10) Public buildings and uses;

- ~~(10)~~ (11) Accessory uses;
- ~~(11)~~ (12) Vacation rental use of any nonconforming dwelling units if a special vacation rental permit is obtained under the regulations established in Code section 9.5-534.
- ~~(12)~~ (13) Replacement of an existing antenna-supporting structure pursuant to article VII, division 16, section 9.5-434.5(b) "Replacement of an existing antenna-supporting structure."
- ~~(13)~~ (14) Collocations on existing antenna-supporting structures, pursuant to article VII, division 16, section 9.5-434.5(c) "Collocations on an existing antenna-supporting structure."
- ~~(14)~~ (15) Attached wireless communications facilities, as accessory uses, pursuant to article VII, division 16, section 9.5-434.5(d) "Attached wireless communications facilities."
- ~~(15)~~ (16) Stealth wireless communications facilities, as accessory uses, pursuant to article VII, division 16, section 9.5-434.5(e) "Stealth wireless communications facilities."
- ~~(16)~~ (17) Satellite earth stations, as accessory uses, pursuant to Article VII, Division 16, Section 9.5-434.5(f) "Satellite earth stations."

(b) The following uses are permitted as minor conditional uses in the Maritime Industries District, subject to the standards and procedures set forth in article III, division 3:

- (1) Commercial apartments involving more than six (6) dwelling units provided that:
  - a. The hours of operation of the commercial uses proposed in conjunction with the apartments are compatible with residential uses; and
  - b. Access to U.S. 1 is by way of:
    - (i) An existing curb cut;
    - (ii) A signalized intersection; or
    - (iii) A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least four hundred (400) feet;
  - c. Tourist housing uses, including vacation rental use of commercial apartments is prohibited.
- ~~(2) Hotels of fewer than fifty (50) rooms, provided that:~~
  - ~~a. The use is compatible with established land uses in the immediate vicinity; and~~
  - ~~b. One (1) or more of the following amenities are available to guests:~~
    - ~~(i) Swimming pool;~~
    - ~~(ii) Marina; and~~
    - ~~(iii) Tennis courts.~~

~~(3)~~(2) New antenna-supporting structures, pursuant to article VII, division 16, section 9.5-434.5(a) "New antenna-supporting structures."

(c) The following uses are permitted as major conditional uses in the Maritime Industries District, subject to the standards and procedures set forth in article III, division 3:

- ~~(1) Hotels providing fifty (50) or more rooms, provided that:~~
  - ~~a. The hotel has restaurant facilities on or adjacent to the premises; and~~
  - ~~b. Access to U.S. 1 is by way of:~~
    - ~~(i) An existing curb cut;~~
    - ~~(ii) A signalized intersection; or~~
    - ~~(iii) A curb cut that is separated from any other curb cut on the same side of U.S. 1 by at least four hundred (400) feet;~~

- (1) Hotels of fewer than fifty (50) rooms, provided that:
  - a. The use is compatible with established land uses in the immediate vicinity; and
  - b. The historic water dependent uses are maintained.
- (2) Marinas, provided that:
  - a. The parcel proposed for development has access to water at least four (4) feet below mean sea level at mean low tide; The parcel proposed for development or expansion has met the criteria in the *Monroe County Marina Siting Plan*.

### **Section 3.**

**Amend Chapter 9.5, Article 7, Division 3 to include new Section 9.5-272, Recreational and Commercial Working Waterfronts, as follows:**

#### **Sec. 9.5-272. Recreational and Commercial Working Waterfronts**

(a) Purpose and Intent. The purpose of this section, consistent with Goal 219 of the Comprehensive Development Master Plan, is to ensure that the need for recreational and commercial working waterfronts is not exacerbated by non-water dependent development or conversion of water-dependent facilities and services. The intent of this section is to protect the existing recreational and commercial working waterfront as well as encourage the preservation and development of working waterfronts.

(b) Applicability. Properties, in any land use district, which have existing recreational and commercial working waterfront uses either as a principal use or accessory use, shall be subject to the following preservation restrictions.

1. Those commercial properties whose principal use falls into a category of marina, boatyard or commercial fishing shall be limited in the re-development of the property, or development of new uses, which does not meet the definition of water dependent to no more than 50 percent of the total land use intensity. The 50 percent limit may, however be exceeded in accordance with any of the below applicable incentives, methods of alternative compliance, or exemptions. The following additional restrictions shall apply:
  - a. For marinas- at least 50 percent of the property's development potential shall be preserved for marina functions, services, and facilities. In addition, no more than 50 percent of the marina docking facilities, which are currently open to the public may be converted to exclusive use (not open to the public).
  - b. For boatyards- at least 50 percent of the property's development potential shall be preserved for boatyard functions, services, and facilities.
  - c. For commercial fishing- at least 50 percent of the property's development potential shall be preserved for commercial fishing functions, services, and facilities.
2. Those commercial properties whose principal use is other than a marina, boatyard or commercial fishing but which have an accessory use of a marina, boatyard, or commercial fishing shall preserve at least 50 percent of that working waterfront element or elements. No more than 50 percent of the intensity of the working waterfront element/s shall be re-developed to non-water dependent use/s.

(c) Incentives. In order to allow flexibility for economic change and to provide for appropriate mixed use while preserving the working waterfront, the following incentives are provided. These incentives shall apply to commercial properties with a principal use which falls into a category of marina, boatyard or commercial fishing as long as all other limitations and restrictions specified in the land use district are met.

1. Notwithstanding the density limitations in section 9.5-261, the owner of a parcel of land shall be allowed a 30 percent intensity bonus provided that 70 percent of the land use intensity is preserved as a marina, boatyard, or commercial fishing operation.
2. A property owner shall be allowed an additional 10 percent intensity bonus for either of the following:
  - a. Providing a dedicated easement for public use (non-vehicular) that fronts the water for the purpose of providing a view shed.
  - b. Providing a dedicated boat ramp for public use.

(d) Alternative compliance.

1. Redevelopment which results in the reduction of marina, boatyard, or commercial fishing intensity below the 50 percent threshold shall be allowed, provided that the difference in intensity is transferred to another suitable site within the same sub-area of the Keys (upper, middle, or lower).
2. Payment into a Working Waterfronts Mitigation Fund may be accepted as mitigation for the reduction in intensity of any marina, boatyard, or commercial fishing operation below the 50 percent threshold.
3. Such other alternatives as approved by the Board of County Commission.

(e) Exemptions

1. A property owner may petition to convert from one type of working waterfront to another (marina, boatyard, or commercial fishing) if it can be demonstrated that the existing working waterfront type is no longer economically viable.
2. A property owner shall be exempt from the above restrictions if application of the restrictions would produce a result inconsistent with the plan or the purpose and intent of this section.

#### **Section 4.**

**Amend Chapter 9.5, Article 5, Section 9.5-143, Nonconforming Uses, as follows:**

9.5-143(f)(3). ~~Damage or destruction in commercial fishing districts (CFA, CFV, and CFSD): Nonconforming uses existing as of September 15, 1986, may be rebuilt even if one hundred (100) percent destroyed provided that they are rebuilt to preexisting use, building footprint and configuration without increase in density or intensity of use.~~ *Discontinuance or abandonment in commercial fishing districts (CFA, CFV, and CFSD): Nonconforming uses existing as of September 15, 1986 may be re-established if discontinued or abandoned for more than six (6) consecutive months, provided that the use is re-established as the same pre-existing use without increase in density or intensity of use.*

**Section 5.**

**Amend Chapter 9.5, Article 5, Section 9.5-144, Nonconforming Structures, as follows:**

9.5-144(e)(3). Damage or destruction of nonconforming structures in the commercial fishing or maritime industrial districts (CFA, CFV, CFSD, MI): Nonconforming structures in which commercial fishing or maritime industrial uses have been in continuous operation as of September 15, 1986 may be rebuilt even if one hundred (100) percent destroyed, provided that they are rebuilt in the same building footprint and configuration, and the pre-existing commercial fishing or maritime industrial use is re-established, provided that the structure complies with Division 6: Floodplain Management Standards and Regulations.

**Section 6. Severability**

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance by the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 7. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion of any appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

**Section 8. Transmittal.**

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

**Section 9. Filing.**

This ordinance shall be filed in the Office of the Secretary of State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

**Section 10. Effective Date.**

This ordinance shall become effective as provided by law and stated above. Where Comprehensive Development Master Plan amendments may be required in order for any part of this ordinance to be deemed consistent with the Comprehensive Plan, the effective date of such part shall be as of the effective date of the required Comprehensive Plan amendment and as otherwise required by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2007.

Mayor Mario DiGennaro  
Mayor Pro Tem Dixie Spehar

\_\_\_\_\_  
\_\_\_\_\_

Commissioner Charles "Sonny" McCoy  
Commissioner George Neugent  
Commissioner Sylvia Murphy

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Mayor Mario DiGennaro

(SEAL)  
ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney