BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 20, 2005 Division: Growth Management

Bulk Item: Yes____ No X Department: Planning and Environmental Resources

Staff Contact Person: K. Marlene Conaway

AGENDA ITEM WORDING:
A public hearing to consider an Interim Development Ordinance (IDO) deferring the acceptance of applications for redevelopment and conversion of marine facilities including commercial marinas and working waterfront within 365 days of the effective date of the Ordinance or when the comprehensive plan and land development regulations become effective, whichever comes first. **(Second of two public hearings)**

ITEM BACKGROUND:
Monroe County is experiencing the loss of and redevelopment of marine facilities including commercial marinas and the working waterfront including boatyards, wet storage, fish houses and commercial fishing vessel dockage at an unprecedented rate. The County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment and conversion of marine facilities and working waterfront properties. The County has contracted with South Florida Regional Planning Council to prepare a public water access and marine facilities plan and develop implementation measures including Comprehensive Plan and Land Development Regulations.

At the March 10, 2005 public meeting of the Development Review Committee, the Committee voted to recommend approval of the proposed IDO to the Planning Commission. At the March 23, 2005 public meeting of the Planning Commission, the Commission continued the item to the April 13, 2005 Planning Commission in Marathon. At the April 13, 2005 Planning Commission meeting, the Commission heard the item but was unable to recommend action to the Board of County Commissioners (BOCC). At the May 11, 2005 Planning Commission, the Commission voted to *not recommend* approval of the IDO to the BOCC.

PREVIOUS REVELANT BOCC ACTION:
The BOCC at a regular meeting on January 19, 2005, directed staff to prepare an interim development ordinance to prevent further redevelopment and conversion of marine facilities including commercial marinas and the working waterfront, and to implement a policy of "No-Net-Loss" of public access to marine facilities while County legislation is prepared. The BOCC conducted the first of two public hearings on April 20, 2005. The hearing was continued to the May 18, 2005, BOCC meeting, and continued again to the June 15, 2005 BOCC meeting, and continued again to the July 20, 2005 meeting.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A **BUDGETED:** Yes ___ No N/A

COST TO COUNTY: N/A **SOURCE OF FUNDS:** N/A

REVENUE PRODUCING: Yes N/A No ___ **AMOUNT PER MONTH** N/A **Year** ___

APPROVED BY: County Attorney X OMB/Purchasing ___ Risk Management ___

DIVISION DIRECTOR APPROVAL: Timothy J. McGarry, AICP

DOCUMENTATION: Included X Not Required ___

DISPOSITION: ___ **AGENDA ITEM #** ___

INTERIM DEVELOPMENT ORDINANCE

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT AND CONVERSION OF MARINE FACILITIES INCLUDING COMMERCIAL MARINAS AND THE WORKING WATERFRONT UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

RECOMMENDATIONS

DRC:	**Approval**	March 10, 2005	
PC:	**Denial**	May 11, 2005	Resolution #P 18-05

DRAFT BOCC ORDINANCE

INTERIM DEVELOPMENT ORDINANCE

DEFERMENT OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT AND CONVERSION OF MARINE FACILITIES AND THE WORKING WATERFRONT

BOARD OF COUNTY COMMISSIONERS
KEY WEST
July 20, 2005

ORDINANCE NO._____2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT AND CONVERSION OF MARINE FACILITIES INCLUDING COMMERCIAL MARINAS AND THE WORKING WATERFRONT UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Section 9.5-185 of the Monroe County Code is hereby created to read as follows:

Section 9.5-185. Interim Development Provisions Relating To Working Waterfront Areas And Public Access To Beaches And Shorelines.

1. Definitions. As used in this Ordinance, the following terms shall have the definitions provided, unless the context clearly provides otherwise:

a. "Commercial marina" shall mean any facility or facilities, having three or more slips, docks, or docking spaces, conducting business involving the sale, repair, rental, storage, and servicing of boats, and including accessory retail uses. The term includes a licensed commercial facility which provides secured public moorings or wet storage for private pleasure vessels or commercial vessels on a leased basis. The term does not include privately owned individual berths or docks accessory to land based dwelling units.

b. "Existing structures and uses" shall mean a structure in existence as of February 28, 2005, and the customary and regular uses of that structure up to and including February 28, 2005.

c. "Marine facility" shall mean commercial marinas, the working waterfront, boat ramps, and any other locations that provide public access to the navigable waters of the state.

d. "Public access" shall mean the ability of the public to physically reach, enter, or use beaches and shores. The term shall have the same meaning as defined in Rule 9J-5.003(97), Florida Administrative Code.

e. "Working waterfront" shall mean a parcel or parcels of real property that are used for water dependent boatyards, wet storage of boats and vessels, commercial fish houses (fish landings, processing and packaging) and commercial fishing vessel dockage. The term does not include commercial marinas providing dockage for pleasure watercraft.

f. "Water-dependent uses" shall mean activities which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, including ports or marinas, and recreation. The term shall have the same meaning as defined in Rule 9J5-003(137), Florida Administrative Code.

g. "Water-enhanced uses" shall mean activities that are not water-dependent uses but benefits economically or aesthetically by its location adjacent to or on the waterfront. The term includes dock side bars, restaurants, hotels, motels, and residential uses.

2. Findings by Board of County Commissioners. The Board of County Commissioners, based upon minutes of prior meetings of the Board, presentations of staff, comments by the public, provisions of Florida Statutes and Florida Administrative Code Rules, and Monroe County public records, hereby finds as follows:

a. The Board of County Commissioners at a public meeting held on August 18, 2004, directed county staff to have a public water access and marine facilities plan prepared for Monroe County.

b. The Board of County Commissioners discussed a policy of "No Net Loss" of working waterfront or public access at a public meeting held on December 16, 2004.

c. Monroe County is experiencing the loss of working waterfront and the loss of public access due to the redevelopment of marine facilities, commercial marinas, and the working waterfront, including boatyards, wet storage of vessels and boats, fish houses and commercial fishing vessel dockage, at an unprecedented rate.

d. The continued loss of working waterfront and public access in the County is and will be detrimental to the economic and social well-being and the health, safety, and welfare of the citizens of Monroe County.

e. If the Comprehensive Plan and 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-related services, including boat yards, commercial marinas that are available to the public, and traditional trades associated with commercial fishing.

f. It is necessary to undertake a comprehensive and deliberate analysis of the economic, social, and quality of life implications of continued conversions and redevelopments and the impact of same on the public access and the working waterfront.

g. Preserving the status quo while undertaking the analysis will ensure that the County's problems related to diminished public access and further loss of working waterfront will not be

exacerbated during the time it takes to prepare a well-reasoned and equitable planning and regulatory program.

h. Preserving the status quo for a temporary period of time will prevent development that could be inconsistent with the Comprehensive Plan and/or with pending changes to the Comprehensive Plan or land development regulations.

i. A number of waterfront property owners are exploring the possible change of use of their property to private residential uses and private exclusive use of docks and docking spaces which will further decrease the public access and/or working waterfront.

j. Goal 212 of the 2010 Comprehensive Plan provides that "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".

k. Goal 213 of the 2010 Comprehensive Plan provides that "Monroe County shall ensure adequate public access to the beach or shoreline.

l. Objective 502.1 of the 2010 Comprehensive Plan provides, in pertinent part, that Monroe County shall promote the preservation and enhancement of the existing ports and port related activities.

m. Monroe County needs to update and augment its inventory of public access and waterfront facility locations and specific waterfront uses in order to have a thorough and accurate understanding of the socio-economic data relating to the existing situation.

n. Accepting or processing of development applications during the term of this ordinance would result in confusion for property owners, inefficiencies in governmental services, potentially redundant review processes, and may unreasonably affect the expectations of property owners.

o. The approval of development applications for working waterfront property conversions and redevelopment will result in the continued and irreversible loss of public access and working waterfront.

p. The exemption of certain specified uses and development activities advances the intent of this Ordinance and will not diminish public access or further the loss of working waterfront.

q. The Board of County Commissioners recognizes the need to develop comprehensive plan and land development regulations and programs to preserve marine facilities, including commercial marinas, and to protect public access and the working waterfront.

r. The Board of County Commissioners at a public meeting held on January 19, 2005, voted to contract with the South Florida Regional Planning Council to prepare a public access and marine facilities plan and suggested implementation measures, including Comprehensive Plan amendments and Land Development Regulations.

s. Monroe County has committed necessary staff and resources to the development of policies and regulations relating to the working waterfront and public access.

t. This interim Ordinance and the planned amendments to the Comprehensive Plan and Land Development Regulations are necessary to protect the health, safety, and general welfare and to advance the policies set forth in the Comprehensive Plan.

u. The utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and is a means of avoiding inefficient and ill-conceived development.

v. The Board of County Commissioners finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the conversion or redevelopment of waterfront properties.

w. The Board of County Commissioners finds that a 365-day deferment of development applications and approvals as provided herein is reasonable and is the minimum necessary to protect the health, safety, and general welfare of the citizens of Monroe County and to implement the Comprehensive Plan.

x. The temporary deferral of development applications and approvals as provided in this Ordinance is not intended nor shall it be construed to inhibit the existing lawful use of properties in accordance with the Comprehensive Plan and land development regulations.

y. Chapter 125, Florida Statutes, authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety and welfare of the citizens of Monroe County.

z. This Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Sections 163.316, *et seq.*, Florida Statutes, which, *inter alia,* encourages the use of innovative land development regulations, including provisions like moratoria to implement the adopted Comprehensive Plan.

aa. The Board of County Commissioners at a public meeting held on January 19, 2005, directed staff to prepare an ordinance deferring acceptance of applications for redevelopment of marine facilities, including commercial marinas and the working waterfront (boatyards, wet ~~and dry~~ vessel and boat storage, fish houses and commercial fishing vessel dockage), that would diminish public access or further result in the loss of working waterfront, while staff prepares amendments to the 2010 Comprehensive Plan and Land Development Regulations.

bb. As directed by the Board of County Commissioners, the Growth Management staff immediately undertook the development of this Interim Development Ordinance and preparation of a contract for the development of a public access and marine facilities plan and suggested implementation measures including Comprehensive Plan amendments and Land Development Regulations.

cc. The Monroe County Planning Commission reviewed the draft Interim Development Ordinance at a public hearing held on May 11, 2005, and has recommended approval of the ordinance to the Board of County Commissioners.

dd. The Board of County Commissioners has reviewed and considered the draft Interim Development Ordinance recommended by the Planning Commission and Planning staff.

3. Purpose and Intent. This Interim Development Ordinance implements the Board of County Commissioners' intent to temporarily curtail further redevelopment and conversion of marine facilities that result in the loss of working waterfront and diminish public access, in order to implement the Commission's policy of "No-Net-Loss" of working waterfront and public access while legislation is being prepared.

4. Exemptions.

a. The provisions of this Ordinance shall not apply to a development under an approved Conditional Use Permit; general maintenance, repair and/or safety improvements; and shall not apply to any modification, improvement, or expansion to existing marine facility that does not diminish public access and does not result in the loss of working waterfront.

b. The provisions of this Ordinance shall not apply to an application for a building permit or development approval submitted to the County on or before February 28, 2005.

c. The provisions of this Ordinance shall not apply to an application for or issuance of a building permit or development approval for any development or redevelopment that is otherwise allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

5. Application of Ordinance. This Ordinance shall be applicable to redevelopment and conversion of existing uses and structures which involve:

a. Any change of use of a commercial marina from a water-dependent use to a water-enhanced or a non-water-dependent use.

b. Any division of uplands and/or bay bottom of existing marine facilities into individual parcels regardless of type of ownership.

c. Any modification, improvements or expansions of existing marine facilities which would diminish public access or result in a loss of working waterfront.

d. Any change of use of a parcel of parcels of working waterfront to a commercial marina or a non-water dependent use.

6. Moratorium.

a. Commencing on the effective date of this Ordinance, a moratorium shall be in effect within unincorporated Monroe County relating to, and prohibiting:

1). Accepting or processing development applications relating to redevelopment or conversion of existing uses and structures as listed in sub-sections 5a through 5d.

2). Issuance of building permits for redevelopment or conversion of existing uses and structures as listed in sub-sections 5a through 5d.

3). Issuance of development orders and development permits of existing uses and structures as listed in sub-sections 5a through 5d.

b. Any application for a building permit or development approval, submitted on or after March 1, 2005, for any development or redevelopment of structures or uses identified in sub-section 5 shall not be accepted or processed by the Growth Management Division.

7. Interim Regulations. Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater, 383 So.2d 681 (Fla. 2d DCA, 1980),* the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the date the Comprehensive Plan amendments and Land Development Regulations become effective, or until repeal of this Ordinance, whichever first occurs.

8. Administrative Appeal. Any property owner adversely affected by the application of this Ordinance may seek an administrative determination that, prior to March 1, 2005, the owner's proposed development or redevelopment met the vested rights standards set forth in Section 9.5-181, Monroe County Code. To request an administrative determination, the property owner shall file an Application For Determination of Vested Rights with the Director of Growth Management. The application, together with an administrative filing fee of Four Hundred Dollars ($400.00), must be filed within sixty (60) days from the effective date of this Ordinance.

9. Duty of County Administrator. The County Administrator is directed to have the Growth Management Division immediately begin preparing draft amendments, regulations and other supporting studies, in cooperation with the Monroe County Planning Commission, to address the issue of redevelopment and conversion of marine facilities that result in diminished public access or loss of working waterfront.

10. Repealer Provision. This ordinance shall stand repealed as of 11:59 p.m. on the 365th day after the effective date of the Ordinance, unless repealed sooner by the Board of County Commissioners or upon the adoption by the Board of County Commissioners and approval by the Florida Department of Community Affairs of amendments to the Comprehensive Plan and Land Development Regulations addressing public access and marine facilities.

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

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

Section 4. This ordinance shall be transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes, and the DCA is requested to review and approve it by Immediate Final Order in accordance with Section 120.569(2)(n), Florida Statutes, in recognition of the public importance of retaining the working waterfront, marine facilities, and public access, and to prevent the threat of further loss thereof as "an immediate danger to the public health, safety, or

welfare".

Section 5. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving this ordinance pursuant to Florida Statutes, Chapter 380.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the ____ day of _____, 2005.

Mayor Dixie Spehar _____

Mayor Pro Tem Charles "Sonny" McCoy _____

Commissioner Murray Nelson _____

Commissioner George Neugent _____

Commissioner David Rice _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY_____
Mayor Dixie Spehar

(SEAL)
ATTEST:
DANNY L. KOLHAGE, CLERK
By: _____
Deputy Clerk

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Kerry L. Willig
Date: 6.30.05

BOCC STAFF REPORT

Monroe County Department of Planning and Environmental Resources
2798 Overseas Highway Marathon Florida 33050

Memo

June 23, 2005

TO: Board of County Commissioners

FROM: M. Marlene Conaway, Director of Planning and Environmental Resources

RE: Interim Development Ordinance-Marine Facilities and Working Waterfronts

MEETING DATE: July 20, 2005

Summary

The Board of County Commissioners (BOCC) at a regular meeting on January 19, 2005, directed Growth Management staff to prepare an Interim Development Ordinance (IDO) deferring the acceptance of applications for redevelopment and conversion of marine facilities including commercial marinas and the working waterfront (boatyards, wet storage, fish houses and commercial fishing vessel dockage) while staff prepares amendments to the 2010 Comprehensive Plan and Land Development Regulations (LDR). Concurrently, following direction of the BOCC at the same regular meeting on January 19, 2005, Growth Management staff immediately undertook the development of this Interim Development Ordinance and preparation of a contract for the development of a public water access and marine facilities plan and implementation measures including 2010 Comprehensive Plan and Land Development Regulations.

This IDO provides for specific exemptions and clarifying definitions. Since the April 20, 2005 BOCC hearing, dry storage has been removed from the definition of the working waterfront. The IDO is to expire within 365 days from the effective date of the Ordinance, or when the 2010 Comprehensive Plan and LDR amendments become effective, whichever comes first.

At the March 10, 2005 public meeting of the Development Review Committee, the Committee voted to recommend approval of the proposed IDO to the Planning Commission. At the March 23, 2005 public meeting of the Planning Commission, the Commission continued the item to the April 13, 2005 Planning Commission in Marathon. At the April 13, 2005 Planning Commission meeting, the Commission heard the item but was unable to recommend action to the Board of County Commissioners (BOCC). At the May 11, 2005 Planning Commission, the Commission voted to *not recommend* approval of the IDO to the BOCC.

The BOCC conducted the first of two public hearings on April 20, 2005. The hearing was continued to the May 18, 2005, BOCC meeting, and continued again to the June 15, 2005 BOCC meeting. The item was continued again to the July 20, 2005 BOCC meeting.

Monroe County Department of Planning and Environmental Resources
2798 Overseas Highway Marathon Florida 33050

Background

Monroe County is experiencing the loss of and redevelopment of marine facilities and the working waterfront including commercial marinas, boatyards, wet storage, fish houses and commercial fishing vessel dockage, at an unprecedented rate. A number of waterfront owners are exploring the possible change of use of their property, to private residential uses and private exclusive use of dockage which will further decrease the public access and working waterfront usages. There is great concern that if nothing is done to control this redevelopment that future losses of waterfront facilities will negatively affect the economy and bring an end to critical marine services (e.g. boatyards), commercial marinas that are available to the public and traditional trades associated with commercial fishing and other water-dependent uses. The pressure to redevelop waterfront properties to non-water related or non-water dependent type uses is such that unless acceptance of such applications is deferred, there is not time to write land development regulations or Comprehensive Plan amendments to adequately address the probable negative impacts of the rapid rate of change.

The County does not have an accurate inventory of pertinent waterfront facility locations and specific waterfront uses and a thorough understanding of the socio-economic data on existing waterfront marine facilities. However, the County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve marine facilities including commercial marinas and the working waterfront. To address these needs, the Board of County Commissioners, at their meeting of August 18, 2004, directed staff to have a public water access and marine facilities plan prepared for Monroe County. A "no net loss" of public access to the waterfront policy was discussed by the BOCC at their December 16, 2004, meeting. At their meeting of January 19, 2005, the BOCC voted to contract with the South Florida Regional Planning Council to prepare the public water access and marine facilities plan and implementation measures including Comprehensive Plan and Land Development Regulation amendments.

The contract to prepare the plan and implementation measures is further substantiated by Goal 212 of the 2010 Comprehensive Plan which 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; Goal 213 of the 2010 Comprehensive Plan which directs the County to ensure adequate public access to the beach or shoreline; and Objective 502.1 of the 2010 Comprehensive Plan which direct the County to promote the preservation and enhancement of the existing ports and port related activities.

The Florida State Legislature recently passed a working waterfront bill, HB955-06-er, which enunciates the State's interest in maintaining recreational and commercial working waterfronts and public access to waterfront property, and requires the future land use plan element of local comprehensive plans for coastal counties to include criteria to encourage the preservation of recreational and commercial working waterfronts. Provision of tax incentives and deferrals are also included. The bill has been signed by the Governor and becomes effective January 1, 2006.

The purpose of the proposed deference of accepting applications is to provide time for the preparation of the public water access and marine facilities plan and implementation measures by the South Florida Regional Planning Council. This IDO will also provide time for staff to draft the necessary Land Development Regulations and 2010 Comprehensive Plan amendments, the Planning Commission to review the proposed changes and the public time to consider, understand and comment on the amendments. Monroe County is acting expeditiously by proposing this Interim Development Ordinance so that Comprehensive Plan and LDR amendments can be developed which will be in coordination with the pending State legislation.

This Ordinance shall be applicable to redevelopment and conversion of existing uses and structures which involve:

a. Any change of use of a commercial marina from a water-dependent use to a water-enhanced or a non-water-dependent use.

b. Any division of uplands and/or bay bottom of existing marine facilities into individual parcels regardless of type of ownership.

c. Any modification, improvements or expansions of existing marine facilities which would diminish public access or result in a loss of working waterfront.

d. Any change of use of a parcel of parcels of working waterfront to a commercial marina or a non-water dependent use.

As used in this Ordinance, the following terms shall have the definitions provided, unless the context clearly provides otherwise:

a. "Commercial marina" shall mean any facility or facilities, having three or more slips, docks, or docking spaces, conducting business involving the sale, repair, rental, storage, and servicing of boats, and including accessory retail uses. The term includes a licensed commercial facility which provides secured public moorings or wet storage for private pleasure vessels or commercial vessels on a leased basis. The term does not include privately owned individual berths or docks accessory to land based dwelling units.

b. "Existing structures and uses" shall mean a structure in existence as of February 28, 2005, and the customary and regular uses of that structure up to and including February 28, 2005.

c. "Marine facility" shall mean commercial marinas, the working waterfront, boat ramps, and any other locations that provide public access to the navigable waters of the state.

d. "Public access" shall mean the ability of the public to physically reach, enter, or use beaches and shores. The term shall have the same meaning as defined in Rule 9J-5.003(97), Florida Administrative Code.

e. "Working waterfront" shall mean a parcel or parcels of real property that used for water dependent boatyards, wet storage of boats and vessels, commercial fish houses (fish

landings, processing and packaging) and commercial fishing vessel dockage. The term does not include commercial marinas providing dockage for pleasure watercraft.

f. "Water-dependent uses" shall mean activities which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, including ports or marinas, and recreation. The term shall have the same meaning as defined in Rule 9J5-003(137), Florida Administrative Code.

g. "Water-enhanced uses" shall mean activities that are not water-dependent uses but benefits economically or aesthetically by its location adjacent to or on the waterfront. The term includes dock side bars, restaurants, hotels, motels, and residential uses.

Dry storage has been removed from the definition of working waterfront.

The following exemptions are provided in this Ordinance:

- The provisions of this Ordinance shall not apply to a development under an approved Conditional Use Permit; general maintenance, repair and/or safety improvements; and shall not apply to any modification, improvement, or expansion to existing marine facility that does not diminish public access and does not result in the loss of working waterfront.

- The provisions of this Ordinance shall not apply to an application for a building permit or development approval submitted to the County on or before February 28, 2005.

- The provisions of this Ordinance shall not apply to an application for or issuance of a building permit or development approval for any development or redevelopment that is otherwise allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

Staff Recommendation

The Planning Staff recommends the Monroe County Board of County Commissioners **APPROVE** the attached Interim Development Ordinance deferring development applications for the redevelopment and conversion of marine facilities and the working waterfront including commercial marinas and working waterfront within 365 days of the effective date of the Ordinance or when the comprehensive plan and land development regulations become effective, whichever comes first.