

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 21, 2007

Division: Growth Management

Bulk Item: Yes No

Department: Marine Resources

Staff Contact: George Garrett

AGENDA ITEM WORDING: Presentation of alternative strategies and a request for further direction for working waterfronts preservation policy and "No-Net-Loss" ordinance development.

ITEM BACKGROUND: In March 2006 the BOCC accepted the Monroe County Marine Management Strategic Plan which outlined strategies for preservation of working waterfronts. In September 2006 the BOCC approved the development of a Working Waterfronts Preservation Master Plan designed to refine and implement those preservation strategies, including the development of a No-Net-Loss ordinance. Staff from the County, the Regional Planning Council, and Center for Urban and Environmental Solutions at FAU will briefly discuss progress and strategies for completing the Working Waterfronts "No Net Loss" Ordinances and request BOCC input on the desired approach for completing the project.

PREVIOUS RELEVANT BOCC ACTION:

Direction to staff to develop a No-Net-Loss ordinance for working waterfronts.

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATIONS:

Request direction on strategies for Working Waterfronts "No-Net-Loss" ordinance development.

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty N/A OMB/Purchasing N/A Risk Management N/A

DOCUMENTATION: Included Not Required

DISPOSITION: _____

AGENDA ITEM # _____

'No Net Loss' Policy Development Report

Background:

In 2006 the Monroe County BOCC directed staff, in coordination with consultants from the South Florida Regional Planning Council and Florida Atlantic University's Center for Urban and Environmental Solutions, to develop strategies to preserve working waterfronts and water-dependent uses, including a 'No Net Loss' policy.

Preserving working waterfronts is an important and increasingly urgent goal for Monroe County. The rapid rise in property values and subsequent redevelopment of waterfront properties into non-water dependent uses is endangering the economic viability of the water-dependent industries that have always been a core part of Monroe County's economy and its character.

Preserving working waterfronts requires changes to the County's Comprehensive Plan (Comp Plan) and the Land Development Regulations (LDRs) which support and implement the Comp Plan. After reviewing the current provisions of the Comp Plan and supporting LDRs, staff has drafted new Comp Plan language that encourages preservation of the working waterfront, including commercial fishing and other water-dependent uses. 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 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.

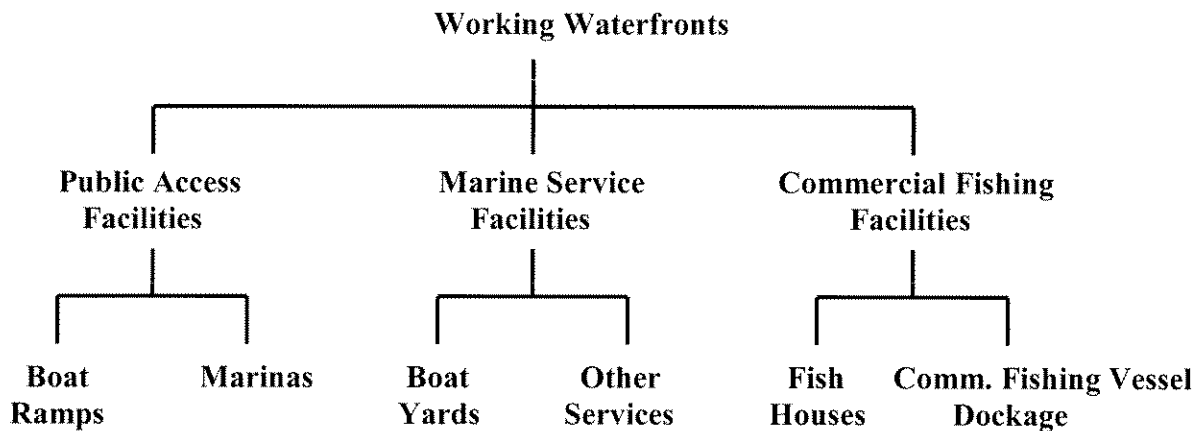
Project Update:

Staff is drafting amendments to the LDRs which reflect the preservation objectives to be added in the Comp Plan and to bring the list of permissible uses closer to the primary intent of the land use designation. At the same time staff is attempting to balance the more restrictive nature of the amendments by proposing development incentives designed to enhance commercial fishing and other working waterfront uses. Examples of more restrictive changes could include no longer allowing motels of over 50 units, shifting some development from minor to major conditional use permit status, or making recreational marinas an accessory use to commercial fishing uses. Examples of incentives that could be allowed include affordable housing units, flexibility in regards to non-conforming structures, relaxing setback requirements for commercial fishing, or reducing parking requirements at marinas.

Staff is now developing options for "no net loss." What follows is a range of options from more restrictive to less restrictive for the Board's consideration. The options developed provide a range of restrictions and protection balanced with responsible mixed use development. Upon the Board's direction, staff will further refine the option or combination of options chosen. When that recommendation is made the proposed changes will be taken through the process of County hearings and recommendations (Development Review Committee, Planning Commission, and the BOCC) and subsequently to the Florida Department of Community Affairs for review.

The No Net Loss Concept:

“No Net Loss” (with regard to working and recreational waterfronts) is a principle by which governments 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. No Net Loss policies can represent a compromise between redevelopment and preservation. The following diagram illustrates the types of facilities considered to be working waterfronts in the Florida Keys.



Potential Draft 'No Net Loss' Options: (described in detail on the following pages)

- #1 100% No Net Loss- Version A
- #2 100% No Net Loss- Version B
- #3 50% Preservation

The following incentives could be applied as appropriate to enhance some of the above options:

- Provide intensity bonuses which encourage developers to provide public access/amenities
- Allow intensity bonuses to add limited non-water dependent uses on properties already developed at 100% intensity for water dependent uses
- Provide expedited development approval or fee waivers to developers in exchange for the provision of additional public access or other development beneficial to the community
- Allowance for non-water dependent uses if water dependent uses are transferred to another suitable site
- Setback provisions requiring that non-water dependent uses be located other than adjacent to the shoreline
- Payment into a Working Waterfront Mitigation Fund to be used for purchase of land or development rights in exchange for a reduction of working waterfront services and/or public access

Option #1 100% No Net Loss- Version A

Prohibit the conversion of all water-dependent, working waterfront uses on waterfront commercial properties. This policy would apply to any Land Use District. In addition to prohibiting the reduction of water-dependent land use intensity, the type of use shall not be allowed to change. The goal is to ensure that not only does the level of service remain, but also that the type of service remains. This option focuses on the concerns for loss of commercial fishing dockage throughout the Keys.

Details:

- The number of working waterfront facilities cannot be reduced
- The development intensity of marine services cannot not be reduced (i.e. number of boat lifts, fish houses, etc.)
- The number of slips cannot be reduced
- The type of use cannot change (a boatyard must remain a boatyard, a fish house must remain a fish house, commercial fishing vessel dockage must remain as commercial fishing dockage, etc.)

Additional incentives may be provided to offset the use restrictions and intensity limitations:

- Provide intensity bonuses to allow non-water dependent uses as needed (which could allow the intensity to exceed 100%)
- Provide a reduction in water-dependent uses only if the those uses are transferred to an appropriate alternate site

Option #1 Pro and Con

Pros	Cons
Ensures no loss of development intensity or changes in the type of water-dependent uses	Restricts property rights
May enable current use valuation for tax purposes	May be vulnerable to takings challenges
	Greatly limits diversification and revenue sources
	Transfer of uses to alternate sites may not be realistic
	Intensity bonuses could enable development in excess of 100% intensity

Option #2 100% No Net Loss- Version B

Prohibit the conversion of all water-dependent, working waterfront uses on waterfront commercial properties. This policy would apply to any Land Use District. While this option ensures that working waterfront development intensity is not reduced, it does not make a distinction between water dependent uses; thus allowing the conversion from one type of working waterfront use to another. While ensuring that a water-dependent use(s) remain, it does allow the property owner to change uses among water-dependent uses, for example, from a fish house to a marina, etc. This helps provide some flexibility for property owners to respond to changes in the economy by adapting land uses and revenue sources.

Details:

- The number of working waterfront facilities cannot be reduced
- The development intensity of water-dependent marine services cannot be reduced (i.e. boat lifts, fish houses, etc)
- The number of slips provided for working waterfront uses cannot be reduced

Additional incentives may be provided to offset the use restrictions and intensity limitations:

- Provide intensity bonuses to allow non-water dependent uses as needed (which could allow the development intensity to exceed 100%)
- Provide for a reduction in water-dependent uses on specific sites only if those uses are transferred to an appropriate alternate site

Option #2 Pro and Con

Pros	Cons
Ensures no loss of water-dependent uses or services	Restricts property rights, but to a lesser degree
May enable current use valuation for tax purposes	May be vulnerable to takings challenges
Allows some flexibility to change uses	Limits diversification and revenue sources
	Transfer of uses to alternate sites may not be realistic
	Intensity bonuses could enable development in excess of 100% intensity

Option #3 50% Preservation

This option provides a compromise between preserving water dependent uses and allowing non-water dependent uses to be developed at the desire/need of the property owner. The ordinance language would ensure that working waterfront elements (services, slips, etc) are continued while allowing a limited amount of non-water dependent development. Policies would allow the current as-of-right, minor and major conditional uses to continue, provided that no more than 50% of the land use intensity is devoted to non-water dependent uses.

Details:

- Marine services (working waterfronts) cannot be reduced to less than 50% of the land use intensity
- Current as-of-right, minor, and major conditional uses would continue to be allowed

Option #3 Pro and Con

Pros	Cons
Provides the diversification that owners desire	Potential loss of some working waterfront intensity
Enables property owners to respond to changing market conditions	May be vulnerable to (partial) takings challenges
Allows managed redevelopment	