

DRAFT 4-23-07
SUBJECT TO REVISION

MONROE COUNTY PLANNING DEPARTMENT

We strive to be caring, professional and fair

STAFF REPORT



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TO: The Development Review Committee

FROM: Richard Jones, Senior Marine Planner

THROUGH: Jose Papa, Comprehensive Planning Manager

RE: AMENDMENTS TO THE MONROE COUNTY COMPREHENSIVE PLAN TO REVISE SECTIONS OF THE FUTURE LAND USE AND CONSERVATION AND COASTAL MANAGEMENT ELEMENTS REGARDING RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS

MEETING DATE: May 21, 2007

I. PROPOSED REVISIONS:

The changes to the Monroe County 2010 Comprehensive Plan represent the culmination of a two-phase study of the state of the County’s recreational and commercial working waterfronts and the development of strategies to help strengthen and preserve this critical sector of the County’s economy and character. The 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. This amendment proposes changes to sections of the Comprehensive Plan, specifically the Future Land Use, Conservation and Coastal Management Elements, to help preserve and strengthen the County’s recreational and commercial working waterfronts.

Petitioner: The amendment is sponsored by the Monroe County Department of Marine Resources

A. Area of land affected by the amendment

The amendment affects all parcels within unincorporated Monroe County meeting the characteristics as delineated in the ordinance.

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1 **B. Characteristics of the proposed amendment**

2
3 The amendment defines terms related to the working waterfront and sets
4 standards for preservation, including incentives and bonuses. Specific
5 data and analysis is provided below.

6
7 **II. BACKGROUND:**

8
9 On July 20, 2005 the Board of County Commissioners adopted Ordinance No. 017-2005
10 deferring the acceptance of development applications for the redevelopment and
11 conversion of marine facilities until land development regulations which protect the
12 working waterfront are drafted.

13
14 Ordinance No. 17-2005 directed staff to enter into an interlocal agreement with the
15 South Florida Regional Planning Council to prepare a *Marine Management Strategic*
16 *Plan*.

17
18 The Board of County Commissioners adopted the *Marine Management Strategic Plan*
19 on March 15, 2006.

20
21 On September 30, 2006, the Board of County Commissioners directed staff to enter into
22 an interlocal agreement with the South Florida Regional Planning Council to develop
23 implementation strategies for the *Marine Management Strategic Plan* including a
24 Working Waterfronts Preservation Master Plan, Marina Siting Plan, Comprehensive
25 Plan Amendments and supporting Land Development Regulations, and a database of
26 marine-related facilities.

27
28 **III. SUPPORT DATA AND ANALYSIS**

29
30 **A. Proposed Changes to the Comprehensive Plan Future Land Use Element**

31
32 **1. Policy 101.4.5:** The purpose of the amendment is to maintain and
33 enhance the commercial fishing activities within the Mixed
34 Use/Commercial land use category. The language added maintains the
35 objective of preserving commercial fishing activities and supports the
36 direction the BOCC is taking in protecting the working waterfront and
37 community character. Commercial fishing is an important economic
38 engine in Monroe County, which is among the top 10 nationally in terms
39 of fishing landings. Data compiled by the University of Florida for the
40 Bureau of Economic and Business Research shows that for 2004, the total
41 quantity of landings added up to 14,694,007 lbs. House Bill 955 (Chapter
42 2005-157, Laws of Florida), the Florida Waterway and Waterfront
43 Improvement Act of 2005. This act amends Chapter 163, Part II, of the
44 Comprehensive Planning and Land Development Regulation Act. Section

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1 163.3177, F.S. to require Comprehensive Plans of coastal counties, such
2 as Monroe County, to adopt strategies and incorporate in the
3 Comprehensive Plan regulatory incentives and criteria that encourage the
4 preservation of recreational and commercial working waterfronts,
5 including public access.

6
7 **2. Policy 101.4.6:** The purpose of the text amendment is to ensure the
8 development of employee and workforce housing within the Mixed
9 Use/Commercial Fishing land use category. The land use allows for
10 residential but the additional text clarifies the types of residential units to
11 be built within the Mixed Use/Commercial Fishing land use category.
12 The text revision supports the BOCC commitment to the provision of
13 affordable housing, which supports the commercial fishing industry by
14 ensuring that workers within the industry have affordable housing.
15 Additional text amendments to this policy clarify that sport fishing,
16 charter boats, and all water dependent and water related uses are highly
17 encouraged within the Mixed Use/Commercial Fishing land use category.

18
19 **3. Policy 101.4.7:** The purpose of the text amendment is to clarify the
20 purpose of the Maritime Industries land use district within the Industrial
21 future land use category. The purpose statement has been included in the
22 comprehensive plan to clarify that the MI land use district's main purpose
23 is to establish and conserve areas for maritime uses, including employee
24 housing.

25
26 **B. Proposed Changes to the Comprehensive Plan Conservation and Coastal**
27 **Management Element**

28
29 **1. New Goal 219, the Preservation of Community Character and**
30 **Preservation of Working Waterfront:** The purpose of the new goal is
31 to establish that the preservation of community character and working
32 waterfronts is a desired goal of the BOCC and is in keeping with the
33 passage of House Bill 955 (Chapter 2005-157, Laws of Florida), the
34 Florida Waterway and Waterfront Improvement Act of 2005. This act
35 amends Chapter 163, Part II, of the Comprehensive Planning and Land
36 Development Regulation Act. Section 163.3177, F.S., requires
37 Comprehensive Plans of coastal counties, such as Monroe County, to
38 adopt strategies and incorporate in the Comprehensive Plan regulatory
39 incentives and criteria that encourage the preservation of recreational and
40 commercial working waterfronts, including public access. Commercial
41 fishing activities and tourism is a play a substantial role in the County's
42 economy. A study conducted in the mid-1990s revealed that the Keys
43 then served as host to approximately three million visitors per year who
44 spent roughly \$1.2 billion. In addition, the data showed that \$50- to \$70-

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- 1 million per year were realized from combined catches of spiny lobster,
2 stone crab, and scale fish.
3
- 4 **2. New Objective 219.1 on the Preservation of Community Character**
5 **and Preservation of the Working Waterfront:** The new objective lays
6 out specific measures that the BOCC will take to meet the goal of
7 preserving community character and working waterfronts. Policies
8 established under the new objective shall protect the waterfront from
9 further non-water dependent uses and the privatization of waterfront that
10 reduces public access to the water. Strategies include, but are not limited
11 to, the expansion and redevelopment of current marinas, the creation of
12 flexible land use regulations pertaining to the working waterfront,
13 intergovernmental coordination, and the establishment of preservation
14 policies.”
15
- 16 **3. New Policy 219.1.1:** Monroe County has been experiencing the loss and
17 redevelopment of waterfront marine facilities and their associated
18 businesses and employment. Current trends are conversion of waterfront
19 marine facilities and their associated businesses to non-water dependent
20 uses and privatization of waterfront, reducing public water access. A
21 growing population and rising property values along the coast further
22 drive the trend to convert marinas and waterfront properties into
23 residential units. As pointed out in the data and analysis (see B.1. above)
24 of the Conservation and Coastal Element, the County is heavily reliant on
25 commercial fishing activities and tourism to support its economy. Losing
26 waterfront land to private developers could have a devastating effect on
27 the commercial and recreational waterfront resulting in a future downturn
28 in the County’s economy.
29
- 30 **4. New Policy 219.1.2:** The purpose of the new policy is to lay out
31 comprehensive strategies to protect the waterfront from further
32 privatization through partnerships with the State and County
33 municipalities to revitalize, enhance, and protect the waterfront. The
34 County will also explore the possibility of purchasing land or
35 development rights along the waterfront in order to preserve the
36 waterfront for the community and commercial and recreational activities.
37
- 38 **5. New Policy 219.1.3:** In keeping with the goal of maintaining public
39 access to navigable waterways, this policy states that the County will not
40 vacate or diminish publicly owned pathways and ends of roads.
41
- 42 **6. Policy 212.4:** The objective has been changed to reflect the need to refer
43 to the Marina Siting Plan in the development, redevelopment, and
44 expansion of new marinas within unincorporated Monroe County. The
45 objective also states the importance of locating marinas in areas where

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- 1 the maximum physical advantages exist and where no environmental
2 impacts are likely.
3
- 4 7. **Policy 212.4.1:** This policy is being removed upon the adoption of the
5 Marina Siting Plan and completion of the marina survey.
6
- 7 8. **Policy 212.4.2:** This policy is being removed upon the completion of
8 marina survey.
9
- 10 9. **Policy 212.4.3:** This policy is being removed upon adoption of the
11 Marina Siting Plan. The Marina Siting Plan will be referred to for criteria
12 in the development, redevelopment, or expansion of marinas within
13 unincorporated Monroe County.
14
- 15 10. **Policy 212.4.4:** Language has been added referencing the Marina Siting
16 Plan criteria for building, expanding, and redeveloping of new marinas
17 within unincorporated Monroe County.
18
- 19 11. **Policy 212.4.6:** This policy is being removed. Development of new
20 marinas may take place provided that criteria specified in the Marina
21 Siting Plan has been met and the necessary permits from all applicable
22 state and federal regulatory agencies have been obtained.
23
- 24 12. **Policy 212.4.7:** Additional language has been added to ensure that
25 anyone expanding or redeveloping existing marinas obtain all necessary
26 permits from all applicable state and federal regulatory agencies.
27
- 28 13. **Policy 213.1.2:** As part of the definition contained within the Waterway
29 Improvement Act, F.S. Sec. 342.07 (2005), a recreational and
30 commercial working waterfront is:

31
32 *“A parcel or parcels of real property that provide*
33 *access for water-dependent commercial activities or*
34 *provide access for the public to the navigable waters*
35 *of the state. Recreational and commercial working*
36 *waterfronts require direct access to or a location on,*
37 *over, or adjacent to a navigable body of water....”*
38

39 New language has been added stating the BOCC goal of ensuring
40 adequate public access. In carrying out this goal, the County has
41 committed to completing a Public Access Plan. The County has retained
42 SFRPC and CUES to prepare a Marina Siting Plan and within the plan,
43 current public access points shall be identified. Upon accurately
44 identifying current public access points, the BOCC will need to assess the

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1 community's needs for public access to the waterfront and complete the
2 Public Access Plan.

3
4 **C. Consistency with the Comprehensive Plan.**

5
6 The proposed amendments to the Comprehensive Plan further the
7 following policy direction provided within the 2010 Comprehensive
8 Plan:

- 9
10 1. Goal 212 of the 2010 Comprehensive Plan directs the County to
11 prioritize shoreline land uses and establish criteria for shoreline
12 development in order to preserve and enhance coastal resources and
13 to ensure the continued economic viability of the County.
14
15 2. Goal 213 of the 2010 Comprehensive Plan directs the County to
16 ensure adequate public access to the beach or shoreline.
17
18 3. Objective 502.1 of the 2010 Comprehensive Plan directs the County
19 to promote the preservation and enhancement of the existing ports
20 and port related activities.

21
22 **D. Public Welfare Issues.**

23
24 Monroe County's recreational and commercial working waterfronts
25 provide practical, logistical, and economic benefit to the public and to
26 the County's economy and character. The amendment promotes public
27 welfare by meeting the goal of preserving community character and
28 working waterfronts. Policies established under the new objective shall
29 protect the waterfront from further non-water dependent uses and the
30 privatization of waterfront that reduces public access to the water.
31 Strategies include, but are not limited to, the expansion and
32 redevelopment of current marinas, the creation of flexible land use
33 regulations pertaining to the working waterfront, intergovernmental
34 coordination, and the establishment of a "no net loss policy."

35
36 **E. Benefits to Property Owners:**

37
38 The amendments will enable affected property owners to preserve the
39 uses associated with the recreational and commercial working waterfront
40 by making it possible to develop additional income producing uses and/or
41 increase the intensity of use to maintain economic viability.
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IV. CONCLUSIONS (circle one):

1. The proposed amendment is consistent with the criteria in Section 9.5-511 of the Monroe County Code for justifying decisions to amend the land use district text.

YES NO

2. The proposed amendment is consistent with the comprehensive plan.

YES NO

3. The proposed amendment is in the interest of public welfare.

YES NO

4. Land owners within the area affected by the proposed text amendment will derive benefits.

YES NO

V. RECOMMENDATION of the Development Review Committee (circle one):

APPROVE **DENY**

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ORDINANCE NO. ____ -- 2007

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

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*.

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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 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:

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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]

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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.

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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

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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)(c)1,2,3 and 8; 9J-5.013(2)(c)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.~~

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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]

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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.

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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