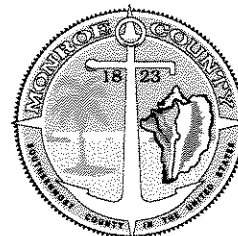


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**MEMORANDUM**  
**MONROE COUNTY PLANNING DEPARTMENT**  
*We strive to be caring, professional and fair*

**STAFF REPORT**



**TO:** Planning Commission

**THRU:** Aref Joulani, Director of Planning & Environmental Resources *AJ*

**FROM:** Richard Jones, Senior Marine Planner *RJ*

**DATE:** June 8, 2007

**RE:** AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS TO REVISE SECTIONS REGARDING RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS

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**MEETING DATE:** June 27, 2007

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

**I. PROPOSED REVISIONS:**

The proposed changes to the Monroe County Land Development Regulations (LDR) are part of the implementation 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. These LDR amendments support and implement concurrently proposed changes to sections of the Monroe County 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.

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

2 The amendment defines terms related to the working waterfront and sets  
3 standards for preservation, including regulatory incentives and bonuses, and  
4 allows for flexibility in the reestablishment of nonconforming uses and the  
5 reconstruction of nonconforming structures.

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 On April 3, 2007 the Board of County Commissioners held a workshop to discuss draft  
29 amendments to the Comprehensive Plan Land Development Regulations designed to  
30 preserve working waterfronts. The Board requested staff to move forward with the draft  
31 amendments.

32

33 On May 21, 2007 the Board of County Commissioners adopted Volume II of the Stock  
34 Island/Key Haven Livable CommuniKeys Master Plan which recommends preservation  
35 of the working waterfronts and public access.

36

37 **III. SUPPORT DATA:**

38

39 **A. Proposed Changes to Chapter 9.5, Article 1, Section 9.5-4, Definitions.**

40

41 New or amended definitions are proposed for boatyard, commercial fishing,  
42 recreational and commercial working waterfronts, and water dependent and  
43 water related uses. These definitions provide clarification on terms used in  
44 policies throughout the Monroe County Comprehensive Plan and Land  
45 Development Regulations that protect uses pertinent to the County's character

1 and economy, such as public access to navigable waters, marinas, and  
2 commercial fishing.

3  
4 **B. Proposed Changes to Section 9.5-250 Maritime Industries District (MI).**

5  
6 Changes to this district have been made to meet the goal of preserving maritime  
7 industries along the waterfront. As of right uses will include employee housing,  
8 and small hotels will be allowed as a major conditional use in this land use  
9 district. A Marina Siting Plan will be adopted by reference through the Monroe  
10 County Comprehensive Plan. Marinas may be built or redeveloped as a major  
11 conditional use if all criteria set forth in the Marina Siting Plan has been met.  
12

13 **C. Proposed Changes to Section 9.5, Article 7, Division 3, including new**  
14 **Section 9.5-272, Recreational and Commercial Working Waterfronts.**

15  
16 This new section of the Land Development Regulations is consistent with Goal  
17 219, Community Character and Preservation of Working Waterfront, of the  
18 Monroe County Comprehensive Plan. The new regulations set forth the amount  
19 of allowable redevelopment of water-dependent uses within unincorporated  
20 Monroe County. The regulations also provide incentives, methods of alternative  
21 compliance, and exemptions providing flexibility to property owners.  
22

23 **D. Proposed Changes to Chapter 9.5, Article 5, Section 9.5-143,**  
24 **Nonconforming Uses.**

25  
26 New language clarifies that within commercial fishing land use districts, CFA,  
27 CFV, and CFSD, non-conforming uses may be re-established, which allows  
28 flexibility within these land use districts.  
29

30 **E. Proposed Changes to Chapter 9.5, Article 5, Section 9.5-144,**  
31 **Nonconforming Structures.**

32  
33 New language allows for flexibility in the rebuilding of nonconforming  
34 structures in land use districts primarily devoted to water dependent uses. This  
35 policy is consistent with the goal of protecting Monroe County's working  
36 waterfront and commercial fishing industry, which are valuable to the County's  
37 character and economy.  
38

39 **IV. ANALYSIS:**

40  
41 **A. Consistency with the Land Development Regulations.**

42  
43 **County requirements for amendments to the land development regulations:**  
44 Pursuant to Section 9.5-511(d)(5)b of the Monroe County Code, the Board of  
45 County Commissioners may consider the adoption of an ordinance enacting

1 proposed changes to the text or maps based on one (1) or more of the following  
2 factors, for which the following justification is provided:

3  
4 *(i) Changed projections (e.g., regarding public service needs) from those on*  
5 *which the text or boundary was based;*

6  
7 None.

8  
9 *(ii) Changed assumptions (e.g., regarding demographic trends);*

10  
11 None.

12  
13 *(iii) Data errors, including errors in mapping, vegetative types and natural*  
14 *features described in volume I of the plan;*

15  
16 None.

17  
18 *(iv) New issues;*

19  
20 The 2005 Waterway and Waterfront Act requires every coastal county to amend  
21 their comprehensive plans and land development regulations to include  
22 regulatory incentives and criteria that encourage the preservation of recreational  
23 and commercial working waterfronts. In addition, the citizens of Monroe  
24 County and the Board of County Commissioners have requested the  
25 implementation of measures to prevent conversion of working waterfronts and  
26 the loss of public water access.

27  
28 *(v) Recognition of a need for additional detail or comprehensiveness; or*

29  
30 None.

31  
32 *(vi) Data updates;*

33  
34 None.

35  
36 **B. Consistency with the Comprehensive Plan.**

37  
38 The proposed amendments to the LDR further the following policy direction  
39 provided within the Comprehensive Plan:

- 40  
41 1. Goal 212 of the Comprehensive Plan directs the County to prioritize shoreline  
42 land uses and establish criteria for shoreline development in order to preserve  
43 and enhance coastal resources and to ensure the continued economic viability of  
44 the County.  
45

- 1           2. Goal 213 of the Comprehensive Plan directs the County to ensure adequate  
2           public access to the beach or shoreline.  
3  
4           3. Objective 502.1 of the Comprehensive Plan directs the County to promote the  
5           preservation and enhancement of the existing ports and port related activities.  
6

7       **C.    Public Welfare Issues.**  
8

9           Monroe County’s recreational and commercial working waterfronts provide  
10          practical, logistical, and economic benefit to the public and to the County’s  
11          economy and character. These amendments promote public welfare by meeting  
12          the goal of preserving community character and working waterfronts while  
13          providing property owners with flexibility in the intensity and types of uses  
14          allowed, thereby protecting their property rights.  
15

16       **D.    Benefits to Property Owners.**  
17

18          The amendments will enable affected property owners to preserve the uses  
19          associated with the recreational and commercial working waterfront by making it  
20          possible to develop additional income producing uses and/or increase the  
21          intensity of use to maintain economic viability.  
22

23       **V.    CONCLUSIONS:**  
24

- 25          1. The proposed amendment is consistent with the criteria in Section 9.5-511 of the  
26          Monroe County Code for justifying decisions to amend the land use district text.  
27  
28          2. The proposed amendment is consistent with the comprehensive plan.  
29  
30          3. The proposed amendment is in the interest of public welfare.  
31

32       **VI.    RECOMMENDATION of the Development Review Committee:**  
33

34               **Staff recommends approval**

**RESOLUTION NO. D9- 2007**

**A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING THAT THE PLANNING COMMISSION APPROVE AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS REGARDING RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS**

---

**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 State of Florida 2005 Waterway and Waterfront Improvement Act requires coastal counties to amend their comprehensive plans and land development regulations to include regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts 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 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.”
6. On May 21, 2007 the Board of County Commissioners adopted Volume II of the Stock Island/Key Haven Livable CommuniKeys Master Plan which recommends preservation of the working waterfronts and public access.

**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 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, input from the Marine and Port Advisory Committee, recommendations of staff and other matters, and;

WHEREAS, the staff report presented to the Development Review Committee on May 21, 2007 concluded that the proposed amendments are consistent with the objectives of the Comprehensive Plan;

**NOW, THEREFORE, BE IT: RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA:**

**Section 1.**

In consideration of the staff report and the preceding findings of fact and conclusions of law, the Development Review Committee recommends to the Planning Commission approval of the following proposed amendments to the Monroe County Land Development Regulations.

[Amendments are presented in ~~strikethrough~~ to indicate deletions and underline to indicate additions to text. All other words, characters, and language of this subsection remain un-amended.]

**Section 2.**

**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 public 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 3.**

#### **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 up to six (6) dwelling units, but tourist housing uses, vacation rental use, of commercial apartments is prohibited;
  - (6) Employee housing of up to six (6) dwelling units.
  - ~~(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;~~

~~e.b. 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.~~

(2) Employee housing 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. Tourist housing uses, including vacation rental use of commercial apartments is prohibited.

(3) 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 marina is an accessory use and is subordinate to any commercial fishing uses.
  - a.b. ~~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.~~
  - b.c. ~~The sale of goods and services is limited to fuel, food, boating, diving and sport fishing products; and~~
  - e.d. ~~All outside storage areas are screened from adjacent uses by a solid fence, wall or hedge at least six (6) feet in height;~~

**Section 4.**

**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 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 development of new working waterfronts.

(b) Applicability. Properties in any land use district which have existing recreational and commercial working waterfront uses shall be subject to the following preservation restrictions. In calculating the preservation restrictions for a particular project, or phase of a project, all the existing working waterfront elements proposed for redevelopment shall be counted. Those elements shall include both intensity-applicable (e.g. land-based structures) and intensity non-applicable (e.g. dockage) facilities.

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 70 percent of the total development potential. The 70 percent limit may, however be exceeded in accordance with any of the following applicable incentives, methods of alternative compliance, or exemptions. The following additional restrictions shall apply:

- 1) For marinas- at least 30 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 (e.g. members only, privately owned) or eliminated.
- 2) For boatyards- at least 30 percent of the property's development potential shall be preserved for boatyard functions, services, and facilities. In addition, at least 50 percent of the docking facilities shall be used solely for boatyard purposes.
- 3) For commercial fishing- at least 30 percent of the property's development potential shall be preserved for commercial fishing functions, services, and facilities. In addition, at least 50 percent of the docking facilities shall be used solely for commercial fishing purposes.

(c) Incentives. In order to allow flexibility for economic changes and to provide for appropriate mixed uses, 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 development regulations are met. Any preservation dedications shall be reassured by a deed restriction to run with the land, stating the amount and type of working waterfront dedicated.

- 1) Notwithstanding the density limitations in section 9.5-261, the owner of a parcel of land shall automatically qualify for a 30 percent intensity bonus by complying with the 30 percent preservation regulation. In addition, the property owner may receive an additional intensity bonus based on voluntary preservation of the current working waterfront type above the 30 percent requirement. The additional bonus shall be equal to the percentage of preservation dedicated beyond 30 percent.
- 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 30 percent threshold shall be allowed, provided that the difference in intensity is transferred to another suitable site within the same area of the Keys (upper, middle, or lower).
- 2) Payment into a Working Waterfront Mitigation Fund may be accepted as mitigation for the reduction in intensity of any marina, boatyard, or commercial fishing operation below the 30 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. The viability of the working waterfront operation shall be based on both the testimony of the property owner before the Board of County Commissioners and the findings of the Commercial Fishing Sustainability Plan (Comprehensive Plan Policy 219.1.1(2)).
- 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 5.**

**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 re-established to pre-existing uses provided that they are rebuilt in the same building footprint and configuration without increase in density or intensity of use.

**Section 6.**

**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 currently used for commercial fishing or maritime industrial which have been in existence 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, without increase in density and intensity of use.

**Recommended by the Monroe County Development Review Committee** on the 21<sup>st</sup> day of May, A.D., 2007.

By:  \_\_\_\_\_

Date: 6-11-07

Aref Joulani, Director of Planning and Environmental Resources

# County of Monroe

## Growth Management Division

### Marine Resources Department

Suite #420  
2798 Overseas Highway  
Marathon FL 33050  
Voice: (305) 289-2505  
FAX: (305) 289-2536



### Board of County Commissioners

Mayor Mario Di Gennaro, District 4  
Mayor Pro Tem Dixie Spehar, Dist. 1  
George Neugent, Dist. 2  
Charles "Sonny" McCoy, District 3  
Sylvia J. Murphy, Dist. 5

*We strive to be caring, professional and fair*

To: Planning Commission  
Thru: Aref Joulani, Director of Planning & Environmental Resources  
From: Richard Jones, Senior Marine Planner  
Date: June 8, 2007  
RE: Additional Information for 6/27/2007 meeting

Staff has heard public input on the County's working waterfronts project at several Marine and Port Advisory Committee meetings over the last few months. Most of the input has been general comments for or against particular elements of the proposed amendments to the land development regulations. Many of the comments have been incorporated into the amendments.

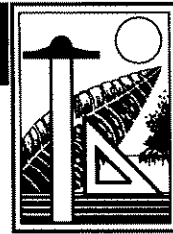
Recently staff has met with a consultant who has submitted additional input in the form of specific recommendations (see attached letter). David DeHaas, representing Robbie's Safe Harbor Marine located on Stock Island, has presented several ideas to staff regarding allowed uses in the Maritime Industries land use district. Mr. DeHaas is asking that his client's needs be considered for inclusion in the comprehensive plan amendments for working waterfronts preservation. The primary concern that Mr. DeHaas has indicated is the need for additional residential development in the Maritime Industries land use district. In conjunction with residential development, he also recognizes the need to preserve existing working waterfronts via restrictions and incentives to ensure a continued level of service for maintaining commercial fishing and boatyard operations in Safe Harbor.

The purpose of Maritime Industries, as indicated in the Monroe County land development regulations, is "to establish and conserve areas suitable for maritime uses such as ship building, ship repair and other water dependent manufacturing and service uses". Currently the comprehensive plan allows for one dwelling unit per acre in the Industrial future land use category, which includes the Industrial and Maritime Industries land use districts. Staff considers the density to be consistent with the purpose of maritime industries. And, while the comprehensive plan land use category of Industrial does allow dwelling units, the maritime industries land use district only allows dwelling units defined as commercial apartments. This is considered to be consistent with the purpose of maritime industries.

The proposed resolutions amending the comprehensive plan and land development regulations recognize the need for appropriate mixed use development, while preserving working waterfronts. And, while the purpose of maritime industries is clearly to conserve areas for water dependent uses, the Planning Commission may consider the need for additional residential uses to provide for the continued economic viability of those properties located on Safe Harbor. Additional residential density/uses, however, would require amendments to both the comprehensive plan and land development regulations.

# deHaas

Consulting & Design



Jose Papa  
Clarence Feagin  
Rich Jones

Gentlemen,

Thank you for your time and open-mindedness during our meeting yesterday.

This is my primary area of concern: higher density in the MI land use district.

Please allow for a higher density in Maritime Industries Land Use District. It is imperative that the Comprehensive Plan be amended to allow for more than one (1) dwelling per acre, and two (2) affordable dwelling units per acre. As in many other land use districts, the dwelling per acre should and must be higher. Transient Units should be at 15 per acre, Marker Rate at 10 per acre, and 25 per acre for Affordable. This is in keeping with past text amendments. It might be advisable to review the densities in the other land use districts associated with working waterfronts.

If the proposed ordinances are to preserve working waterfronts, then there must be a means and incentives to do so. The above proposed increases in density are presented with the understanding and commitment that these densities shall only be allowed with the deed restrictions placed on those portions of a property which preserve working waterfronts. The increased densities should be made part of the incentives already proposed in the ordinances. The proposed ordinances present a solid foundation for preservation, but we must address the economic implications of any restrictions. I believe it is in the interest of all of Monroe County, that the governing bodies demonstrate an awareness of the specific need for an **exchange** of rights, for the imposing of restrictions on working waterfronts.

Make the restrictions economically feasible and financially advisable for working waterfronts to not only be preserved, but enhanced, and where possible provide greater use and benefit of the property. With this approach you will gain the support of the developers and land owners. As the ordinances are written, I do not believe there are enough incentives to allow for property owners to accept



the restrictions without a fight. Let us find the right exchange rate which will allow for the preservation of working waterfronts without the loss of property rights.

I am hopeful that these additional ideas can be presented to the Planning Commission at the Wednesday, June 27, meeting in Key Largo. Please keep me advised.

Sincerely,

David deHaas